April 2005
IMF Country Report No. 05/144

Republic of Equatorial Guinea: Report on the Observance of Standards and Codes—Fiscal Transparency Module

This Report on the Observance of Standards and Codes on Fiscal Transparency for the **Republic of Equatorial Guinea** was prepared by a staff team of the International Monetary Fund as background documentation for the periodic consultation with the member country. It is based on the information available at the time it was completed on **April 18, 2005.** The views expressed in this document are those of the staff team and do not necessary reflect the views of the government of the **Republic of Equatorial Guinea** or the Executive Board of the IMF.

The policy of publication of staff reports and other documents by the IMF allows for the deletion of market-sensitive information.

To assist the IMF in evaluating the publication policy, reader comments are invited and may be sent by e-mail to publicationpolicy@imf.org.

Copies of this report are available to the public from

International Monetary Fund ● Publication Services
700 19th Street, N.W. ● Washington, D.C. 20431
Telephone: (202) 623 7430 ● Telefax: (202) 623 7201
E-mail: publications@imf.org ● Internet: http://www.imf.org

Price: $15.00 a copy

International Monetary Fund
Washington, D.C.

INTERNATIONAL MONETARY FUND

REPUBLIC OF EQUATORIAL GUINEA

Report on the Observance of Standards and Codes (ROSC) Fiscal Transparency Module

Approved by Abdoulaye Bio-Tchané and Teresa Ter-Minassian

April 18, 2005

EXECUTIVE SUMMARY

Equatorial Guinea needs to improve transparency in many of the important elements of the *Code of Good Practices on Fiscal Transparency* (fiscal transparency code), but a basis is being established to implement key fiscal transparency practices. An improved legal framework for fiscal management, in harmony with regional partners, has been put in place, notably through the 2003 Public Finance Law and the 2004 Tax Code. Most importantly, the authorities at the highest level have indicated their commitment to improving fiscal transparency, particularly with respect to the management of oil revenues. A small cadre of dedicated staff are well aware of the key issues involved and have indicated their willingness to work with the IMF, World Bank, and other donor agencies to implement the practices recommended in the fiscal transparency code and the Extractive Industries Transparency Initiative (EITI).

Several weaknesses in transparency need to be addressed urgently. Priority areas identified for improvement are: establishment of a clear fiscal policy framework for management of petroleum wealth and a firm budget constraint; reporting and reconciliation of oil revenue flows; and clarification of the mandate and corporate governance structure of the national oil company GEPetrol. The authorities are initiating action in some of these areas. Such improvements in transparency of petroleum-related activities are particularly important, but broader reforms are essential for successful and sustainable progress in fiscal management. Weaknesses in administrative capacity and inadequately defined responsibilities and oversight mechanisms present substantial barriers to rapid reform, and these need to be addressed over the long term with a sustained commitment by the authorities.

The staff have recommended a balanced approach to improve transparency at all levels of fiscal management, with an initial focus on the priority areas of aggregate fiscal policy and reporting, clearer priority setting, particularly with regard to poverty-reducing spending, and establishing GEPetrol's mandate in light of likely developments in the petroleum sector. Specific recommendations include the use of the non-oil fiscal balance as the principal fiscal target and the establishment of a firm budget constraint; movement toward compliance with EITI reporting requirements; appointment of an independent auditor to review company and government reports—as well as to advise on steps to establish an independent national audit capacity, unification of the investment and recurrent budgets, and introduction of a functional classification of expenditure. Technical support, including the use of resident experts in some cases, will be needed for successful implementation of reforms.

Contents

ABBREVIATIONS

CEMAC	The Central African Economic and Monetary Union
BEAC	The Bank of Central African States
EITI	Extractive Industries Transparency Initiative
FFG	Fund for Future Generations
GFS	Government Finance Statistics
INPAGE	National Institute for Promoting Agriculture
INPYDE	National Institute for Business Promotion
INSESO	Social Security Fund
IOC	International Oil Company
LNG	Liquified Natural Gas
LPG	Liquified Petroleum Gas
MFB	Ministry of Finance and Budget
MMIE	Ministry of Mines, Industry, and Energy
MOE	Ministry of Economy
MOI	Ministry of Infrastructure
MPD	Ministry of Planning and Development
NCE	National Commission on Ethics
PESA	Special Program for Food Security
PIP	Public Investment Program
PSC	Production Sharing Contract
QFA	Quasi-Fiscal Activity
ROSC	Reports on the Observance of Standards and Codes
SDDS	Special Data Dissemination Standard
VAT	Value Added Tax

I. Detailed Description of Practice[1]

A. Clarity of Roles and Responsibilities

Definition of government activities

1. **General government is defined in line with Government Finance Statistics (GFS) principles, but requires more consistent coverage in the budget process.** *1.1.1* The units of general government are listed in Box 1. Most are defined consistently with GFS. A variety of autonomous agencies have been created and need to be clearly defined either as elements of general government (social security, universities, and development agencies as listed in Box 1), enterprises (utility companies and others), and others, such as the chambers of commerce in Bata and Malabo, that are in receipt of government subventions. The status of many of these entities is now being examined closely (see paragraph 3). The relationship of GEPetrol (the national oil company) with the government is also subject to further review (see paragraph 4). Government departments do not operate own-revenue accounts (but see discussion of special project accounts in footnote 11); administrative fees and charges, while numerous (see paragraph 5), are of relatively small fiscal significance and are paid directly to the State Treasury, which issues stamps to verify payment and give access to services.

Box 1. General Government in Equatorial Guinea

General government in Equatorial Guinea comprises the following:

Central Government Units Covered by the Budget

1. General Public Services, including parliament, president's office, judiciary, and 21 ministries.

Central Government Units with Individual Budgets

2. Social Security Fund (INSESO);
3. Autonomous agencies (Universities; National Institute for Promoting Agriculture (INPAGE); National Institute for Business Promotion (INPYDE); Special Program for Food Security(PESA)).

Local Government

4. 30 Municipal and District Councils.

[1] This fiscal transparency Report on the Observance of Standards and Codes (ROSC) was carried out over two IMF missions to Equatorial Guinea in November 2004 and January 2005. The November mission comprised Messrs. William Allan (head) and Jaime Crispi, and Ms. Silvana Tordo (World Bank—and head of a parallel Petroleum Sector/EITI mission); the same staff plus Mr. Angelo Faria carried out the January 2005 mission. Both missions closely coordinated with an IMF African Department team, led by Mr. Brian Ames, which conducted the Article IV consultation with Equatorial Guinea in January 2005.

Government relations with nonfinancial public corporations and the private sector

2. **State-owned corporations carry out limited quasi-fiscal activities (QFAs), but widespread management inefficiencies lead to budget costs.** *1.1.4*
Services by government utility companies[2] are provided at prices determined by the government and, in a number of cases, are subsidized by the budget. Much of the subsidies serve to finance management inefficiencies. The management environment for the enterprises is not well defined and has been characterized by poor revenue collection and payment arrears. Accounting records, budget execution statements, or audit reports are not available to the public, or indeed to the Ministry of Finance and Budget (MFB). As noted, a number of enterprises are designated as autonomous agencies and are required by law to present their budgets as annexes to the state budget, but few do so; only a summary of subventions is shown in the budget—unsupported by a full examination of the agency budget. In an effort to contain costs of subsidies, subventions to enterprises in 2005 are limited to support of selected enterprise operating costs.

3. **A policy and legal framework for privatization is at a preliminary stage of development.** *1.1.5*
Nonfinancial public enterprises are under general policy direction by their parent ministries. However, the Directorate of Public Companies, Joint Ventures, and Privatizations of the MFB is responsible for general oversight and formulation of policies on reform and privatization.[3] The need for clarification and review of policies to address the endemic management problems in this sector is recognized, and initial proposals have been made to establish a more formal privatization program under the direction of a ministerial committee and a technical committee. Capacity to implement such a program and to institute major reforms prior to privatization is limited, however.

4. **The mandate of GEPetrol is not clearly defined and its operations are not transparent**. *1.1.4*
The state oil company was set up as a state corporation (with a capital injection of around US$9 million in 2002) with multiple roles: to manage the State's interests in the oil sector, including royalties, and carried and participating interests; to negotiate open

---

[2] Article 28 of the constitution assigns reserved rights to the public sector over mining and the petroleum sector, power and water distribution, telecommunications and transport services, and radio and television. Autonomous agencies providing utility services and transportation are SEGESA (Electricity Company), GECOTEL (Posts and Telecommunications), Port Administration, Bata and Malabo Airports, and Djibloho (the National Ship). Water supply is a municipal responsibility.

[3] Presidential Decree N. 42/1995 of June 1995 gives the MFB authority to oversee autonomous entities and state joint ventures. It establishes that the entities covered by this decree should: (i) submit a detailed budget proposal within the same period established for government departments to do so; (ii) present a detailed budget execution report at the end of each fiscal year; and (iii) supply the MFB with monthly and quarterly financial information.

acreage on behalf of the State;[4] as well as a potentially broader mandate to use petroleum revenues for development. GE Petrol also acts as an agent for the sale of the government's oil share resulting from royalties, production shares, and equity interest in production sharing contracts (PSCs). All their sales are to three traders on the basis of four contracts related to four fields.[5] GEPetrol has a working interest participation of around US$371 million in the EG Liquified Natural Gas (LNG) development, with cash calls guaranteed by part of the State share of production in the Zafiro field. Initially, GEPetrol's role was seen as including participation in the development of non-oil service industries.[6] Recent experience, however, has underlined the need for re-examination of GEPetrol's mandate and operations. The authorities advised that GEPetrol's accounts were audited by the MFB Audit Directorate in 2003, but the report has not been made public nor has it been released to staff. The authorities also advise that GEPetrol now passes all revenue directly to the Treasury, and finances only its operating expenses from its own capital. Thus its current operations appear to be solely undertaken as an agent of government. If present practice were to be continued, GEPetrol could be treated as an autonomous agency financed by the budget and included as part of general government. However, in light of likely future direction of petroleum sector development, with increasing emphasis on gas and possibly state participation (which could justify a corporate structure), a detailed review of GEPetrol's mandate and financing mechanism is to be undertaken.

5. **Fiscal policies related to business regulation and development require further clarification and development.** *1.1.5*

Equatorial Guinea has adopted the common business laws promulgated by the Organization for the Harmonization of Business Law in Africa (OHADA) but lacks the capacity to implement these laws in the near future, and the business environment has been assessed as being very unfavorable.[7] Recent revisions to the tax code have improved transparency, but further steps toward clarity and consistency are required. The Investment Law (as revised on June 6, 1994) offers fiscal incentives that may be of limited value given other aspects of the environment, and which need consideration within overall tax policy (see paragraphs 11, 12, and 35). The Law on Fees For Administrative Services (Law 1 of 2001) lists around 1,000 different services,

---

[4] In contract negotiations, the authorities advise that GEPetrol acts exclusively as an agent for the Ministry of Mines, Industry, and Energy (MMIE), which authorizes all contract negotiations and eventual modifications to the contracts, such as changes in the agreed work program or increases in the investment cost of a project.

[5] The reference price for these sales is Brent, with a discount for quality and transport. Each month, the lifting schedule is sent to the MMIE. This schedule shows, by lifting, quantities, quality (there are three products, depending on the field), and buyers.

[6] Staff were advised that, drawing on resources from its original capital injection, GEPetrol has taken an equity interest in at least four such companies: the Luba Free Port, which is developing the port of Luba for oil exports; LOTEC, an oil tank development project also in the port of Luba; SONAGESA, an air service company in joint venture with SONANGOL; and Air Service, another smaller air fright company.

[7] See Foreign Investment Advisory Service Report of January 2002, "Guinee Equatoriale: Diagnostic Sur Le Climat Des Investissements Et La Maximisation Des Investissements Petroliers."

authorizations, licenses, awards, and permits, and their associated fees. Many of the fees and charges are for provision of government services. However, many seem likely to affect commercial activity. The basis for distinguishing the fees for many activities of a very similar kind are not clear, and the associated administration cost of such a complex system provides space for opportunism and arbitrary behavior by public officials.

Government relations with the central bank and public financial sector

6. **The regional central bank is independent, and neither the central bank nor commercial banking corporations play a fiscal role in Equatorial Guinea.** *1.1.4*
The Bank of Central African States (BEAC) is responsible for monetary policy and has not provided financing for the Equatoguinean budget nor undertaken QFAs.[8] The government has minority shareholding in all three commercial banks operating in Equatorial Guinea.[9] BEAC policies and supervision by the Banking Commission of Central Africa have helped ensure that lending policies are tightly controlled and do not involve QFAs.

Fiscal management relations among the branches of government

7. **Fiscal roles and responsibilities of the branches of government in Equatorial Guinea are evolving and need progressively stronger definition.** *1.1.2*
Fiscal administration is dominated by the executive branch of government, with inherent dangers of overcentralization and inadequate checks and balances. Some of these features are an unavoidable consequence of the current stage of development. Over time, however, parliamentary oversight of the budget needs to be progressively strengthened. The public finance law establishes the general principle of parliamentary oversight over budget execution, establishes the right of parliament to any information required to exercise this function, and requires the MFB to send a quarterly budget execution report to parliament. However, after discussing the annual budget law, parliament dissolves for six months and plays a limited role either in authorizing changes to budget implementation or in scrutiny of the final accounts. Parliamentary review of budget execution is consolidated with the passing of the budget law in the September session—the budget execution report being a pre-requisite for passage of the following year's budget law. While this process ensures timely reporting of budget execution, it does not allow sufficient time for parliamentary scrutiny and an effective independent audit process.

Fiscal management relations among different levels of government

8. **Local governments are relatively small; their functions, rights, and responsibilities are not well defined.** *1.1.2*
Given the growing need for urban infrastructure and services, it is essential to define

[8] The BEAC statutes, however, allow member countries to draw up to 20 percent of the previous year's revenues, though this provision is to be phased out as alternative instruments are developed. Such considerations are not of immediate relevance to Equatorial Guinea, given its oil revenue surpluses.

[9] Société Géneral de Banque GE (40 percent); Banque Gabonaise Francaise Internationale (15 percent); and CCEI Bank (10 percent).

municipal responsibilities clearly and match these with appropriate sources of revenue. Property tax is the main tax base for municipalities. However, collection of this tax is problematic, particularly for smaller municipalities. Property taxes for Malabo and Bata are collected by the central government and this tax plus subventions to cover operating and capital costs are distributed to the 30 local authorities through the state budget (a total of CFA584 million in the 2005 budget (equivalent to 0.2 percent of total spending). Clarification of responsibilities, however, will have little impact unless capacity is also strengthened. Water supply, for instance, is a municipal responsibility, but local administrations have difficulties in collecting water charges.

The legal and administrative framework for budget management

9. **The Public Finance Law[10] provides a basis for effective management of fiscal policy, but requires further strengthening**. *1.2.1*
The Public Finance Law establishes systematic procedures for budget management and aims at consistency with regional fiscal management practice. The law clarifies the roles of administrators, states that establishing fiscal equilibrium is an important objective (Articles 2, 31, and 40), requires all cash balances of government institutions to be held by the Treasury (Article 16),[11] and establishes a requirement for audit of government accounts (Articles 68-70). However, there are some important gaps that weaken it as an instrument of overall financial control, and its implementation needs strengthening in some areas.

- Overall fiscal policy is required to be set only in broad terms by the law, and the mechanism for monitoring or amending the overall limit on budget spending is not specified.
- Strategic priorities set in the Medium-Term Economic Strategy (see paragraph 22) are not easily linked to budget allocations, which are classified under the law only by type of expenditure and administrative unit.
- Responsibility for public debt (or collateralized borrowing against future oil revenue) and the role of the MFB in this regard are not specified in the law.
- Implementation practice, as discussed further in the following section of this report does not adequately use the law as an effective basis for aggregate control or priority setting.

10. **Mechanisms for the coordination and management of budgetary and extrabudgetary activities are not well defined.** *1.1.3*
Several areas of budget management require clearer definition. In particular, the capital and recurrent budgets are not well integrated, the current budget being annual and, in

[10] Law 9/2003 of November 13, Regulating Government Finance of the State of Equatorial Guinea.

[11] Unless repealed by decree. In fact, cash balances of donor-assisted projects are held in commercial accounts and payment from such accounts is directly controlled by the ministries rather than by the State Treasury.

principle, limited to non-oil revenue, while the capital budget is estimated on a rolling three-year basis. As noted, autonomous agencies are not well integrated with the budget, and INSESO accounts (which should be considered part of general government) show contributions and subventions in the budget, but annexed budget accounts are not given in full. INSESO also holds its accounts in a commercial bank, not in the Treasury. Coordination of overall analysis and reporting through sectoral plans, such as the Health Development Plan, are of some assistance, but the basis for a consistent overall framework for a rolling public expenditure plan covering recurrent and capital expenditure for all elements of government is not in place.

The legal and administrative framework for tax policy and administration

11. **The 2005 tax code improves transparency of the law, but dissemination of the law has been weak and an integrated plan and capacity to address implementation issues are lacking.** *1.2.2*
A consolidated and revised tax code came into effect as of January 1, 2005 (Law No. 4/2004). The new code provides an explicit legal basis for all taxes; greater accessibility to, and coverage of, tax laws, regulations and other explanatory material; as well as criteria for administrative application.[12] There have been weaknesses in design of the procedures, tax forms, and explanatory informational material. Considerable improvement in the mechanism of dissemination of the code is also required. Major taxpayers were unaware of the changes introduced and consequently had little input or time to prepare for its implementation. Implementation of the value added tax (VAT), introduced in 2005 as part of CEMAC tax harmonization, presents a difficult challenge. Reports since the mission indicate that larger companies have been able to implement the VAT effectively, but smaller companies appear not to be claiming VAT refunds.

12. **The tax code helps clarify the fiscal regime for the petroleum sector and steps are being taken to make PSC arrangements more transparent, but the regime is complex and some implementation issues require further clarification.** *1.2.2*
As indicated above, taxation of the whole range of petroleum sector activities—prospecting, exploration, operation, and commercialization—has for the first time been explicitly consolidated from past legal decrees into the Tax Code (Articles 455-480). The government's total oil revenue "take", however, is embodied in individual tax/royalty and PSC arrangements which are not publicly released. However, as a step toward transparency in this regard, Appendix 1, prepared in the context of this ROSC and parallel work on the Extractive Industries Transparency Initiative (EITI), provides an aggregate summary of current PSC terms—reflecting past prospectivity and risk as well as current policies. Moreover, a new model PSC is under development and the broad proposed fiscal terms are available on the internet (http://www.equatorialoil.com/).

[12] The tax code harmonized Equatorial Guinea's tax system with its CEMAC partners. It has the general features found in a modern tax system comprising, among other things, general derivative principles; a corporate income tax; a global personal income tax; general value added tax; a poll tax; a rural and urban property tax; taxes on property transfers; inheritance tax; taxation of income relating to the petroleum sector; and special excise-duty type taxes on the ownership of motor vehicles and vessels as well as on production, distribution, and consumption of alcoholic beverages.

13. **Clarity of roles in revenue administration is limited by a fragmented structure.** *1.1.3, 1.2.2*
Revenue administration in Equatorial Guinea includes the General Directorate of Taxes and Collections (the Tax Directorate), and the Customs Directorate, both represented at the central and provincial levels. In addition, a special Directorate General of Audit and Monitoring of Petroleum Operations (Audit Directorate) was created in the MFB in 2003 to address the complex requirements of the petroleum industry and build local skills. One consequence of this, however, is that the Tax Directorate's enforcement role is effectively limited to the non-oil sector. In relation to these functions, the Tax Directorate will replace the prior tax-by-tax administrative approach by a functionally-based sectoral regrouping of taxpayers. Work is underway to clarify the internal responsibilities and management of the Tax Directorate.[13] Further work is needed to review the linkages among the different units of tax and customs administration and improve coordination in a number of respects, particularly given that the Customs Directorate[14] will be deeply involved with the collection of the new VAT. Coordination with regard to sharing of information should also be improved.[15]

14. **Links between Tax and Audit Directorates should also be strengthened.** *1.1.3, 1.2.2*
The Audit Directorate is charged with the responsibility for auditing oil production in line with the parameters in PSCs and also with making appropriate adjustments, once initial assessments have been raised by the Tax Directorate on the basis of declarations filed. It is assisted in this task on an exclusive basis by an external private Canadian firm (WANAV), which has the additional function of providing on-the-job training to local

[13] The Tax Directorate is to be regrouped on a functional basis into an overarching large taxpayer unit overseeing two main divisions, one dealing with the oil sector and the other with the non-oil sector. The latter is in turn divided into four sections focusing on the production and commercial subsector; the services subsector; the construction subsector; and the transport subsector, with a temporary section to prepare for the introduction of the VAT. The Tax Directorate is responsible, in principle, for enforcing collections of all taxes, fees, and parafiscal duties. In fact, however, it merely focuses on taxes because of lack of coordination with other revenue-earning departments, such as the Port Authority and the Ministry of Health, which, as a result, are unable to benefit from its expertise in reducing past arrears or delayed current payments. There is also scope for much improvement in the coordination relating to the timely recording of payments between the Tax Directorate, the Treasury and the banks; this has posed considerable difficulties for taxpayers in validating payments and avoiding unjustified penalties.

[14] Since 1994, the Customs Directorate has applied the Common External Tariff under CEMAC to all imported goods and services based on four rate bands. These rate bands are: prime necessities (5 percent); primary input goods and equipment (10 percent); intermediate goods (20 percent); and consumption goods (30 percent). The petroleum industry is exempt from import duties. Recently, the authorities applied successfully to CEMAC to reduce tariffs on selected food items (see discussion of tax expenditures in paragraph 35).

[15] A very basic taxpayer identification number system (TIN) is used only by the Tax Directorate, although steps are being taken to institute a random, computer-generated, alpha-numeric number with a security check digit, that could in time be employed for wider on-line access and transfer applications. The tax administration has severely limited human skill and equipment resources: there are few trained inspectors and no on-line computer system for access and data manipulation at workstations. As a result, internal record-keeping activity is restricted to merely transferring historical and current payment data for the major taxes from the initial manually-maintained registers to computerized registers.

staff. This directorate has been able to establish an audit program, leading to completed ex-post technical and financial audits within a period up to 18 months after the end of companies' accounting years. It has been less successful, however, in its training function, in part because staff continue to perform their existing functions on a part-time basis and cannot benefit fully from intensive training.

15. **Taxpayers' legal rights are defined in the Tax Code, but implementation faces capacity constraints.** *1.2.2*
The new Tax Code, in principle, protects taxpayers from unreasonable treatment by the tax administration or its officials (Article 28) and harassment through investigations (Article 32-34). Disputes are to be settled by duly constituted Tax Boards on factual matters that arise in the application of tax standards (Articles 124-129). Overall protection is to occur through the Central Economic-Administrative Tribunal in the general exercise of regulatory authority and management acts in the area of taxation (Articles 136-144). Practical implementation of these measures will be limited by weak administrative capacity.

Public servants' code of behavior and anti-corruption activity

16. **A comprehensive code of behavior for public servants has been enacted into law but is still far from being operational.** *1.2.3*
The basic code of behavior for public employees stems from the Law on Ethics in the Performance of the Civil Service, enacted in February 2004. This legislation defines a basic code of conduct for civil servants, establishes their obligation to file a statement of assets within thirty days of taking office, defines incompatibilities between private interests and public office, regulates the receipt of gifts by public servants, and creates a National Commission on Ethics (NCE)[16] to uphold these norms and apply penalties for non-compliance. The law is thus comprehensive and, if rigorously enforced, could provide the basis for an effective regulation of public servants' behavior. As yet, however, few of its norms have been implemented. The NCE was appointed only in November 2004 (Presidential Decree 133/2004) and to date only ministers have filed their asset statements. Full implementation and enforcement of these regulations will depend on complementary action to strengthen other branches of government, the press, and civil society, as well as creation of a strong independent auditing system.

B. Open Budget Preparation, Execution, and Reporting

The macroeconomic framework and policy basis for the budget

17. **Budget planning lacks a clear macrofiscal policy basis, a firm annual budget constraint, and medium- and long-term fiscal sustainability analysis.** *3.1.1*
The budget is not a well-defined instrument of expenditure control for Equatorial Guinea's policy needs. The extremely favorable overall medium- and long-term fiscal prospects need to be examined in the context of widely recognized capacity constraints to manage spending adequately and the need to establish a path of development that can be sustained after oil is depleted. The existing fiscal management framework needs to be

[16] This Commission comprises a president and six members, all appointed by the Head of State.

strengthened to take all these factors into account and focus budget planning on a firm budget constraint set each year in the budget law (see further discussion in Box 2). The three-year rolling Public Investment Program (PIP) is the only explicit medium-term fiscal policy reference in the budget and its preparation by the Ministry of Planning and Development (MPD) is not clearly defined by fiscal policy considerations, nor are coordination mechanisms with the MFB clearly defined. No additional information or analysis is provided in the budget document as to medium-term fiscal objectives or prospects. Budget documents do not include an analysis of fiscal sustainability taking account of the nature and time span of current oil wealth; nor is such information made more generally available to the public in other documents. Policies for the preservation and long-term use of petroleum revenues have not yet been explicitly developed.

Box 2. A Framework for Fiscal Policy Formulation

Fiscal policy formulation in Equatorial Guinea shows weaknesses in its three main dimensions: (i) from the macro perspective, it lacks a consistent analytical and operational framework as a basis for setting overall fiscal constraints for the budget; (ii) from the strategic perspective, the absence of a clear medium-term development and poverty reduction strategy, or clear procedures for translating medium-term objectives into well-defined resource allocation priorities, weakens the budget as a strategic development tool and (iii) from a micro perspective, the lack of administrative capacity and accountability by program managers, and financial management administration generally in the execution of the budget, leads to ineffectiveness and inefficiency in the application of public resources and facilitates their potential misuse.

Fiscal policy formulation in countries heavily dependent on oil should take into account the following general objectives:

a) **Intergenerational equity**: the need to assure that national wealth is not depleted as geological reserves are used up, and thus remains available for the consumption of future generations;

b) **Macroeconomic stability**: the need to assure that the level and time path of government expenditure is consistent with the domestic economy's absorptive capacity;

c) **Stabilization**: the need to assure that temporary fluctuations of revenue flows (i.e. from oil price fluctuations) do not destabilize the domestic economy through public expenditure variability, nor disrupt the development of medium-term expenditure programs.

d) **Development and poverty reduction**: the need to assure that resources are allocated, within the overall budgetary ceilings, to the attainment of priority public policy objectives, such as infrastructural development, health, and education;

e) **Efficient and effective implementation**: the need to assure that public resources are efficiently and effectively managed towards the attainment of their stated objectives.

18. **Responsibility for macroeconomic forecasts is diffuse and macroeconomic assumptions are discussed only generally in the budget documentation.** *3.1.3*
The Ministry of the Economy (MOE) is responsible for macroeconomic analysis and forecasts, but, in practice, this role has been fulfilled in recent years by the MPD. The Budget Directorate receives the forecasts for relevant non-oil macroeconomic variables for the coming fiscal year from the MPD and uses them to estimate non-oil revenues in consultation with collecting agencies, such as Customs and the Tax Directorates. Oil production and price forecasts are the responsibility of the MMIE, which relies for this function on projections of petroleum recoverable reserves and projected upstream (oil and

gas), and downstream (methanol, Liquified Petroleum Gas (LPG), and LNG) production prepared by a consulting company (Exploration Consulting Limited (ECL)), without any active involvement of the MFB in the process.[17] The budget document presents only a very general statement of expected global economic developments and their impact on the domestic economy over the coming fiscal year. However, it does not include specific information on the relevant macroeconomic assumptions used in the preparation of the budget, nor specific macroeconomic projections for the domestic economy more generally or the oil industry in particular.

19. **Existing fiscal rules are not analytically clear and are loosely observed.** *3.1.2*
The government's commitment to placing 0.5 percent of oil revenues into a dedicated Fund for Future Generations (FFG) held at the BEAC is clearly stated in the financing component of the budget document and has been adhered to in recent years. This obligation, however, is not limiting, since overall accumulation of oil surpluses in Treasury accounts largely exceeds the amount committed by the rule. The authorities indicate that the main rule followed is that current expenditures are to be funded only from non-oil revenues. The rationale for such a rule is not clear.[18] In any case, even within the very loosely defined concept of capital expenditure used in the budget classification, this rule has not been effectively observed in recent years, and current expenditure in the 2005 budget exceeds non-oil revenue by more than 40 percent.

20. **Ongoing programs are not clearly distinguished from new initiatives in the budget documentation.** *3.1.4*
In principle, the ongoing cost of government policies should be observable in the current expenditure component of the budget, as new initiatives and programs are, by and large, included in the PIP. However, the investment budget (the first year of the rolling PIP) does not distinguish between ongoing initiatives from new ones nor, more significantly, provides a clear distinction between capital and current expenditure within, or related to, each project or program (see description of budget preparation in Box 3). Thus, from a medium-term perspective, even if new initiatives could be individually identified in the investment budget, it would still not be possible to assess their future recurrent costs from the information provided in the budget documentation. No description or analysis of new initiatives incorporated in the budget is otherwise presented in any of the documents that support the budget presentation.

21. **No analysis of fiscal risks is included in the budget documents.** *3.1.5*
The budget documentation contains no explicit analysis of the sensitivity of relevant fiscal aggregates to macro other fiscal risks. In principle, the very positive net financial position of the government and the limited QFAs through public corporations (see paragraphs 2 and 36) and economic conditions, nor any quantification or reference to

[17] Because of the untimely death of a key consultant, neither staff nor government had access to this model during the January 2005 mission. Basic elements and assumptions were covered during the November 2004 mission.

[18] Given the many capacity constraints in public administration as well as recurrent expenditure needs of the social sectors, such areas could well provide equal or better social returns than infrastructure investment.

Box 3. The Budget Preparation Process

According to the Public Finance Law, the Budget Directorate in the MFB has overall responsibility for the preparation of the budget. The investment budget, however, is based on the PIP prepared by the MPD, broadly in parallel with the current budget, but without any explicit links between investment and consequent recurrent costs. The MMIE and GEPetrol play a key role in the programming and forecasting of oil revenues.

Budget preparation for recurrent expenditure starts in late March when the Budget Directorate sends ministries procedural instructions for the drafting of their budget proposals for the coming fiscal year, and gives them 45 days to submit them. In this process, the Budget Directorate acknowledges the institution's expenditure allocation in the previous budget as a baseline, and ministries only need to justify proposed expenditure increases. In June, ministries meet in individual negotiations with the MFB to discuss their proposals, concentrating only on deviations from the baseline. All proposals are then consolidated by the Budget Directorate and sent to the Council of Ministers in August, where remaining disagreements are discussed and ministers can raise new expenditure claims. Disagreements may be settled by the Prime Minister, or ultimately by the President.

Preparation of the investment budget follows a parallel path with no significant overall involvement of the MFB. The three-year rolling PIP is prepared without an explicit ceiling from the MFB for the coming fiscal year. Line ministries prepare and present their investment projects to the MPD, where they are evaluated and, eventually, included in the PIP. Once the MPD has aggregated all approved investment projects, it sends the PIP to the Budget Directorate, where the first year is included as the investment budget and sent to the Council of Ministers for discussion, without questioning the overall level of investment, the priorities it expresses, or its medium-term financial implications (i.e., in terms of medium-term programming or associated new recurrent expenditure). If it has not been received on time, the Budget Directorate sends its own estimation to the Council of Ministers. Again, ministers can make new claims on resources at this stage on which the President holds the final decision. Once approved by the Council of Ministers and the President, the investment budget is incorporated into the budget bill by the Budget Directorate as a single global appropriation (Article 10 of the Budget Law for 2005).

The Budget Directorate has no significant role in revenue forecasts. Oil revenue forecasts (88 percent of revenues in the 2005 budget) are prepared by the MMIE, non-oil tax revenue forecasts are prepared by the Tax and Customs Directorates, and other minor revenue flows, such as administrative fees charged by ministries and government departments for state services, are projected by the concerned institutions as part of the process of preparing the recurrent expenditure component of the budget. The Budget Directorate receives all these forecasts and incorporates them into the proposal that is submitted to the Council of Ministers and the President for approval.

Once the Council of Ministers and the President ratify each component of the budget, the Budget Directorate sends the draft law to parliament before the end of August for discussion in the September session. If the budget law is not enacted by parliament before the beginning of the budget year, the government operates on the basis of the previous year's budget until parliament convenes again in March, when an Amendment Budget Law is proposed to parliament. This occurred in 1997 and 1998.

government guarantees, suggest that contingent liabilities are relatively low in relation to overall government financial assets. Given the overwhelming importance of oil revenues in the government's budget, however, oil price and exchange rate variations can potentially have a very significant impact on overall projected revenues and balances. The economic model of oil revenue on the basis of which ECL performs its projections for the MMIE (when the model is re-established) should allow for basic sensitivity analysis of the major fiscal aggregates to oil price and exchange rate variations to be carried out. No specific information on any such exercise, however, is provided in the budget document.

Strategic priority setting and evaluation

22. **The lack of a clearly stated medium-term development and poverty reduction strategy affects both resource allocation and performance evaluation of public programs.** *3.2.2, 3.4.2*
The budget documentation includes only very general statements about poverty reduction and infrastructural development objectives, and does not relate them explicitly to resource allocation in the budget proposal. Until 2001, the basic medium-term policy statement was the Medium-Term Economic Strategy 1997-2001 document. Until the proposed national poverty reduction strategy for 2005-2011 is in place, however, neither the current budget nor the investment budget (or its associated PIP) can be assessed in term of specific policy priorities or objectives. The current documents do not provide clear guidelines for resource allocation over the period, nor do they include specific indicators on which to evaluate the performance of priority programs to enhance transparency of planning and implementation.

Clarity of control of budget execution

23. **Commitment control, particularly over the investment budget, is weak**. *3.3.1*
The MFB lacks effective means for controlling the execution of the investment budget (see description of process in Box 4). The execution of investment projects is the responsibility of the Ministry of Infrastructure (MOI) and the MPD is responsible for overall coordination and oversight of the PIP. None of these institutions, however, have procedures in place, nor capabilities for monitoring commitments as to facilitate effective oversight and control of investment projects. This has contributed to significant expenditure overruns in the investment budget in recent years (see Table 1 in section D). The budget documents do not include a systematic analysis of these trends, however. The government has created a new agency, GEProject, to oversee the tendering, adjudication, and execution of public investment contracts. It is already operational, but the procedures and resources required to perform these functions are not yet clearly defined, nor is its institutional and functional relationship with the budgetary authority, the MOI or the MPD. The authorities indicated that its current mandate may be extended to include the management of all government projects. Such a development poses additional questions about its institutional and functional relation with other line ministries and public institutions.

24. **Accountability for budget execution is heavily centralized and internal audit is weak.** *3.3.3*
Financial control largely functions on an ex-ante basis. The Directorate of Financial Control in the MFB preauthorizes payments on the basis of existing appropriations, but final payment authorizations lie with the Prime Minister or the Head of State, depending on the value of each payment (see Box 4). The ex-ante financial control system was introduced because of concerns with payment control and potential misuse of funds. The Directorate of Financial Control is also nominally responsible for ex-post auditing of the budget execution. However, once payments are released and made, no systematic

mechanisms have been established for public managers to account for resources and for internal review of payments and implementation procedures. Inspections are carried out by the General Finance Inspectorate and the Inspector General for Services. Specific audits can be carried out by the Directorate of Financial Control under direction from the Minister of Finance or the President. The system of centralized and lengthy pre-approval procedures combined with weak and uncoordinated ex-post auditing lengthens the process of control over final payments and reduces accountability of public managers on budget execution, and that of the Directorate of Financial Control and the Treasury for payments control. It also complicates cash management forecasting and control, and generates costly delays in the process of budget execution. Measures to address these issues will undoubtedly need a strengthening of financial administration capacity.

25. **Debt management is centralized and asset management is being developed in light of supranational requirements.** *3.3.1, 2.1.4*
Debt management is the responsibility of the Autonomous Public Debt Amortization Fund,[19] charged with accounting for all government financial obligations and operationalizing all debt repayments, which are funded by direct transfers from the budget through the Treasury. Given the very positive net financial position of the Equatoguinean government and its future prospects in this respect, asset management is an area of much larger concern. CEMAC directives call for all foreign exchange balances of member governments to be kept at the subregional monetary institution.[20] Sixty-five percent of the foreign exchange balances are kept in the French Treasury Operations Account at a relatively low remuneration rate. The remaining 35 percent are managed by BEAC and may be invested outside the currency zone. The authorities have expressed concern about the cost of these arrangements in terms of the low return they allow on the government's financial asset balances. Present government foreign exchange balances are technically outside CEMAC monetary regulations and the government is in negotiation with BEAC to establish a mutually satisfactory arrangement.

26. **Procurement practices are decentralized without a national legal framework.** *3.3.2*
In the absence of any central procurement institution, procurement of basic goods and services is the responsibility of each ministerial department. Tendering for investment projects is carried out by the MOI and GEProject. No national procurement law exists, but the authorities advise that tendering processes are open, with local and foreign bidders competing on a similar footing.

27. **Civil service employment procedures are extensively regulated and complex.** *3.3.2*
Civil service employment and conditions are regulated under the Law of State Civil Servants (Law 8/1992, as amended by Law 2/1996 and Law 10/1998), which defines the

[19] A subvention for the agency is included in the budget, but its agency account is not included among the listed autonomous agencies (see Box 1).

[20] However, several oil-producing member countries hold off-shore accounts.

Box 4. Budget Execution

Following approval by parliament and the President in October, the annual budget law comes into effect on January 1 for the calendar year ahead. The Public Finance Law defines various responsibilities in the budget execution process for spending agencies and ministries, the MFB, different Directorates of this ministry, and the Head of State or his delegate as *Ordenador.* The law also provides for a significant number of exceptions to the general norms.

The normal process for expenditure starts with ministries and agencies making claims for resources to the MFB, where the Directorate of Financial Control verifies the existence of appropriations for the expense in the budget. If appropriations are available, the MFB sends the payment claim for approval to the *Ordenador Principal* (President) if it exceeds 1 million CFA or to the *Ordenador Secundario* (Prime Minister) if it does not reach this threshold. If the expense is approved at this stage, the payment order is sent to the Treasury, where the funds are released by check directly to the payee designated by the ministry or agency responsible for the expenditure, and the expenditure is recorded on a cash basis by the Treasury and informed to the Budget Directorate.

Because of the lack of control at the level of commitments, however, it is common for payment claims to be made for commitments incurred by ministries or agencies for which there are insufficient or no appropriations. In such cases, if the activity is deemed of high priority or it has already been contracted for, it is common for spending to be authorized on the basis of supplementary legislative or administrative procedures. According to the Public Finance Law, legislative approval should be obtained in such cases before the funds are drawn. Because parliament convenes only twice a year, the common practice is to wait only for administrative approval of the expense and obtain parliamentary approval on an ex-post basis.

The Public Finance Law and the annual budget law also provide for administrative flexibility in expenditure management. According to the Public Finance Law, the Council of Ministers can vire appropriations through a decree that is ratified ex post by parliament. On the other hand, although the law requires allocations to be made at the level of chapters and specific spending units, it also authorizes global appropriations for expenditures that arise from unforeseen circumstances or could not be specifically allocated during the budget preparation process, and authorizes the Minister of Finance to allocate these resources during the fiscal year. The size of these appropriations, apparently designed as a contingency reserve, have no explicit legal limitation.

Revenue is collected by the Treasury in its BEAC and commercial bank accounts (five commercial bank accounts, of which two are dollar accounts for receipt of oil revenues). Non-tax payments from oil companies are made directly into a Treasury account at the BEAC by the oil companies or GEPetrol acting as an agent of government, and informed to the MMIE. Tax revenues (both oil and non-oil) are collected through Treasury accounts in the commercial banks which are reconciled every day by Treasury. Taxpayers then take their receipts from the commercial banks to the Tax Directorate for clearance of their tax obligations with the administration. Other nontax payments, such as administrative fees, are paid by stamps which are bought from Treasury and collected by the responsible agencies.

Although these processes are in principle clear, there are several practical reconciliation problems between the BEAC, Treasury, and executing agencies in respect particularly to tax and non tax oil revenues. As oil companies only inform the executing agencies (Tax Directorate and MMIE) about their payments, both the BEAC and the Treasury have difficulties identifying the nature of the payment and how they should therefore account for them. This lack of effective coordination between the executing and collecting agencies also means that executing agencies can face difficulties in assessing compliance with PSCs and tax obligations by the oil companies. Recognizing this problem, the government has recently set up a working group of Treasury, Tax Directorate, and MMIE officials to implement better coordination procedures.

basic rules and mechanisms for selection, employment, and promotion of civil servants.[21] The law defines three main categories of public employees: (i) career civil servants; (ii) employment civil servants; and (iii) contract staff. Career civil servants are appointed on the basis of open competition, after which they undergo a trial period of one year before entering into full employment. Subsequent promotion depends on seniority, qualification, and merit. Employment civil servants are directly selected and hired by ministerial departments on a transitory basis to perform temporary functions not reserved for career staff, but are subject to the same norms and requirements of career civil servants during their employment. Contract staff are hired for a maximum of twelve months on specific contracts subject to general labor legislation. Approved staffing levels for each ministerial department (in the three categories of employment) are defined and approved in the annual budget law but can be increased during the annual exercise with approval by the MFB and the Head of State.

Clarity of internal control and independence of tax administration

28. **Tax administration is part of the MFB; internal monitoring and control mechanisms for revenue administration need strengthening.** *3.3.4*
The management sections of the Tax Code vests the authority for operating its provisions in the MFB. Overall, revenue administration is under the MFB and has no explicit guarantee of independence in executing the tax or customs laws. The tax administration applies limited internal audit in its functions of assessment, collection, and enforcement. The Customs Directorate appears to apply more resources in this area and has, in principle, the power to demand third-party information for enforcement purposes. Audit in both areas requires strengthening to give assurance of staff integrity.

Accounting, reporting, and review of budget execution

29. **The treasury accounting system is cash based and reports do not account for all of central government.** *3.3.1, 2.1.1*
The Treasury is responsible for fiscal accounting and reporting. It produces quarterly execution reports covering all revenues and expenditures of institutions included in the budget law and submits them to the Budget Directorate. These reports follow the budget classification, which defines general categories that can be grouped to show the overall balance and non-oil balance but, by definition, treasury cash accounts include no information on arrears.[22] In terms of coverage, as with the budget law, these reports exclude operations of autonomous agencies and municipalities (except from transfers between institutions covered in the budget law and these institutions). Because INSESO, and other policy agencies (i.e., INPYDE, INPAGE) are treated as autonomous agencies, this coverage falls short of representing central government. Given weak financial reporting practices of autonomous agencies and local governments, no consolidated

---

[21] The law excludes political appointed officials from the level of Director General upwards, elected officials, court officials, autonomous agency employees, local government employees, and military personnel.

[22] However, the Autonomous Debt Agency has recorded specific elements of arrears, notably to INSESO, in respect of the government's contribution in 2004.

reports of general government finances are prepared. A more comprehensive computerized budget execution system is being developed. The authorities indicated that reporting and accountability is problematic at lower levels of government: although they are required by law to do so, municipalities do not produce annual budgets nor financial reports.

30. **There is no formal mid-year review of the budget, though parliament receives preliminary information on budget execution in the first half of the year.** *3.4.1* The Standing Committee of parliament receives an execution report in or around July—together with any rectifications proposed by the government for the current budget—covering revenue and expenditure execution during the first half of the year. Quarterly execution reports are discussed by the Council of Ministers but not made public nor sent to parliament. There is no review of the economic situation or analysis of changes in overall fiscal strategy.

C. Public Availability of Information

The coverage and quality of budget documents

31. **Basic fiscal documents are required by law to be presented to the legislature, but their comprehensiveness and content need considerable strengthening.** *2.1.1* The public finance law specifies a list of documents that are required to be presented with the annual budget law and the budget execution law.[23] Defense spending is budgeted at the same level of detail as other government spending. The budget documents do not, however, meet the requirements of the code regarding clarity and detail of fiscal policy statements and a number of other aspects indicated below in relation to code elements 2.1.2 and 2.1.3. At least partially due to capacity shortcomings, documentary support of the budget still falls short even of current legal requirements. Information was not provided in the 2005 budget proposal on the balance of the consolidated public sector, the projection of future commitments implicit in ongoing programs, the budget of autonomous public entities and public corporations, and accrued but not realized expenditures and revenues.

32. **Work on implementing EITI has been initiated, but considerably more work is required on reconciliation of government accounts**. *2.1.1* Box 5 summarizes key elements of the EITI and its relationship to the fiscal transparency ROSC. The government is taking steps to publish reports on its receipts of oil revenue in a form that can be compared to company reports on payments. Preliminary data have

[23] Article 32 of the Public Finance Law requires the government to accompany the budget bill with the following documentation: (i) a report of the budget's content, including a comparison between the proposed budget and the current budget law; (ii) a full report on the execution of the previous budget and the execution of the current budget; (iii) an account of any amendments being proposed to the current budget and their justification; (iv) the balance of the consolidated public sector; (v) the projection of future commitments implicit in ongoing programs; (vi) the three-year public investment program and the annual investment plan which forms the basis of the investment budget; (vii) the budget of autonomous public entities and public corporations; and (viii) an account of accrued but not realized expenditures and revenues at the nearest available date.

been compiled for 2004 and it is proposed to release these data in an unaudited form on the country and World Bank websites. There are several problems to be addressed to improve the internal reconciliation of the government budget, but these should not be a major issue for oil revenues. For these flows, the major factor to be addressed is that of establishing a clear relationship between oil production and revenue receipts. An EITI Commission has been established to coordinate the work, and, as discussed in section D, steps are being taken to appoint an independent aggregator to give assurance of the integrity of these reports.

Past and forecast fiscal data in the budget

33. **The budget document discloses fiscal information for three years prior to the budget year and the PIP shows investment programming two years beyond it.** *2.1.2*
Expenditure and revenue tables in the budget document include projections for the current year and information about budget execution for two years prior to that. This information is provided at the same level of detail as the budget itself. Thus, execution of current expenditures and revenues is shown by budgetary concept, and investment is shown as a single global line. No projections beyond the budget year are presented for current expenditure or revenues, but the PIP, which accompanies the budget document, shows the detailed program of investment projects and programs two years beyond the budget year.

Budget treatment of off-budget fiscal activity

34. **Legislation on granting of government guarantees reflects good standards of fiscal management, but practice could be strengthened.** *2.1.3*
The Public Finance Law requires (i) the budget law to define an overall ceiling on the amount of new government guarantees for the fiscal year; (ii) calls for guarantees within this limit to be approved by the Minister of Finance before being awarded; (iii) awards to be made by a decree of the Council of Ministers; and (iv) the government to keep a provision equivalent to 10 percent of the annual payment flows covered by its guarantees. In practice, however, the annual budget law gives an uncapped authorization to the Council of Ministers to decree new government guarantees at the proposal of the Minister of Finance, having only to inform parliament of their award. The authorities advise, however, that no guarantees have been given in recent years.

35. **The investment law has created the scope for significant tax expenditures, but their costs are not reported in the budget process.** *2.1.3*
Exemptions under the tax code are relatively limited, except for the petroleum sector. These latter need to be interpreted in the broad context of the fiscal regime applied to that sector through PSCs, as described above and in Appendix 1 and are not regarded as tax expenditures as defined generally in the *Manual on Fiscal Transparency*.[24] Under the Investment Law, however, potential investors may be exonerated from one or generally several taxes for a defined period (e.g., tax holidays for up to 10 years). As discussed in paragraph 5, other factors have an important bearing on investment decisions and staff's understanding is that the Investment Law has created little new investment to date. The initial approval and the subsequent monitoring process relating to tax exonerations also

[24] See the IMF *Guide on Resource Revenue Transparency*, paragraph 39.

remains unclear. In particular, the role of the MFB in computing the cost of tax foregone for all exonerations has not been made explicit. A partial estimate that refers only to tax foregone in relation to import duties and charges, however, is computed independently on an annual basis by the Customs Directorate.

Box 5. Fiscal Transparency and the EITI in Equatorial Guinea

The Equatoguinean fiscal transparency ROSC was carried out in conjunction with a parallel effort by the World Bank to advise the authorities on implementing the UK-sponsored EITI. The latter initiative places particular emphasis on transparency of current flows of revenue: aggregate payments to government reported by companies (including state-owned resource companies) and aggregate payments received by government from companies are to be published, thus making any discrepancy transparent.[25] EITI implementation rests on six guiding principles (see http://www.eitransparency.org/conferences/london2005/london2005.htm):

- *publication* of payments/receipts in a publicly and readily accessible form;
- *independent audit* of payments/receipts by a reputable audit firm applying international auditing standards;
- payments and revenues are *reconciled by a credible, independent administrator*, with publication of the administrator's opinion regarding that reconciliation;
- extension of the above to all companies *including national resource companies*;
- active *engagement of civil society* in the design, monitoring, and public debate around the implementation process; and
- *commitment to a work plan and timeline for implementation.*

The initiative is thus more detailed in a number of respects than the fiscal ROSC, but its focus is limited to resource revenue flows and integrity of reporting—covered broadly by elements 2.1.1, 3.2.1, 3.3.1 and 4.2.1 of the fiscal transparency code. These aspects are elaborated in the IMF *Guide on Resource Revenue Transparency*, which applies the fiscal transparency code to institutional roles, clarity of fiscal policy and budget implementation, and debt and asset management to extractive industry-related transactions, as well as current revenue flows. The two initiatives are thus mutually supportive.

36. **Significant QFAs through oil companies' social programs are not reported.** *2.1.3*

Noncommercial activities of public corporations or government joint ventures in the financial or nonfinancial sectors are generally covered in the budget, though more detailed information on these should be provided. However, arrangements under the PSCs for oil companies to carry on social programs are significant and expenditure in these programs is not reported in the budget document or elsewhere. The confidentiality clauses of the PSCs currently prohibit disclosure of information on these programs—at least for some contracts. The fact that expenditure by the oil companies on these programs is tax deductible (and under some PSCs cost recoverable) also means that at least part of their cost is directly financed by the government through foregone tax revenue. There would appear to be significant benefits from encouraging disclosure of these costs, both in terms of revealing the total expenditure on social programs, and in helping to integrate the various efforts.

[25] See http://www.DFID.gov.uk and http://www.eitransparency.org/about.htm for details.

Publication of data on debt and financial assets

37. **Reporting total financial assets and liabilities of government is limited**. *2.1.4*
Total debt is small relative to GDP,[26] and is reported in the monthly Economic Outlook published by the MPD. The year-end budget execution report includes a statement showing debt and government balances, but not including other financial assets. Treasury records includes cash balances held in the special treasury account, the FFG, and overseas accounts. Treasury does not, however, include INSESO net worth, assets or cash balances held by autonomous agencies, or government assets in state-owned or joint-venture enterprises.

38. **Policies on surplus oil revenue asset holdings need to be further clarified and publicly stated**. *2.1.4*
Parallel to the establishment of a clearly defined budget constraint, policies on surplus balances need to be clearly established and available to the public. Funds are now maintained as deposits in the BEAC in the special treasury account or the FFG as well as two overseas accounts. There are ongoing discussions between BEAC and the government on overall asset management and the appropriate rate of remuneration on these funds. Further development of asset management policy is subject to the outcome of BEAC discussions. The principle that spending against any of these funds should be done through the budget process is broadly covered under the present public finance law, but will need to be formalized once the fund arrangements are finalized.

Commitment to timely publication of fiscal data

39. **No formal commitments are in place for the publication of fiscal data** *2.2.1, 2.2.2*
Apart from the information contained in the budget execution law and the budget documents, there is no legal or statutory requirement for the publication of fiscal data, and quarterly budget execution reports sent to the Council of Ministers (see paragraph 30) are not made available to the public. Dissemination of the budget law and budget execution law (as well as their supporting documentation) is in any case very limited, and an easy step forward would be to establish a clear calendar and channels for the dissemination of these documents (as well as other legal documents) to the public. The government's stated willingness to participate in EITI (see Box 5) is a very positive step in terms of its commitment to timely dissemination of audited information on oil-related revenue flows and thus could form the basis on which to build a wider data dissemination template and calendar, covering execution of all government revenues and expenditures as well as its financial assets and liabilities.

[26] Total external debt was estimated at US$145 million (5.5 percent of GDP) in 2003, and projected to decline over time.

D. Assurances of Integrity

Integrity of data processes

40. **The initial budget does not provide a reliable guide to the likely path of future spending in the public investment budget**. *4.1.1*
Even the current budget is subject to additional authorizations by presidential decree. Overall, lack of expenditure and commitment control have led to large discrepancies between the original expenditure budget and its final execution. Table 1 shows original budget appropriations and expenditure execution for 2001, 2002, and 2003. With respect to investment projects, increased spending is undertaken if a contract proceeds more quickly than originally anticipated. Additional spending can be authorized in the first instance by virement of credit (budget authority) from any project included under the

Table 1. Equatorial Guinea: Original Budget Law and Budget Execution
(Millions of CFA)

	2001		2002		2003	
	Original Budget law	Budget Execution	Original Budget Law	Budget Execution	Original Budget Law	Budget Execution
Expenditure						
Primary recurrent expenditure	51,240	56,723	73,392	96,680	77,945	85,097
Capital expenditure	63,471	93,661	100,000*	126,634	101,420	169,741
Interest	4,930	7,076	3,922	3,992	19,162	1,221
Revenue						
Non-oil revenues	39,949	44,239	43,440	52,022	57,635	61,453
Oil revenues	114,800	303,761	412,480	362,460	416,229	409,709

Source: Equatorial Guinea authorities.[27]

MOI budget allocation. If overall budget authority in the infrastructure budget is inadequate, then authorization for payment can be sought from the Budget Directorate of the MFB, who will seek the approval of the parliamentary Standing Budget Committee. In effect, the project contracts override the authority of the budget law—reflecting the availability of surplus funds and the lack of a firm budget constraint.

41. **Accounting policy is not explained in the budget document or the budget execution law.** *4.1.2*
No comprehensive directives or manuals on accounting policy are publicly available. The government is currently completing a draft of a new public accounting law which incorporates elements of commitment accounting and aims to clarify and unify accounting procedures and responsibilities. Implementation will, however, require considerable further development of detailed regulations and capacity building in the

[27] These data may differ from IMF fiscal tables because of some differences in classification; they show the legal controls exercised by the authorities rather than analytical aggregates. For 2002, however, staff were advised that the original budget of CFA 321, 233 million, was subsequently changed to CFA 100,000 million (asterisked).

Budget Directorate, Treasury, and line ministries. Technical assistance in this area and in the establishment of a computerized system of accounting is being provided by the French Cooperation.

42. **The process of accounts reconciliation covers only treasury accounts and the process of reconciling fiscal and monetary accounts has not been established.** *4.1.3*
The Treasury reconciles its payment orders and revenue statements with balances in its BEAC and commercial bank accounts on a periodic basis. This process is, however, complicated with respect particularly to oil revenues by coordination problems with the Tax Directorate and the MMIE, which do not always inform Treasury about the nature of payments made directly by oil companies into the Treasury accounts. The Budget Directorate reconciles Treasury execution reports with budget appropriations and payment orders on a quarterly and annual basis. There is no process yet in place, however, for reconciling budget execution with asset balances held in Treasury accounts, nor with the BEAC monetary survey. This last exercise would require further strengthening of the Budget Director's authority over autonomous agencies. As part of the accounting system development, the authorities propose that the Budget Directorate and the Treasury be given authority over all government accounts. Providing that capacity is strengthened and observance of reporting requirements enforced, full reconciliation of fiscal, monetary, and external accounts appears technically feasible.[28]

Independent oversight

43. **A very limited basis appears to have been established for an independent national audit office**. *4.2.1*
A key missing element in the Equatoguinean fiscal framework is independent auditing of government transactions and accounts. In the absence of a National Audit Office or equivalent institution, no regular independent certification of the integrity of public accounts can occur. The Public Finance Law requires a qualified independent institution ("competent agency") to certify government accounts and even provides for the possibility that the CEMAC auditor could play this role. Another alternative would be for a reputed international auditor to perform such role while national institutions are put in place. Whatever the option adopted, adequate control of government finances in a rapidly growing economy like Equatorial Guinea requires stronger accountability of financial managers, underpinned by reinforced financial reporting requirements, independent auditing, and effective sanction mechanisms. It has been indicated that some work has been done on developing a law for setting up a Cour des Comptes or an equivalent organization.

44. **The broader environment of support for watchdog institutions requires strengthening.** *4.2.2*
A national audit office, it must be emphasized, will take some time to establish, and even more important than direct training and institution building for the office itself is the need to establish a supportive environment. A critical base for an effective national audit office

[28] A broad reconciliation of government oil production shares, exports, and revenues, and the fiscal and monetary accounts was achieved during the 2005 Article IV consultation mission, but systemic improvements would be required to establish such reconciliations routinely.

is an independent and effective legislature. Another important and needed pillar of overall transparency and integrity is an independent and strong judiciary.

45. **No independent domestic organizations play a role in reviewing the government's fiscal forecasts and policy assumptions**. *4.2.2*
The government makes its budget documents available to the public (albeit not widely disseminated), but there is little capacity in the country for independent analysis. Steps that are being considered for involvement of civil society, as required under the EITI, could help achieve these elements of the fiscal transparency code by encouraging some independent focus on budget practices and information.

46. **The Statistics Directorate of MPD has limited capacity or legal authority for independent assessment of fiscal statistics.** *4.2.3*
Basic independent statistics on some areas of macroeconomic concern are produced and published by BEAC. The Statistics Directorate of the MPD has limited capacity. The government has recognized these shortcomings and is developing a specific project to build statistical capacity generally.

II. IMF STAFF COMMENTARY

47. **Equatorial Guinea needs to improve fiscal transparency in many areas, but a basis is being established to implement key elements of the fiscal transparency code**. The budget and public accounts documents cover most—but not all—transactions of central government, and basic reconciliation and reporting processes are in place for State Treasury accounts. These documents are available to the public, but dissemination needs to be improved both in terms of timing and public accessibility. The scope and content of the budget and accounts can be improved substantially and immediate steps should be taken to this end. Most importantly, there is a small cadre of dedicated staff, and the authorities at the highest level have indicated their commitment to improving transparency as defined by the fiscal transparency code and the EITI guidelines. These provide a good starting point, but much more needs to be done to achieve good practice standards against all four general principles of the code, as indicated in the detailed ROSC assessment.

48. **The most important barriers to progress in improving transparency are weakness in administrative capacity and poorly defined responsibilities and oversight mechanisms.** Equatorial Guinea is not unique in this respect, and the authorities recognize the lack of capacity in critical areas of decision-making and implementation of policies. The staff assessment observed key weaknesses in oversight at many levels:

- Failure to enforce payment of non-oil taxes, fees, and charges;
- Weakness in supervision of project implementation;
- Lack of accountability for management of government enterprises and nonobservance of statutory reporting requirements;

- Absence of a clear linkage between the Medium-Term Economic Strategy and budget allocations; and

- Noncompliance with the aggregate fiscal constraints set in the annual budget law.

49. **These represent failures at all levels of fiscal management, and it is essential to address them in an integrated and sustained way**. Lapses at some levels will have consequences for the others. The authorities have, in the past, introduced a range of measures aimed at controlling spending and preventing misuse of funds. As a consequence, the current system relies on highly centralized control of payment orders. Such a system will face increasing pressure as the economy grows and will inevitably fail to establish the necessary multiple layers of accountability required in a modern fiscal administration system. An alternative strategy for reform recommended by staff is to move toward a balanced system of control. A clear designation of responsibilities and oversight mechanisms should be progressively established at each level of fiscal management: (i) aggregate fiscal policy, (ii) strategic allocation of resources, and (iii) operational effectiveness and efficiency.

50. **Comprehensive reform will take time and sustained commitment and will need to focus initially on a limited number of key areas.** Capacity building will be required to achieve the needed system and skills improvement at each level. However, improving control at the aggregate level will establish the clearest signals for more widespread reform. External support will also be required. In some cases, such as auditing, functions may have to be directly carried out by external agencies in the first instance to establish effective and credible accountability mechanisms. In all such cases, the external agency should operate with a time-limited mandate and with clear requirements for transfer of skills and capacity building. Early steps in this direction can be taken at the aggregate level through the appointment of an auditor and aggregator as part of EITI compliance (see paragraph 54).

51. **The highest priorities for immediate action are to establish a clear fiscal policy for management of oil wealth and a firm budget constraint, to reconcile and report oil revenue flows, and to clarify the mandate of GEPetrol, including a requirement for annual external audit.** These priorities are consistent with the recommendations made in the preliminary assessment in November 2004, and, in general, they are recognized as priorities by the authorities. Although capacity is limited, it is important that measures taken in these areas be seen as part of a broader program of reform, as described in the preceding paragraphs. The main elements of an integrated approach to improving transparency and accountability at all levels are summarized below (Table 2). Immediate priorities are shown in bold print. Suggested actions are discussed below in terms of the three dimensions of fiscal management (column 1), in each case looking at steps to clarify responsibilities or policies and, in parallel, strengthening oversight mechanisms. The immediate priority actions are discussed within this broader context.

52. **Establishing rigorously defined fiscal targets and accountability against these targets is the highest priority for the management of petroleum wealth.** While the need to establish limits on spending in line with absorptive capacity is noted in the annual budget laws, this limit is neither defined clearly nor observed in practice. Reform is

required in three areas: (i) policies for managing petroleum revenue flows in a sustainable way should be clearly stated and explicitly recognized in the annual budgets; (ii) annual flows and balances should be reported and assessed against fiscal targets; and (iii) overall assurance of the integrity of accounts should be established. Policy dialogue with the IMF and other development partners will help achieve these objectives, particularly the first and second, and Equatorial Guinea's actions to comply with EITI guidelines will play a very important role in addressing the second and third. Longer-term capacity building is required in all three areas. Specific recommendations are given below.

Table 2. Equatorial Guinea: A Balanced Approach to Fiscal Management Reform

Fiscal Policy Level	Control and Transparency Elements	
	Clarity of Responsibilities	Oversight Mechanism
Aggregate fiscal policy	• **Non-oil deficit strictly applied to limit budget.** • **Asset management clearly defined.**	• **EITI reporting compliance.** • **Overall reconciliation of fiscal and monetary accounts and other government assets** • **EITI aggregator report.** • **Initiate "competent authority" (Article 68-70 of Public Finance Law).**
Strategic allocation of resources	• **Unified process for capital and recurrent spending.** • **Functional classification.** • **Budget Priorities Committee.**	• **Formal project appraisal.** • Ex-post project evaluation.
Operational efficiency and effectiveness	• **Clear mandate for GEPetrol.** • Coordination of revenue administration. • **Clarification of project administration.** • Classification of autonomous agencies relative to general government/enterprise.	• **Computerized comprehensive budget accounting system.** • Revenue audit/assessment of collection effectiveness. • Clear procurement law. • Strengthened internal control and internal audit. • In-depth accountability review of agencies.

A. Strengthening Aggregate Fiscal Policy Framework

Setting and implementing aggregate targets

53. **The annual budget law should specify and explain a target for the non-oil fiscal balance and establish clearly that parliamentary approval is required to change the target balance.** The target non-oil balance would include both current and capital spending (and these elements should be clearly classified, as discussed below). The full accounts of INSESO and other general government agencies should be included in the analytical balance for policy purposes—though some may continue to be presented as annexed budgets. The target should be based on assessment of the competing claims of development spending, macroeconomic sustainability and stabilization, and preservation of wealth for future generations. Specific targets for 2005 and 2006 should be covered in

the Article IV dialogue with the IMF, but some external assistance is likely to be necessary to establish capacity in the MFB for policy development over the longer term. The most important actions for the immediate and medium term are as follows:

- Enact, as part of the 2005 Supplemental Law, a clear constraint on aggregate spending for the year and require parliamentary approval for changes in the non-oil balance.

- Embody these basic principles of aggregate control in relevant articles of the Public Finance Law (particularly Articles 2 and 31).

- Establish clear policies for setting an annual budget limit for the non-oil balance in the annual budget law for 2006. This limit should become the basis for setting ceilings on both capital and current budgets in the budget circular prior to ministries' preparation of their budget and PIP submissions.

- Establish a clear management framework for investment of fiscal surpluses for stabilization and maintenance of national wealth.

- Include MFB representatives in the team that prepares the petroleum sector forecasts and link the latter clearly to budget revenue estimates, ministerial budget ceilings, and policies on management of surplus assets.

- Show investments that draw on petroleum revenues clearly in the budget. In the case of state loans or capital contributions to GEPetrol, the projected cash calls on equity participation in LNG, or any similar transaction, should be built into the investment budget projections. Petroleum-related expenditures would not affect the non-oil balance.

Fiscal reporting

54. **Equal priority should be given to improving reporting of fiscal data, both through EITI-linked publication of petroleum receipts and strengthening overall reconciliation of government accounts.** Relatively rapid improvement seems possible in improving reliability and coverage of fiscal reporting, with an emphasis on reconciling oil revenue flows with company data. The treasury accounts combined with detailed analysis by the MMIE appear to provide a good basis for achieving these ends; the commitment to produce the revenue reports required under the EITI thus appears to be achievable. Establishing a clear link between government receipts and petroleum production will require considerably more work, and it is imperative that the ECL work be retrieved or replaced—and adequate back-up procedures and capacity established in the future. Some progress can be made on the broader issue of reconciliation of the fiscal and monetary accounts by including nontreasury government balances in the reconciliation. Full reconciliation, however, will depend on the establishment of a comprehensive budget accounting system that will cover both treasury and nontreasury accounts (see paragraph 61). It is desirable to establish the discipline of overall reconciliation in the budget execution reports, and this could be initiated in the 2004 Budget Execution Law and progressively improved as the accounting system is established. The following measures

(including those discussed with respect to the World Bank EITI consultation) are suggested:

- The EITI Commission should publish unaudited (but internally reconciled) statements of oil revenue receipts for 2004.

- An overall reconciliation of monetary and fiscal accounts and all government financial assets should be included in the Budget Execution Law for 2004.

Assurance of integrity

55. **Appointment of an independent EITI aggregator will help meet EITI compliance objectives and constitute an important first step in establishing independent national audit capacity.** As part of its program toward EITI implementation, the authorities will tender for appointment of an aggregator that will, among other things, provide assurance of the reliability of the government and company (including GEPetrol) reports on payment and receipts. The terms of reference of the aggregator will include provision of advice on systemic improvement to enhance the quality of the reports. The appointment will in itself constitute an important step toward independent audit of government accounts. It is proposed that the aggregator also provide advice on steps to establishing a "competent authority" to audit the government accounts—as required by Articles 68-70 of the Public Finance Law.

56. **Establishing assurance of integrity at the highest level will require sustained government commitment and support as well as continuing external assistance.** The EITI aggregator can provide important inputs to the creation of independent audit capacity, but this issue also needs to be addressed directly. A plan for establishing an independent audit office and a draft legal framework should be initiated. National audit capacity also needs to be seen in the context of broader development of the role of the legislature, the judiciary, and civil society. Immediate steps that could be undertaken include the following:

- External assistance should be sought for preparing and reviewing the legal and administrative framework for a national audit office and for initiating the office and training national staff.

- Parliamentary awareness of budget transparency issues should be promoted by regular seminars, possibly using some material from the January 2005 CEMAC conference.

- Internal inspection services (such as the Customs Inspection of the MFB) should be built up.

- Civil society engagement with budget management could be promoted by encouraging an independent group to analyze and comment on the government budget—external assistance could be sought. An EITI-awareness campaign is also being given priority consideration by the EITI Commission.

B. Strategic Allocation of Resources

57. **The strategic priority-setting process should be clearly related to medium-term objectives and monitored against these objectives**. Determining a clear fiscal policy basis, as described above, will give the essential foundation for long-term structural reform. In order to achieve these reforms, however, a number of fundamental reforms to the process are required. Ideally, these reforms should be part of the preparation for the "Strategy and National Program for the Fight Against Poverty 2005-2011." A number of elements could be provided through the proposed World Bank Public Expenditure Review process:

- A unified process of budgeting for capital and current expenditures should be established. Key areas of current spending, such as measures to improve the capacity and transparency of fiscal administration, should be considered as potential priority areas in the overall program without relaxing the overall budget constraint. Recurrent costs should be considered over a three-year horizon and operating and maintenance costs of capital projects should be explicitly taken into account, as well as priority areas for current spending.

- A basic functional classification of expenditure should be applied to identify allocative priorities in the PIP and investment budget and to track their implementation relative to strategic objectives, particularly poverty reduction.

- The process of priority setting should be formalized, the projects should be analyzed, and the overall program should be clearly linked to the stated objectives of infrastructure development and poverty reduction.

- A high level Budget Priorities Committee, including the MFB, MPD, and MOE should be established to guide the priority-setting process within the agreed budget constraint and give clear recommendations on priorities to the President.

C. Operational Efficiency

58. **Strengthening financial administration is critical to establishing sustainable and accountable fiscal management overall**. The aggregate and strategic-level definition of responsibilities and controls outlined above will define clear limits for spending departments and agencies, and should thereby establish clearer guidelines for internal management and control. Ultimately, however, these measures have to be supported by strong internal planning and control processes by the departments and agencies. In Equatorial Guinea, capacity and control problems at departmental and agency level seem very substantial and require urgent attention in five main areas: (i) defining the mandate of GEPetrol; (ii) strengthening and coordinating revenue administration; (iii) establishing a comprehensive budget accounting system; (iv) strengthening project administration; and (v) reviewing the roles of autonomous agencies and enterprises.

GEPetrol

59. **The GEPetrol mandate should be reviewed as a high priority.** The key issues with respect to GEPetrol, are, first, clarifying whether it is to operate as a corporation or an agency of government, and, second, ensuring an adequate corporate governance and financial accountability framework. Given likely developments in the petroleum sector with respect to downstream activity, there is a case for establishing a corporation, provided its corporate governance structure, reporting, and auditing are clearly defined and rigorously monitored. It is recommended that a review of the mandate should be undertaken as a matter of urgency in the context of the sector review and capacity building program supported by the World Bank. The mandate should include annual external audit of GEPetrol operations by an independent auditor applying international audit standards.

Tax administration

60. **Establishing a modern and transparent revenue administration system is vital to sustained reform**. The staff observed that the tax administration both lacks capacity and is fragmented administratively. A detailed review of tax administration coordination and capacity is warranted. The lack of prior consultation, absence of an information campaign, and failure to disseminate the tax code will create subsequent problems of compliance and effective collection. Although not strictly a transparency issue, capacity to implement the new tax code with respect to VAT is of particular concern.

Budget accounting and internal audit

61. **Establishing a comprehensive accounting system for the budget will strengthen overall reconciliation, reporting, and control, but capacity of the Budget Directorate will require strengthening.** The draft accounting law will provide a basis for establishing an integrated government accounting system covering all government agencies and all government bank accounts including nontreasury accounts. The capacity of the Budget Directorate to implement such a law is limited, however. Strengthening of the government accounting system would greatly facilitate budget reporting, analysis, and control. Implementation of the accounting system should also be supported by a program to strengthen internal control and internal audit functions of the line ministries. Establishment of an effective system of external and internal ex-post audit could, in due course, allow steps to be taken to delegate more expenditure authorization powers from the *ordenador principal* and *ordenador secundario* to the MFB and line ministries.

Project administration

62. **Project administration needs further strengthening.** Given the importance of the capital budget and the need to address priority development needs, an in-depth analysis is required of factors causing delays in implementing certain projects, overall control of the capital budget relative to the original allocations, and establishing regular ex-post evaluation of projects. The processes of project monitoring, expenditure control, and payments should be reviewed with the aim to streamline controls, improve reporting, and establish clearer lines of accountability for spending ministries and the MFB in

relation to the annual budget law. A modern procurement law should be put in place as soon as possible. Apparent overlaps in function between GEProject, the MOI, and MPD should be clarified, and the allocation for support of GEProject's administration should be detailed in the budget. Such a review, including consideration of procurement, could possibly be conducted as part of the World Bank Public Expenditure Review.

Autonomous agencies and enterprises

63. **A substantial review of autonomous agencies and state-owned enterprises is required.** An immediate step that can be taken is to classify those agencies that are part of general government and rigorously enforce the requirement that all such agencies should submit complete budget submissions as part of the regular budget process. A comprehensive review of management and accountability practices of these agencies is required.

The Fiscal Regime for the Petroleum Sector[29]

Revenue Stream	Description	Responsibility of Government Entities		
		MMIE	GEPetrol	Beneficiary
Bonuses	These are lump-sum cash payments paid on one or more of the following: a) signature of contracts to explore and produce; b) declaration of commercial discovery, and c) attainment of certain production levels. Bonuses vary between US$1-5 million. The amount of the bonuses is confidential.	The MMIE sets the minimum acceptable level for each type of bonus (target bonus).	GEPetrol negotiates the PSC on behalf of the State, based on the target bonus set by MMIE.	Signature bonus: paid by the International Oil Companies (IOCs) to GEPetrol. GEPetrol deposits a sum correspondent to the value of the target bonus into the Treasury's account with BEAC. The difference remains on GEPetrol's bank account. Other types of bonuses: IOCs pay into the Treasury account with BEAC. Payment is normally made by wire transfer.
Royalties	These are levied as a percentage of production and vary depending on daily production and on whether production is oil or gas. Law 1/2001 sets a sliding scale royalty rate for production of oil between 12% and 18%, based on the level of daily production. Previously, royalty rates were between 10% and 16%, based on daily or cumulative		GEPetrol receives the royalty entitlement of the State in kind and sells it on behalf of the State. An agency fee equal to 0.35% of the nominal sale value should be deducted from the proceeds of sale. In practice, the agency fee is accounted for in GEPetrol's accounts but is not liquidated by Treasury.	The proceeds of sale (including GEPetrol's agency fee) are deposited in the Treasury's account with BEAC. Payment is normally made by wire transfer.

[29] Information provided by the authorities for the World Bank's EITI/Petroleum Sector mission.

Revenue Stream	Description	Responsibility of Government Entities		
		MMIE	**GEPetrol**	**Beneficiary**
	production depending on the particular contract. The proposed model PSC 2004 provides for a negotiated royalty rate for gas discoveries. For existing contracts, the royalty rate for gas is 10%.			
Profit Taxes[30]	The corporate tax is levied on taxable income. The nominal rate is 25% and applies to all business sectors. A witholding tax equal to 1% of the turnover of the preceding fiscal year is levied at the beginning of each fiscal year as an advance payment of corporate taxes. In case of losses, a tax credit is carried forward (duration of the loss carry forward depends on contractual provisions and on the applicable fiscal law).	The Tax Directorate, in cooperation with the MMIE, monitors the application of the PSC's accounting procedure. Since 2001 fiscal audits of companies' accounts are conducted each year.	GEPetrol is liable for payment of income tax and all other taxes applicable to the petroleum sector. In practice, taxes have not been paid by it or claimed by the tax authority.	Profit taxes are paid by oil companies to the central bank. Upon receipt of payments from oil companies, the central bank notifies Treasury. A payment report is then sent from Treasury to the Tax Directorate for verification. In case of incorrect payment, the Tax Administration Division notifies the Tax Collection Division, who in turn sends the relevant documentation to the relevant oil company.
Production Shares	Oil companies operating under PSCs pay a share of their production after royalty and cost recovery, calculated as follows:			

[30] The nominal income tax rate and the witholding tax rate are respectively 35 percent and 6.25 percent in the new Tax Code, presently awaiting ratification. All existing PSCs contain a full fiscal stability clause. Hence, in principle, the new regime will not affect them.

Revenue Stream	Description	Responsibility of Government Entities		
		MMIE	**GEPetrol**	**Beneficiary**
Cost Recovery Oil	Gross Production – Royalties = Net Production of which 70 %[31] goes towards the recovery of operating costs and investments.	The MMIE monitors compliance with the PSC's accounting procedures. Since 2001, cost audits are conducted each year.	GEPetrol receives the production entitlement of the State in kind and sells it on behalf of the State. An agency fee equal to 0.35% of the nominal sale value should be deducted from the proceeds of sale. In practice, the agency fee is accounted for in GEPetrol's accounts but is not liquidated by Treasury.	The proceeds of sale (including GEPetrol's agency fee) are deposited in the Treasury's account with BEAC. Payment is normally made by wire transfer.
Profit Oil	The residual is shared among the participants in accordance with a sliding scale based on cumulative production as follows: ➢ 0%-60% is the State share of profit oil;[32] ➢ 100-40% is shared in proportion to each participants' working interest. In particular, 95-97% accrues to IOCs, and 3-5% is the State (GEPetrol)[33] carried working interests.			
Carried Working Interest			The proceeds from the sale of petroleum corresponding to the carried working	

[31] The cost recovery limit for existing contracts vary between 70 percent and 90 percent of Net Petroleum. Hence, Profit Oil varies between 30 percent and 10 percent. In the new model PSC, cost recovery limit is set at 70 percent of Net Petroleum and Profit Oil is set at 30 percent.

[32] The State's share of Profit Oil is fixed at 5 percent in the Alba PSC. In the Zafiro PSC, at current production level, the average share of Profit Oil for the State is 15.3 percent. In the Ceiba PSC, the average rate is 20 percent.

[33] The government's policy was to assign the State's carried working interests in all blocks to GEPetrol. It is the mission's understanding that this policy has not been enacted. However, in the new model PSC, GEPetrol is automatically assigned up to 25 percent carried working interests .

Revenue Stream	**Description**	**Responsibility of Government Entities**		
		MMIE	**GEPetrol**	**Beneficiary**
			interest, when the latter are assigned to GEPetrol, will be deposited by it in the company's bank account.	
Domestic Market Allocation (DMO)	The PSC contains a provision for DMO. In practice, the case has never arisen.			
Valuation of Petroleum	Natural Gas sold on the national market, namely from the Alba PSC to LPG plant, Methanol Plant and, in future, LNG plant, are valued at US$0.25/mcf. Crude oil and liquids are valued at market price, adjusted to take into consideration quality and quantity, transport and other sales-related costs.			
Personal Income Tax Witholding Tax Surface Tax	A 10% personal income tax applies to salaries and wages for residents. Non residents are liable for payment of witholding tax of 6.25% . A witholding tax of 6.25% also applies to sub-contractor's sales of goods and services. Surface taxes are levied yearly and apply to the un-relinquished portion of each licensed block			Payments are made to central bank. Reconciliation of payments occurs between central bank and Tax Directorate via the Treasury. Payment are normally made by check in local currency.

Revenue Stream	Description	Responsibility of Government Entities		
		MMIE	**GEPetrol**	**Beneficiary**
	(US$0.5/ hectare during the exploration phase, and US$1/hectare during the production phase).			
Dividends, taxes and other payments from GEPetrol	No dividend has been paid so far. GEPetrol liable for payment of corporate taxes at the standard corporate rate.	A fiscal audit of GEPetrol was conducted by WANAV in 2003.		No payment has been made by GEPetrol on account of corporate income taxes or dividends. Personal income taxes, withheld from employees, have been paid to the Treasury.