

OVERSIGHT OF PUBLIC REVENUES FROM OIL AND NATURAL GAS PRODUCTION

Government takes

From June to October 2013, TCU performed a performance audit at the National Agency of Petroleum, Natural Gas and Biofuels (ANP) to evaluate the oversight of the calculation, payment and distribution of government takes due by companies that produce oil and natural gas in Brazil, analyzing operational and transparency issues.

In Brazil, the most important government takes associated with the production of hydrocarbons, from a material perspective, are royalties and the special take. In 2013, the amount collected added up to approximately R\$ 30 billion (US\$ 10 billion), and a higher value is expected for the following years.

Therefore, the oversight of these takes, under ANP's responsibility, has a direct impact on the resources collected by the Union and other federal administrative beneficiaries.

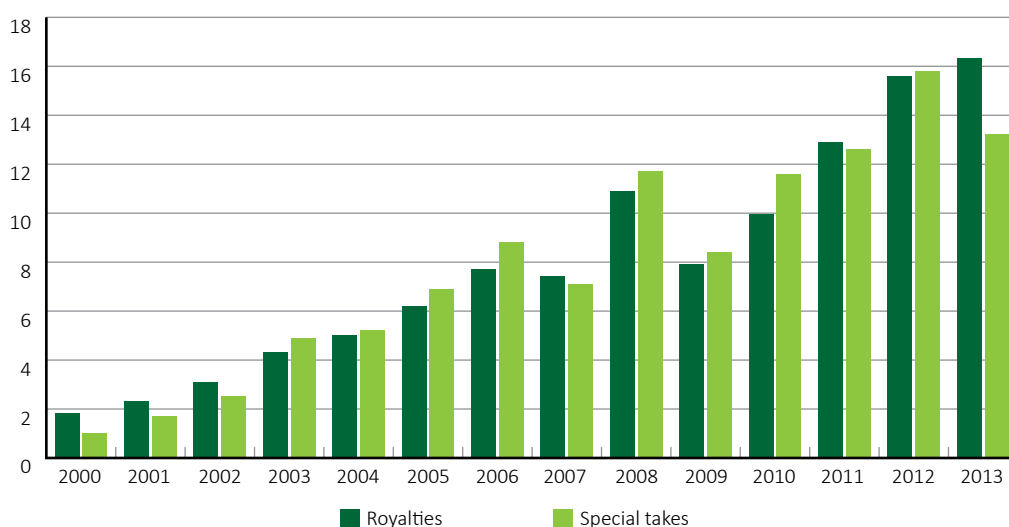
Audit Methodology

The audit was performed in partnership with the supreme audit institutions from Colombia and Peru, within the scope of a cooperation project signed between Olacefs and GIZ for the development of institutional capabilities among its members.

The audit analyzed the whole process executed by ANP, which includes the definition of the reference price used in the calculation formulas, the verification of the amounts calculated and paid by the companies, the audit of deductible costs that comprise the assessment of the special take, and the oversight of the facilities and industries used for departure/arrival and support procedures, which determine, among other things, the beneficiary municipalities.

The oversight processes of measuring systems used to calculate the volume of hydrocarbons were also verified, as a complement to the audit already performed by TCU in 2012.

Collection of government takes (in billions of R\$)



Source: TCU

Main situations identified

The audit concluded that, in general, the control carried out by ANP offers reasonable assurance of the reliability, integrity and timing of the amounts collected. However, some oversight procedures should be improved to grant more effectiveness.

The audit of special take's deductions is performed, essentially, based on a declaratory document forwarded by the concessionaires, with no verification of information by other techniques. Furthermore,

the method adopted for selection and analysis of the items to be audited is restricted from a timing perspective, as the variation between the amounts declared in the quarter being verified are compared with the period immediately before. The audit also found the lack of a specific procedure to analyze deductions when a field begins to pay the special take. Such issue is relevant because the first statement will serve as the basis for further analyses.

When evaluating the oversight of industrial, supporting and departure/arrival facilities, the audit identified a technical imprecision in the Decree 1/1991, which may influence the impartiality of ANP's decision. In addition, the monitoring applied for reviewing the facilities qualification and thus the beneficiary municipalities, while constituting a good practice, still needs formal planning and execution guidelines.

In addition, the main procedures, including calculations and crosschecking, are performed with use of electronic sheets. This practice may jeopardize efficiency, besides imposing certain vulnerability.

Another situation observed relates to the need for a friendlier interface for the user of the data and information concerning the distribution of royalties to the beneficiary municipalities released on the Agency's website, despite making it available and accessible to the interested parties.

The audit also identified certain procedural situations concerning the audit of measurement systems, such as untimely reports and inadequate treatment of non-conformities.

TCU Resolutions

TCU determined that ANP provide an action plan containing methodology and goals to correct the inadequacies related to the instructions and reports for *in loco* oversight (audits) of the measurement systems.

It also determined that the Agency establishes an adequate procedure for the approval of the use of measurement systems, including the Long-Term Test. The Agency should also officially validate the acts that have already been practiced, observing the minimum requirements established by Law 9.784/1999.

It was still recommended that ANP should:

- establish other procedures for the audit of special take's deductions and other criteria for analyzing the information and data forwarded by concessionaires;
- establish objective criteria for the analyses and qualification of the departure/arrival facilities for the purpose of defining the beneficiary municipalities, according to Law 9.478/1997 and Law 12.734/2012, as well as formalize guidelines and regulations for planning and execution of monitoring procedures;
- adopt all necessary measures for the development and final implementation of a computerized system that allow automatic registration and treatment of data and information necessary to control calculation, payment and distribution of royalties and special takes;

Court Decision

Court Decision: 3.253/2013 – Plenary – 27/11/2013

Rapporteur: Minister José Jorge