

Board decision on the Validation of Peru

Decision reference: 2017-3/BC-224

On 11 January 2017, the EITI Board came to the following decision on Peru's status:

The Board agrees that Peru has made meaningful progress in implementing the 2016 EITI Standard. In taking this decision the EITI Board noted the strong commitment by the Government of Peru to EITI implementation and the effective oversight provided by Peru's Multi-Stakeholder Working Group (CMPE). The EITI Board highlighted that the EITI has provided a positive platform for discussion and debates about extractive sector management, involving all stakeholders. The EITI Board was encouraged by the government's efforts to decentralise the EITI by implementing it at the subnational level and by the plans to work towards further mainstreaming of EITI disclosures.

The Board's determination of Peru progress with the EITI's requirements is outlined in the assessment card, below. The EITI Board agreed that Peru had not made satisfactory progress on requirements 1.5, 2.6, 4.1, 4.3, 4.9, 6.1, 7.3 and 7.4. The major areas of concern relate to the work plan (#1.5), state participation (#2.6); comprehensiveness of EITI reporting (#4.1), the coverage of infrastructure provisions (#4.3), data quality and assurance (#4.9), social expenditures (#6.1), the follow-up of recommendations and strengthening the impact of EITI implementation (#7.3) and documentation of impact (#7.4). The EITI Board disagreed with the Validator on the following requirements: work plan (#1.5), license allocations (#2.2), state participation (#2.6), in-kind revenues (#4.2), infrastructure provisions (#4.3), SOE transactions (#4.5), SOE quasi-fiscal expenditures (#6.2), follow-up recommendations and strengthening the impact of EITI implementation (#7.3) and documentation of impact (#7.4).

Accordingly, the EITI Board agreed that Peru will need to take corrective actions outlined below. Progress with the corrective actions will be assessed in a second Validation commencing on **11 January 2018**. Failure to achieve meaningful progress with considerable improvements across several individual requirements in the second Validation will result in suspension in accordance with the EITI Standard. In accordance with the EITI Standard, the CMPE may request an extension of this timeframe, or request that Validation commences earlier than scheduled.

The Board's decision followed a Validation that commenced on 1 July 2016. In accordance with the 2016 EITI Standard, an initial assessment was undertaken by the International Secretariat. The findings were reviewed an Independent Validator, who submitted a Validation Report to the EITI Board. The CMPE were invited to comment throughout the process. The CMPE's comments on the Validation Report were taken into consideration. The final decision was taken by the EITI Board.

Assessment card

The EITI Board agreed the following assessment card:

EITI Requirements		LEVEL OF PROGRESS				
		No Progress	Inadequate	Meaningful	Satisfactory	Beyond
Categories	Requirements					
MSG oversight	Government engagement (#1.1)					
	Industry engagement (#1.2)					
	Civil society engagement (#1.3)					
	MSG governance (#1.4)					
	Work plan (#1.5)					
Licenses and contracts	Legal framework (#2.1)					
	License allocations (#2.2)					
	License register (#2.3)					
	Policy on contract disclosure (#2.4)					
	Beneficial ownership (#2.5)					
	State participation (#2.6)					
Monitoring production	Exploration data (#3.1)					
	Production data (#3.2)					
	Export data (#3.3)					
Revenue collection	Comprehensiveness (#4.1)					
	In-kind revenues (#4.2)					
	Barter agreements (#4.3)					
	Transportation revenues (#4.4)					
	SOE transactions (#4.5)					
	Direct subnational payments (#4.6)					
	Disaggregation (#4.7)					
	Data timeliness (#4.8)					
	Data quality (#4.9)					
Revenue allocation	Distribution of EI revenues (#5.1)					
	Subnational transfers (#5.2)					
	Revenue management & expenditures (#5.3)					
Socio-economic contribution	Mandatory social expenditures (#6.1.a)					
	Discretionary social expenditures (#6.1.b)					
	SOE quasi-fiscal expenditures (#6.2)					
	Economic contribution (#6.3)					
Outcomes and impact	Public debate (#7.1)					
	Data accessibility (#7.2)					
	Follow up on recommendations (#7.3)					
	Outcomes & impact of implementation (#7.4)					
Overall assessment						

Legend to the scorecard

	The country has made no progress in addressing the requirement. The broader objective of the requirement is in no way fulfilled.
	The country has made inadequate progress in meeting the requirement. Significant elements of the requirement are outstanding and the broader objective of the requirement is far from being fulfilled.
	The country has made progress in meeting the requirement. Significant elements of the requirement are being implemented and the broader objective of the requirement is being fulfilled.
	The country is compliant with the EITI requirement.
	The country has gone beyond the requirement.
	This requirement is only encouraged or recommended and should not be taken into account in assessing compliance.
	The MSG has demonstrated that this requirement is not applicable in the country.

Corrective Actions

The EITI Board agreed the following corrective actions. Progress in addressing these corrective actions will be assessed in a second Validation commencing on **11 January 2018**.

1. In accordance with requirement 1.5, the CMPE is required to agree a revised and fully costed work plan which should include specific and measurable implementation objectives linked to the EITI Principles and national priorities for the extractive industries. The work plan should address the corrective actions outlined below. The CMPE is also encouraged to consider the other recommendations in the Validator's Report and the International Secretariat's initial assessment, and to consider the guidance note on developing an EITI work plan¹.
2. The CMPE should undertake a comprehensive scoping study that addresses all aspects of the 2016 EITI Standard. CMPE is encouraged to systematically review what information, required or encouraged to be disclosed under the EITI Standard, is publicly available through existing disclosures. The CMPE is encouraged to move toward more timely and mainstreamed transparency. In particular:
 - a. In accordance with requirement 2.6, the CMPE is required to conduct a thorough assessment of the role of Perupetro and Petroperu. In particular, the CMPE is required to clarify the situation with the operation of Block Z-2B owned by Perupetro and operated by Savia. The CMPE should confirm if the operation of this block gives rise to material payments, including the social expenditures of these companies.
 - b. In accordance with requirement 4.3, the CMPE is required to confirm the applicability of the infrastructure provisions made under the regulations of Law 29230 (Law of public infrastructure and private sector participation).
 - c. In accordance with requirement 6.1, the CMPE should review the coverage of social payments to all stakeholders including indigenous communities and agree an approach to address this requirement in accordance with the EITI Standard.

¹ <https://eiti.org/document/guidance-note-on-developing-eiti-workplan>

3. In accordance with requirement 4.1, the CMPE should ensure that disclosure of national and subnational taxes and revenues is comprehensive including the definition of materiality and scope of reporting. Specifically, CMPE should:
 - a. In accordance with requirement 4.1.c and the standard TOR for Independent Administrators, provide a comprehensive reconciliation of government revenues and company payments including ensuring that all companies making material payments and all government entities receiving material revenues comprehensively disclose these payments and revenues.
 - b. In accordance with the standard TOR for Independent Administrators, ensure that the Independent Administrator provides an assessment of whether all companies and government entities within the agreed scope of the EITI reporting process provided the requested information. Any gaps or weaknesses in reporting to the Independent Administrator must be disclosed in the EITI Report, including naming any entities that failed to comply with the agreed procedures, and an assessment of whether this is likely to have had material impact on the comprehensiveness of the report.
 - c. In accordance with the standard TOR for Independent Administrators, ensure that the Independent Administrator provides an assessment on the comprehensiveness and reliability of the (financial) data presented, including an informative summary of the work performed by the Independent Administrator and the limitations of the assessment provided.
4. In accordance with requirement 4.9, the CMPE should ensure that the next report follows the standard Terms of Reference for Independent Administrators. This should include:
 - a. That the Independent Administrator, in accordance with section 1.2 of the standard Terms of Reference, reviews the scope proposed by the CMPE with a particular focus on the comprehensiveness of the payments and revenues to be covered in the EITI Report (section 1.2.1);
 - b. That the Independent Administrator examines the audit and assurance procedures in companies and government entities participating in the EITI reporting process, and based on this examination, agree what information participating companies and government entities are required to provide to the Independent Administrator in order to assure the credibility of the data in accordance with Requirement 4.9. The Independent Administrator should exercise judgement and apply appropriate international professional standards in developing a procedure that provide a sufficient basis for a comprehensive and reliable EITI Report. The Independent Administrator should employ his /her professional judgement to determine the extent to which reliance can be placed on the existing controls and audit frameworks of the companies and governments. The Independent Administrator's inception report should document the options considered and the rationale for the assurances to be provided.

- c. Ensuring that the Independent Administrator provides an assessment of whether all companies and government entities within the agreed scope of the EITI reporting process provided the requested assurances. Any gaps or weaknesses in reporting to the Independent Administrator must be disclosed in the EITI Report, including naming any entities that failed to comply with the agreed procedures, and an assessment of whether this is likely to have had material impact on the comprehensiveness of the report.
5. In accordance with requirement 7.3, and together with addressing the gaps identified in requirement 7.4 below, the CMPE is required to review the lessons learnt from EITI implementation and document the discussion with stakeholders regarding strengthening the impact on natural resource governance.
6. In accordance with requirement 7.4, and together with addressing the gaps identified in requirement 7.3 above, the CMPE is required to consider recommendations resulting from EITI reporting and to review the outcomes and impact of EITI implementation on natural resource governance. The CMPE may wish to consider undertaking, in consultation with all constituencies, an impact assessment to identify opportunities to increase impact. The CMPE is encouraged to take a more active role in developing recommendations from EITI Reports and agree follow-up and implementation. The CMPE is encouraged to explore options for extending EITI implementation to address issues of greatest relevance to contemporary public debates.

The CMPE is encouraged to consider the other recommendations in the Validator's Report and the International Secretariat's initial assessment, and is required to document the MSG's responses to these recommendations in the annual progress reports.

This decision can be found online under: <https://eiti.org/validation/peru/2017>

The documentation on this Validation (Validation Report, MSG Comments and initial data collection) can be found here: <https://eiti.org/document/validation-peru-2017-documentation>