

Ing. Daniel Camac Gutierrez

Presidente de la Comision de Trabajo de la EITI
Perú.

20 April 2011

RESPONSE TO YOUR COMMUNICATION OF 22 MARCH 2011

Dear Mr Camac Gutierrez

It was a great pleasure to meet the Peruvian delegation to our Global Conference in Paris last month. We feel reassured by your commitment to continue furthering the implementation of the EITI in Peru expressed in the meeting in Paris and in your correspondence of 22 March 2011.

The Board considered in its meeting in Brussels on 13 December 2010 that Peru was "close to compliance". This decision was based on its expectation that Peru could achieve compliance within a very short time. Therefore the deadline of 12 June 2011 was set to allow Peru to complete the actions require to achieve compliance.

The main concern expressed by the Board was the insufficient coverage of all material payments and revenues. To address this matter the Board has recommended that Peru addresses three specific issues:

1. A clearer definition of materiality to be applicable to the next report. We understand from your letter of 22 March 2011 that you have established a goal of 75% of the value of national mining and hydrocarbon production, as in the previous report (2004-2007), as a target for the universe of companies to report their payment in this second report. The Board understood that this target of 75% was adopted for the first report on a pragmatic approach to ensure an achievable target for a first time reconciliation exercise. The Board also understood that this was adopted following advice from the World Bank, who on behalf of the MDTF financed this first report. As expressed in its decision, the Board considered that the adopted approach was not sufficient to cover all material payments and receipts. Therefore, it is expected that the National Commission adopt a clearer definition of materiality and demonstrate that all material payments and revenues are covered in accordance to the newly adopted definition.
2. The Board asked the National Commission to clarify its agreed approach to covering regional and municipal taxes, social security contributions and voluntary contribution. We understand from your correspondence that these streams are not to be covered in the 2008 -2009 report. We infer that you have considered that these streams are not material. You also advised in the letter that you have agreed that the material revenue streams to be considered are: third category income tax, royalties and mining property rights. We understand that all companies that have paid any of those items are then liable to report. The Board would welcome a confirmation that these are the material revenue streams and that all companies are then liable to report when they have made payments under those revenue streams.
3. The Board expects that participation of reporting companies is increased in the next report. The Board also suggested that in the case of small operators whose payments are immaterial the National Commission could request that the government discloses the combined benefits stream from those operators.

Finally, you asked in the above mentioned letter if the publication of the second reconciliation report is a necessary condition for achieving compliance. The Board decision in Brussels provides you with flexibility on how to demonstrate that all material payments and revenues are covered in the next report in accordance with EITI Criteria 1. In this respect, as you mentioned in your letter, it is welcome that the National Commission agree a work plan, including the Terms of Reference for the second reconciliation report and the actions to increase companies' participation. Without exhausting the various ways to achieve this in the absence of a finished second reconciliation report, the National Commission could, for example, consider signing a Memorandum of Understanding with the companies willing to report in this second reconciliation and incorporating in the Terms of Reference for this reconciliation study the suggestion made by the Board regarding unilateral disclosure of the combined revenues from non reporting companies.

Yours sincerely,



Clare Short
Chair
Extractive Industries Transparency Initiative