

Systematization of the Extractive Industries Transparency Initiative (EITI) process in Peru

2004 – 2016



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Message from the Peruvian State representation

Since the beginning of the process, the Peruvian State has assumed the implementation of the Extractive Industries Transparency Initiative (EITI) as a commitment and a way of highlighting the enormous importance of extractive activities for the country's economy and development. This position has not wavered and is expected to remain so in future, as evidenced by the commitment shown by the Peruvian Government, through its ministries of Energy and Mines, Economy and Finance, and the Peru EITI Technical Secretariat.

Transparency is a valuable social and corporate practice that EITI Peru has promoted for some years already. It contributes to create a Peruvian extractive industry that stands out for its high standards of quality, sustainability, effective governance and social responsibility.

The relevant government ministries and institutions have acted effectively and adequately with this goal in mind. Likewise, the participation of extractive mining and hydrocarbons companies has been fundamental and constant through their contributions, suggestions and willingness to reach the necessary consensus in order to continue implementing the initiative in Peru. Meanwhile, EITI Peru's civil society representation, increasingly articulated and aware of the strategic importance of adequate management and use of the revenues from the extractive industries, has contributed proposals, remarks and opinions, which have served to enrich this part of the process.

On the occasion of these first years of implementation, we can point out to the main milestones of this important Peruvian experience:

1. The mainstreaming and permanence of the EITI Standing Multisectoral Commission - a consensus building scheme involving multiple stakeholders, including industry, civil society and government - has proven to be a unique experience for consensus-based decision-making throughout the subcontinent, and a benchmark for other countries that may want to emulate Peru's good EITI management practices.
2. Since 2009, EITI Peru has conducted several National EITI Reports that show the payments of the extractive companies to the State. These studies are conducted together with mining and hydrocarbons companies that join them on a voluntary basis, with full support of the Peruvian Government. To date Peru has prepared five National EITI Reports spanning the following periods: 2004-

2007, 2008-2010, 2011-2012, 2013 and 2014. These latter studies take into account detailed data provided by each of the participating companies.

3. At the subnational level, EITI Peru has pioneered and effectively implemented regional processes of this initiative in Moquegua and Piura (departments) among local and regional subnational governments. EITI Regional Tripartite Commissions have been set up to prepare Regional Transparency Studies, which present information on resource transfers, such as the “canon” royalty, from the National Government to subnational governments (regional and local), as well as information on how these resources were used.

In addition to the above, international cooperation has provided support through constant coordination and joint efforts that will allow EITI Peru to accomplish further significant outcomes that will continue to enrich the EITI process around the world.

We are pleased to share with you this process, which is the result of the coordination among, and joint work and outreach of these three stakeholders (government, industry and civil society), and which constitutes an enormous effort to debate about and build an effective and efficient multiactor discussion platform. The aim of this platform is to contribute strategically to the governance of extractive activities in Peru.

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Message from the civil society representation

The EITI process in Peru takes place within the framework of a broader process of public management democratization, decentralization and transparency initiated in 2001. Its importance lies in the weight that the extractive sector has acquired in the national economy and society, both as a source of fiscal revenues and the transfer of canon royalties and surcharges to the regions, as well as the socio-environmental conflicts associated with the extractive investments that constantly resurface in the national agenda.

From the perspective of Peruvian civil society, we consider this a positive process because: a) it has institutionalized a forum for dialogue between the State, extractive companies and civil society to debate issues of transparency in the extractive industries; b) it has enabled civil society organizations to build their capacities on a complex subject such as tax and fiscal issues; c) it has led to the publishing of five National EITI Reports on payments and the income of extractive companies between 2004-2014; and d) two decentralized experiences were implemented in Piura and Moquegua, and likely three more regions in the future, thus fostering an informed debate on the use of canon royalty resources and its challenges.

However, for the EITI Peru initiative to remain useful and valid, it must incorporate improvements such as broadening transparency to other equally important issues such as social spending, environmental spending, compliance with environmental and social commitments, environmental evaluation and auditing, as well as more timely publication of reports through the automation of data collection and the dissemination of information taking into account intercultural matters. Similarly, decentralization of EITI is a step towards institutionalizing tripartite dialogue mechanisms to promote revenue and resource expenditure transparency and accountability in extractive industries, which is essential at a time when the decline in such resources challenges national and local authorities.

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Message from the business sector representation

In 2005, the participation of Peru in an international initiative called the “Extractive Industries Transparency Initiative” (EITI) was formalized.

Ever since, the extractive mining and hydrocarbons companies operating in Peru have taken up, voluntarily and under no legal pressure, the commitment to actively be involved in this effort to improve the transparency as regards matters of taxes paid to the State. Moreover, despite some initial concerns, these companies have accepted EITI as a valid commitment that helps to strengthen transparency regarding the way they conduct business in Peru.

To date, five National EITI Reports have been prepared reflecting the above. The responsible and proactive interaction between extractive industry and government and civil society representatives has allowed the initiative to ensure Peru benefits not only by helping the country to qualify as a compliant country but also from two initiatives with sub-national governments - from the Piura and Moquegua regions - which have further deepened transparency regarding the use of funds contributed by extractive activities.

Yet a larger number of regional studies needs to be prepared encompassing other major mineral and hydrocarbon producing regions, and reflecting an agenda that addresses similar transparency efforts involving other society organizations and players who have played a pivotal role in the country’s social and economic development.

In a world where corruption is debated in different national and international platforms, EITI is an important opportunity not only for the extractive sector’s benefit, but also for other actors and segments of society.

Extractive companies committed to the success of this initiative are persuaded of its usefulness and contribution to the development of our industries and the country at large. This joint effort between the government, civil society and industry has demonstrated that it is possible to together strengthen and develop transparency and dialogue in Peru.

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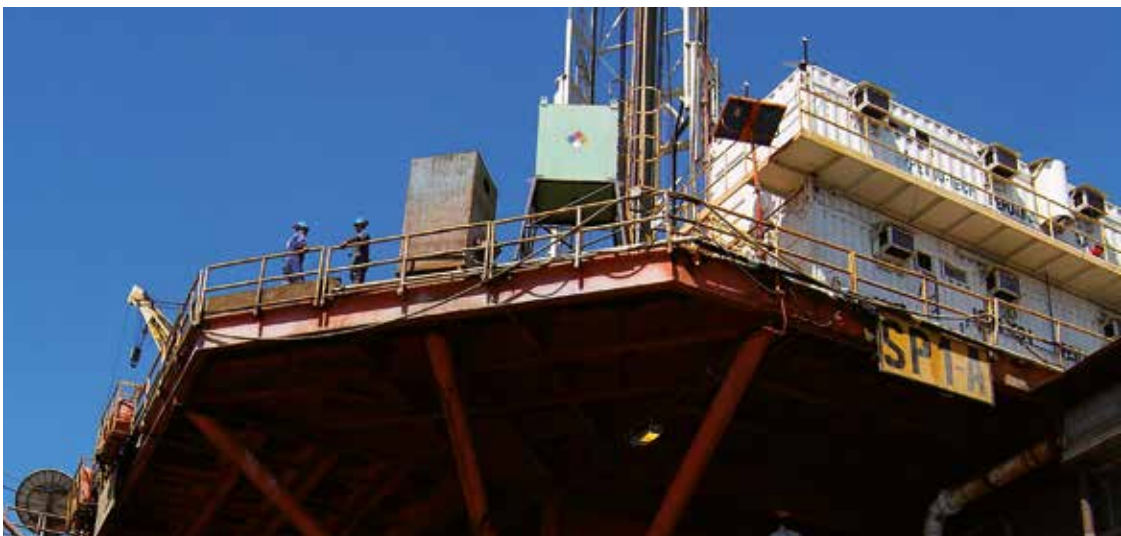
Repsol

Representative Hydrocarbons industry

Bárbara Bruce Ventura

Hunt Oil

Representative Hydrocarbons industry



Message from the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH

The Extractive Industries Transparency Initiative (EITI) is a global standard to promote transparent and accountable management of extractive resources. In each participating country, this initiative is implemented by a multi-stakeholder group composed of representatives of the State, civil society and industry.

The Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH, supports EITI worldwide through advisory services for the participating actors. In Latin America it is walking through an innovative process of triangular cooperation with Peru and Guatemala, which currently are the region's only 'compliant countries'.

As the first country to put EITI into action, Peru has faced challenges that are common to other initiative member countries and thus evolved a number of good practices and learned many valuable lessons. Guatemala, which was declared compliant country in 2014, is in the process of strengthening EITI's organizational and operational capabilities to meet the required international standards.

Within the framework of the triangular cooperation Transparency in Extractive Industries (2015-2017) project, Peru shares with Guatemala the good practices and lessons learned from its experience of more than 10 years of EITI implementation. In this way, and with the technical and methodological support provided by GIZ, both countries can strengthen their capacities and find better ways to implement this initiative.

We are very pleased to have contributed to systematize EITI's implementation in Peru, and we are further persuaded this document will be of much use to Guatemala and other countries worldwide that are planning to engage in or are starting to walk the path of this transparency initiative in their respective national contexts.

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Introduction

EITI and the bet on global transparency

Income from extractive activities makes up a large portion of revenues in about 50 developing nations with a population of about one billion people.

Circumstances and developments in many such countries point to a risk many scholars call the “curse of natural resources.” Corruption and poor economic performance are at the core of such developments. However, this is not inevitable.

A number of academic and multilateral institutions have analysed the policies of countries that have emerged from the trap and conclude that a key pillar to achieve this is to invest in institutional strengthening, transparency in public affairs and in fighting corruption.

The Extractive Industries Transparency Initiative (EITI) is a strategic alliance launched in the United Kingdom in 2002 to foster transparency as a comprehensive institutional reform that brings together governments, extractive companies from the mining, oil and gas sectors, civil society groups and international organizations from around the world. Participation is voluntary.

EITI’s goal is to disclose to the public at large the payments made by extractive companies to governments and how funds are used to sustain development.

According to the initiative’s guiding principles, implementing EITI shall take into account individual countries’ regulations. Candidate nations join EITI not only because mining and hydrocarbon development is key to their economies, but also for their interest in fostering institutional transparency in the extractive industry.

From its onset, the initiative was conceived as a tripartite scheme between government, industry and civil society. Transparency was linked to the capacity of communities and governments to ensure industry payments matched governments’ presumed receipts.

Reducing the conditions leading to potential corruption is another element of EITI. It was based on the premise that the transparent and prudent use of income derived from natural resource extraction can provide a basis for sustainable economic development, especially in countries where such amounts constitute an important part of total public finances.

Since the start of the initiative to date, EITI has approved its principles; has been equipped with a management structure and has built its institutional setting. It has also defined a set of standards that are reviewed periodically. The seventh EITI Global Conference held in Lima in February 2016 registered 51 EITI-implementing countries worldwide.

Despite the present global scenario of sliding commodity prices, quotations now are still above the levels that prevailed before the past decade's rise. Previous market conditions reinforced the importance of an industry that has traditionally carried much weight in the national economy and will continue to do so because of Peru's large ore reserves, major metals (such as silver, copper, gold, zinc, tin, lead and molybdenum) and the significant geological potential that will continue countries.

The relevance of the extractive industries in Peru

Peru experienced unprecedented economic growth in the last decade, with the mining and gas industries driving this expansion. Between 2004 and 2015, GDP increased at a 6% annual average. In 2000-2015, Peru doubled its per capita income.

Extractive activity has made an important contribution to this performance. The oil and mineral industry is GDP's third largest, and accounted for 12.2% of GDP in 2015, achieving 9.2% annual growth year over year.

Between 2004 and 2015, Peruvian foreign sales almost tripled, from USD 13 billion to USD 34 billion. In this period, on average, 62% were exports of minerals and hydrocarbons, mainly copper, gold and natural gas.

This industry contributed 7% of national government revenues in 2014. Compared to its 18% share in 2007, the smaller GDP share resulted from declining international quotations. Nonetheless, the portfolio of mining green- and brownfield projects estimated at over 60 billion US dollars for 2014 through 2018.

Despite a global scenario of sliding commodity prices, quotations are still above prices predominating before their significant increase during that decade. This development strengthened the importance of a sector that is traditionally very important to the national economy and will continue to be so because of the country's large mineral reserves, its major metals output (including silver, copper, gold, zinc, tin, lead and molybdenum) and a major geological potential that will continue to foster investment.

Transparency. A State policy

Since 2001, a series of rules have been enacted in Peru to facilitate transparency and access to public information. The Transparency and Access to Public Information Act of 2002, the backbone of the process, was approved to be applied in all government branches (executive, legislative, judicial and electoral) and levels (national, regional and local).

These entities are required by law to disseminate information on Internet portals, among others, on the following issues:

- ◆ Operational regulations.
- ◆ Budgeting and budget execution.

- ◆ Investment projects.
- ◆ Records of official meetings.
- ◆ Payroll and staff compensation.
- ◆ Acquisition of goods and services and list of suppliers.

Subsequently, in 2010, all public agencies launched standardized internet portals to disclose and access their information.

All agencies must meet present deadlines to create and launch their transparency portals. Today, many district and provincial capitals, even rural ones, run transparency portals.

These measures, together with the reform and modernization of the tax administration that started 1991 and resumed in 2001, changed the way of managing government information, build trust in the accounts shown, and significantly increased the transparency of the public sector.

Important principles for accessing public information were also introduced. Citizens are not required to explain why they file a request for State information, the entity must respond within a certain time, and cannot charge for it more than the cost to prepare the information file, so that the price will not rise as a barrier to get information. If the agency refuses to provide the required information, any citizen may choose to start contentious administrative or constitutional habeas data proceedings.

EITI Peru is part of this policy framework by making a sector-specific contribution to the promotion and practice of transparency in such an important, sensitive and complex sector as the extractive industries.

Transparency in the extractive industries

At the end of a working visit made in 2004 on the occasion of Peru's accession to EITI principles, the joint United Kingdom Department for International Development (DFID) and World Bank team concluded that Peru had made progress in extractive industries transparency and that the figures on State's revenues were sufficiently available in official web portals. In addition, it reported the figures for the three sectors involved in the EITI process were credible.

Ever since, Peru has preserved and deepened its policy of making tax and extractive industries' data available to the people. It is now possible to access a wide range of information at the portals of various public institutions. This information is organized in various ways. In some cases it is not sufficiently broken down, while in others it is possible to access information on a territory-based scheme. Data is updated regularly.

The following is some of the most relevant information open to the public regarding the transparency of extractive activities:

- ◆ Mining and hydrocarbons' production, and reserves.
- ◆ International exports and quotations.
- ◆ Allocation of revenues from the extractive activities to subnational levels of government.
- ◆ Mining projects, off-limits areas, and mining and oil franchises and contracts.
- ◆ Mining and hydrocarbon industries' investments.
- ◆ Tax collection and revenues.
- ◆ Budget execution.
- ◆ Public investment projects.
- ◆ Environmental impact studies.

After having implemented EITI for a little more than a decade Peru has created greater transparency in revenues and payments from the oil, gas and mining sectors to the State and from government to the entities funded by the national executive power. At the same time, it is part of a strategy to increase transparency in other aspects of extractive activities, in a bid to build greater trust among all key players in this strategic sector.

Systematizing Peru's EITI experience

This systematization report describes and analyses information on the experience of the EITI process in Peru from its inception in 2004 to March 2016, with two main objectives:

- ◆ Provide the EITI National Commission with an analytical reconstruction of the implementation process followed in Peru to disseminate the initiative among the participating sectors.
- ◆ Have an instrument to share the Peruvian experience with EITI players in Guatemala and elsewhere.

The recovery process required gathering, organizing and reviewing the most relevant information resulting from the EITI development decade in Peru including records of National Commission meetings, Action Plans, activity reports, National EITI Reports, Regional Transparency Studies, Validation Reports, legislation related to the initiative, dissemination materials and EITI documents.

Likewise, interviews were made with representatives of the three sectors participating in the National Commission, which integrated it at different times during the decade. A common core scheme was used to facilitate the analysis of the different views, points of convergence and discrepancies, as well as approaches to the fundamental aspects of the EITI initiative.

The analysis based on these inputs focused on identifying the strategies, mechanisms and motivations that allowed the group of actors to carry out the initiative, consolidate the National Commission's functioning and comply with EITI standards.

The product of this work is organized in three chapters. The first presents the timeline and the chronological reconstruction of the process of design, launch, implementation and consolidation of the initiative, organized by milestones and work axes that have been part of EITI in Peru. It also includes the evolution of Peru in the initiative's overall process.

The second chapter focuses on the description and analysis of four dimensions considered relevant to the process followed in the country: the EITI Peru National Commission, the National Conciliation Studies, and EITI's decentralization and dissemination. In each of these areas, the most significant actions or processes are presented separately, as a way of drawing attention to these topics.

The third chapter presents a set of lessons learned from the process of reconstruction and analysis, in particular the opinions of the participants in this study.

Executive summary

Introduction

The Extractive Industries Transparency Initiative (EITI) is a strategic alliance that promotes transparency as a global institutional reform. It brings together governments, companies, civil society groups and international organizations. Its goal is to make public the payments made by companies and the revenues that the governments earn to foster a better use of these funds and thereby contribute to the governance of the extractive activities, in a framework of overall sustainable development.

The VII EITI Global Conference held in Lima in February 2016 was attended by 51 countries where this agreement is implemented. Peru has been the first country to implement, and be declared in compliance with, this initiative in the Americas.

Peru experienced unprecedented economic growth in the last decade, with the mining and gas subsectors at the core of this expansion. Between 2004 and 2015, Peruvian exports almost tripled and, on average, 62% were attributed to minerals and hydrocarbons exports. Despite an overall international scenario of sliding raw materials' quotations, in 2014 these industries contributed up to 7% of national government revenues. Meanwhile, a portfolio of mining projects is estimated at over 60 billion dollars for 2014-2018.

At the same time, since 2001, Peru has enacted a series of rules and regulations to facilitate transparency and disclosure of public information. The Transparency and Access to Public Information Act of 2002 is the backbone of the process and is enforced by all national, regional (state) and local government institutions. Since 2010, all public agencies are required to keep standard web portals. These measures have changed the way government information is managed, and helped build confidence on government accounts while making possible significant progress in government transparency.

In 2004, a joint mission of the United Kingdom Department for International Development (DFID) and the World Bank was organized in connection with Peru's adherence to EITI principles, which concluded in its report that Peru had made progress in the transparency of extractive industries; that access to State revenue figures was available; and that these were credible for the three sectors that should be part of the EITI process.

Since then, the Peruvian State has kept and even further expanded its policy to facilitate its citizens' access to tax information and to the extractive sector. Although these processes may still be improved, it is now already possible to access the most relevant extractive activities' data.

After over ten years of EITI in Peru, the country has built a scaffolding of increasing transparency in its policies on payments by the oil, gas and mining industries, and how these resources are used by government.

Methodology

This report presents and analyses information on the experience of the EITI process in Peru from its inception in 2004 through March 2016, with two main objectives: (i) providing the EITI National Commission with a reconstruction of the process followed; ii) availing it with an instrument to share the Peruvian experience with EITI initiative actors in Guatemala and other countries.

To trace back the process, the most relevant information about EITI in Peru was collected, ordered and reviewed. Using a common basic template to interview representatives of the three sectors facilitated the analysis. The publication has been organized in three chapters.

Chapter 1: The History of EITI in Peru

1. EITI's ten-year milestones in Peru

This chapter briefly summarizes the milestones along the implementation of the EITI initiative in Peru in just over a decade, during which significant products, were obtained. The following accomplishments are worth highlighting: i) Peru's recognition as 'compliant country' since February 2012; ii) setting up of a National Commission as a Standing Commission since 2012; iii) drafting of five National EITI Reports, including an ever larger number of companies and more detailed data; iv) drafting of three Regional Transparency Studies and setting up of two Regional EITI Commissions; v) an uninterrupted process across three national administrations.

2. From joining EITI to 'compliant country' status

The first steps taken were aimed at achieving the status of 'candidate country': a public declaration of adherence to the EITI principles was issued in 2005 and the Ministry of Energy and Mines (MINEM) was given the task of putting this commitment into practice.

In view of the foregoing, MINEM convened a group of companies and civil society organizations to form a Tripartite Working Group; the Action Plan 2005-2006 was subsequently drawn up and approved in 2006 and the Working Commission was created to implement it; in addition, a coordinator was appointed. Then, Peru requested its recognition as a 'candidate country', which was finally granted in September 2007.

The first National EITI Report was completed at the end of 2009. Between May and June 2009, the characteristics of the validation process were coordinated with the International Secretariat. Then, funding was secured, the terms of reference were drawn up and the validator, France's CAC75, was hired. After the process was completed, in September 2010, the company issued its report stating that Peru

had made significant progress. However, it was noted that in 5 of the 18 indicators Peru was not fully compliant.

The National Commission challenged the observations of the Validation Report and in November 2010 sent a letter signed by the three sectors to the International Secretariat. The EITI Board declared Peru to be a country “close to compliance” and granted it a short period to complete the process. The National Commission objected to the agreements, but pledged to make the necessary efforts to become a ‘compliant country’. The Secretariat undertook to assess compliance with the observed indicators when the National Commission so deemed appropriate. In June 2011, Peru requested the evaluation. This was done between August and September of the same year.

The National Commission approved the terms to prepare the second National EITI Report in June 2011, which would include the period 2008-2010. A new goal was set to achieve 75% of the value of mining production and not less than 85% of the production of hydrocarbons. That month, the Government decided to set up the Standing Multisectoral Commission to implement EITI. The second National EITI Report was approved in January 2012 and in February 2012, the EITI International Council awarded Peru ‘compliant country’ status and so become the first nation in the Americas to reach that status.

3. Recognition of Peru’s progress

The EITI Global Initiative has held seven global conferences. The EITI Peru National Commission attended the 2009, 2011 and 2013 conferences. As recognition of its ‘compliant country’ status and to promote the initiative in the Americas, the VII Conference was held in Lima in February 2016, the first ever in Latin America. It was also the first to be carried out in a country where the Initiative was under implementation. The conference was attended by a total 51 countries.

This conference highlighted the role of Peru as an EITI champion; the results of the implementation of the EITI standard were presented worldwide and the implementing countries could showcase their progress and innovations.

EITI held its third Regional Conference in the Americas in Lima in June 2015 attended by 15 countries. Moreover, this Conference provided the regional countries a valuable forum for sharing.

Peruvian institutions have sent representatives to the EITI Council three times. The representative of the Grupo Propuesta Ciudadana NGO in 2011-2013 and the technical secretary of the EITI National Commission in 2013-2016. At the VIII Conference, the Council elected two Peruvian members for 2016-201: one from civil society (Derecho, Ambiente y Recursos Naturales NGO-DAR) and one from industry (Southern Peru Copper Corporation).

The triangular cooperation project reflects the experience and commitment of Peru in putting the EITI initiative into practice. In 2014 an evaluation mission

visited EITI Guatemala. In March 2015 Peru, Guatemala and Germany agreed to engage in a triangular cooperation with support through GIZ. Launched in July 2015, the project will run for two years.

Chapter 2. Main EITI processes in Peru

1. The National Commission

The EITI Peru National Commission. The road followed

In October 2004, a mission from the World Bank and DFID convened state entities, companies and civil society organizations to discuss EITI. Peru's Ministry of Energy and Mines sent invitations to join the initiative. In 2005, the Tripartite Working Group was set up and the 2005-2006 Action Plan was formulated.

A May 2006 supreme decree (executive order) set up the team under the name of Working Commission to carry out the Plan of Action, and mainstream and secure a permanent process. The Plan of Action was also approved. With both decisions, the MINEM sent its application to join EITI.

The decree gave the Commission seven months to do its job, until December 2006. In August that year, the newly elected administration appointed the two deputy ministers for energy and mines as its representatives within the Commission which was installed in December 2006. Initially, the need to give it a permanent character was discussed; however, a decision was not reached and between 2007 and 2010 the Commission's term was extended three times.

The Working Commission made important progress: i) it prepared the first National EITI Report (2009); ii) it launched a pilot program in Cajamarca in 2010; and (iii) it carried out a decentralised EITI dissemination campaign that year.

In June 2011 the Standing Multisectoral Commission was established. This is the official name of the multi-stakeholder working group known as the Peru EITI National Commission. The standard pointed to the need to institutionalize the Commission and define its role to implement the EITI initiative in Peru. The decree preserved the Commission's tripartite nature, and the number of its members. The device defined short-term tasks: culminating the validation process, preparing the second National EITI Report and disseminating its results. Important accomplishments in this new stage include i) Peru's qualification as a 'compliant country' in 2012; ii) four National EITI Reports prepared between 2011 and 2015; iii) implementation of regional EITI processes at sub-national level in Moquegua and Piura since 2014; and iv) consolidation of the National Commission.

The three sectors represented in the Commission. The multiactor space

The 2006 decree fixed the number of Working Commission members at nine, three from each stakeholder type: government, civil society and industry. The 2011 Supreme Decree kept to the same representation. The Commission's

Regulations adopted in 2012 specified that all three sectors have the same rights and obligations. Representatives of industry and civil society are chosen by their peers and must be accredited before MINEM.

MINEM took up a leadership role from the beginning, a role it has kept for ten years of EITI's operations so far. The Ministry is represented by the deputy ministers for energy and mines, with MINEM's Director General of the Office of Social Affairs acting as alternate. Because tax issues are paramount, it was crucial to get the Ministry of Economy and Finance (MEF) involved in the Commission as well.

Civil society is represented in the Commission by certain organizations with experience in issues of transparency or monitoring of public resources. Accredited institutions elect their representatives independently. These organizations' autonomy has been fully respected by government since the process was rolled out initially. Several universities were invited to join but initial attempts failed to recruit any. Only Universidad del Pacífico and Pontificia Universidad Católica del Perú responded, alternating incumbent and alternate membership roles in representing academia between 2007 and 2014. At the end of 2015, the National University Santiago Antúnez de Mayolo from Ancash joined to bring in new academic members to the Commission.

Industry was represented from the onset by the National Society of Mining, Petroleum and Energy (SNMPE), a widely representative body of mining and hydrocarbon companies, thus giving full legitimacy to the Commission and EITI Peru itself.

Building trust and valuing transparency

Commission members have discrepancies and different approaches among them. When divergences emerge, efforts are made to bring divergent points of view closer together and build consensus. All three groups of representatives are clear that it is only possible to make progress on EITI in those areas where agreements are reached through consensus. This work style has built relationships of trust and maintain the willingness to talk, even in times of intense national debate or conflictive situations.

One topic of debate, for example, is the voluntary or compulsory nature of participation in the initiative. Civil society holds such participation should be a matter of law and must be mandatory. For industry, the voluntary nature of participation is essential and positive. The Commission recognizes these different approaches and has chosen to continue dialogue on the subject. Thus, learning about and appreciating the value of the initiative for all sectors has created much openness within the Commission.

How the Commission works

The Technical Secretariat as technical and administrative support. The decree that created the Working Commission in 2006 also established the Commission's Technical Secretariat tasked with conducting coordination and operational activities

necessary for the Commission's operation and accomplishing its commitments. Subsequently, it was tasked with drafting and implementing an Action Plan; implementing the provisions and actions adopted by the Commission; reporting on its agreements; and monitoring and providing technical backstopping to the regional pilot projects.

During the first stage, until August 2007, these roles were fulfilled by an adviser to the minister. Since September 2007, the newly created General Office of Social Affairs at MINEM has taken over the Technical Secretariat's functions, thus strengthening this agency's operational capacity. The regulation enacted by the Commission went a step further when it further decided the director of the aforementioned office should be its technical secretary. Pursuant to the 2011 decree, the Technical Secretariat should recruit top-notch professional staff to carry out its functions. Meanwhile the 2012-2014 Action Plan set the objective of providing it with adequate administrative and logistical support which effectively occurred as from mid-2012.

The Commission's rules of procedure. In November 2012, the EITI Peru Commission approved the regulations that defined its internal operating framework. It ratified certain elements that had already been addressed in its creational decree; the equality of rights and obligations of its three sectors' members was made explicit, and it was established that the representatives of the extractive industries and of civil society would be elected by their peers, including three incumbent and three alternate members for two renewable terms. The regulation set forth the chair's functions and detailed the Technical Secretariat's, while also defining the Commission's operating mechanisms.

While it is true that many of the definitions contained in the regulation already guided the way in which the Commission operated, it was important to systematize and order them in a document, endorsed by MINEM, as a regulatory framework. The regulation established that any doubts arising as to its interpretation would be resolved by consensus among its members.

Commission priority issues

From its inception in December 2006 until March 2016, the National Commission has met 82 times. Agenda highlights follow:

- ◆ Four action plans created by consensus of the parties.
- ◆ Five National EITI Reports.
- ◆ Support to four subnational EITI processes.
- ◆ Institutionalizing the National Commission. EITI Peru's validation process.
- ◆ Communication plans and initiatives.
- ◆ Coordination with EITI's international bodies.
- ◆ Four action plans drafted by consensus.

A new administration. A critical turning point.

Two government transitions in 2006 and 2011 had a negative impact on the National Commission's workload. Next July (2016), the Government and the Technical Secretariat will go again through a transition in government administration. Some major issues that will certainly arise are already being addressed regarding how the Initiative will continue to be implemented, including: i) passing the terms of reference for the EITI Peru sixth National EITI Report, for 2015; ii) complete the documentation to process the World Bank's grant; iii) keep the Commission's general documentation archives organized and publish them on the EITI Peru website.

2. EITI Reports***Characteristics***

The EITI Peru National Commission defined the EITI Peru National Reports characteristics in the terms of reference for each of them under the name of the National EITI Reports.

Their objective is to carry out the independent, reliable and systematic verification and clarification of payments to the State made by the mining and hydrocarbons companies operating in the national territory, voluntarily participating in the initiative, and the revenues that the State agencies have received from these companies, as well as their reallocation to regional and local level entities, in a given fiscal year, as they comply with the tax and non-tax responsibilities set forth in domestic regulations.

For the second study, specific targets were set to increase corporate participation and further disseminate more detailed information.

The Commission defined that the most appropriate consulting firm profile to develop the study would be a consulting firm specializing in audits because of its experience in assessing the consistency of accounting and financial information. The auditing firm was competitively chosen every time. Not only demonstrated experience was important but also the firm's reputation. After exhaustive screening, Ernst & Young consulting firm was selected to prepare the five national EITI reports.

Together with the results of reconciling the figures, the consulting firm identified the main difficulties in applying the established methodology and presented its recommendations to improve access to and transparency of information.

An invitation to industry

As for the call to business to participate in the National EITI Reports, until the fourth study MINEM typically asked firms to sign a letter of acceptance, which

included the option for companies to accept the disclosure of disaggregated figures. Otherwise, their data would be included only in each subsector's aggregate information.

From the fourth National EITI Report on, all companies agreed to submit their individual (broken down) data, as set out in the EITI standard approved in 2013. For the fifth study, it was no longer necessary to use the adhesion form, as companies were asked directly to send their information.

SNMPE played a very important role at the beginning of the reports; it sent communications to its members supporting MINEM's request and explaining EITI and the study. Moreover, it worked together with MINEM to present the initiative and distributed complementary information.

Obtaining information

EITI Peru's Technical Secretariat sent a letter to the surveyed companies presenting the auditing company and the appointed auditors who would carry out the audit. The consultant then sent the firms the forms they needed to fill out with the required data. The companies returned the forms showing the amounts they had paid.

To learn what revenues the State earned, the consultant talked to various government agencies, to assess the various types of government revenues it needed to examine, including the National Superintendence of Tax Administration (SUNAT), Perupetro (the government's oil contracts' agency), the Mining and Metallurgical Geological Institute (INGEMMET) and Treasury (MEF). MINEM had previously sent presentation and accreditation letters to each of these entities to pave the road for the consultant's work.

Since the third report, background information on the extractive mining and oil sector in Peru is also included. This information has been gradually become more elaborated in the fourth and fifth studies to align it with the EITI standard approved in 2013.

Critical issues in report drafting

Income tax declared and paid by companies to the State is protected by constitutional tax reserve. The National Commission followed a lengthy process to explain Treasury (MEF) and SUNAT - the tax agency - the characteristics of the reports, the exact grounds for requesting sought, and jointly find the mechanism to lift tax reserve provisions. After several inquiries it was found that the procedures contained in SUNAT's Conformed Single Administrative Procedures Text (TUPA) allow the taxpayer to have their annual affidavit and tax data disclosed to a third party. Companies needed to provide the consultant with a notarized power of attorney for SUNAT to be able to deliver the information. Once these procedures were defined and SUNAT formally agreed, the participating companies went on with the procedure.

Materiality is important for the validity of the studies and should be clearly stated in the terms of reference. It is important that the results reflect that major

companies participated and that, both combined and individually, they account for a large percent of the value of output.

The first National EITI Report applied the criterion of company relevance in relation to the main mining and hydrocarbon output volume. For the second and third reports, the terms of reference established that the companies should represent no less than 75% of the domestic output value in the mining sector and no less than 85% for hydrocarbons. For the fourth and fifth studies, the figures were increased to 85% in mining, and 90% for hydrocarbons. All the reports should also include firms whose output value exceeds 2% of the total mining and liquid hydrocarbon domestic production value, as well as 1% of the total national natural gas output.

Since the first study the Commission debated how to **disclose the report's figures** to the public. Some suggested to identify individual amounts paid by each company. Others wanted to disclose only consolidated figures for the subsector as a whole. The National Commission held several meetings to bring together the different positions on this point. After a lengthy debate, the Commission accepted both ways: aggregate consolidated information would be presented for each industry but would be disclosed in individual detail only for those companies that so authorized. By the time of the fourth National EITI Report, all companies had already accepted to disclose their individual corporate data. This gradual process allowed to eventually meet the EITI standard, as it happens at present.

Civil society organizations want to **include new issues in the National EITI Report**, such as corporate social spending, payments to prevent, mitigate and remediate environmental impacts, as well as more transparent actual ownership of companies. Industry believes that these issues should not be included in the framework of EITI Peru and that it is not clear exactly what should be made transparent. Business feels there is still much ground to be covered regarding national and regional studies, and the time has not yet come to introduce new issues. Clearly, the parties have not yet reached a common ground on these issues.

On the other hand, the three sides agree on the need to make progress regarding transparency of the distribution and use of income generated by extractive companies. They think it is necessary also to learn the impact of those funds on the population at large.

Automating data gathering has been proposed by the National Commission as a way to expedite report drafting. All three sides agree on this need. Using an automated proposed platform would allow not only to meet EITI deadlines, but also prevent information presented in the studies to become uninteresting as it is outdated.

Main report indicators

In ten years of EITI, Peru has prepared five reports. The first spanned four fiscal years, the second three, the third two and from the fourth report on, reports are annual. This improvement seeks to provide the most updated information possible.

The process began involving 33 companies. By the fifth study they were 59. Their number has increased from one report to the next, revealing the growing appreciation of this initiative by industry. Each report has gradually increased the domestic output it covers. The last report coverage exceeds 85% for mining and 95% for hydrocarbons.

Increasingly, the five reports provide more detailed data. While in the first three reports only a few companies agreed to publish individually their payments to the State, in the last two all reporting companies did. Peru had made progress in adopting this criterion even before the decision was made to include it as an EITI standard in 2013.

3. Decentralizing EITI in Peru

The National Commission has moved forward to advance the decentralization of EITI with mixed results. Decentralization is important for Peru because, through schemes such as canon and royalties' distribution, regional governments and municipalities, as well as public universities - and in some cases, vocational institutes - receive a significant percentage of the income generated by the extractive industries operating in their territories.

Cajamarca and Cuzco regional pilots

In **Cajamarca**, the initial drive to prepare a regional EITI report came from the National Commission. As part of the preparatory activities, its members discussed EITI's characteristics with the region's government authorities and officials and the results that were expected from expanding it to the regions. The regional governor at that time and his team showed interest and commitment to take the initiative forward.

Cajamarca's regional project began by setting up an EITI Cajamarca Provisional Regional Sponsorship Group in May 2008, which was formalized by virtue of a Regional Executive Decision. Its main functions were to promote the EITI initiative in Cajamarca and align the entities in charge of the design and execution of the pilot program. The team was given two months to do its job but that proved insufficient. In fact, the Sponsorship Group remained active throughout the life of the project. In 2008, MINEM and the Cajamarca Regional Government signed an agreement to provide the region with technical assistance and resources to carry out the pilot project from October 2008 to October 2010.

In February 2009, the National Commission prepared the terms of reference to set up a pilot EITI implementation program in Cajamarca and draft the first Regional EITI Report. The Regional Sponsorship Group was in charge of conducting the processes and the final selection of consultants, which it did in November 2009. In May 2010, the Sponsorship Group sent the National Commission its Regional EITI Report.

The Regional EITI Report included information on the following issues: i) company payments; ii) Government earnings; iii) funds transferred by Government to Cajamarca institutions; iv) revenues received by the region's institutions; v) analysis and determination of funds used; (vi) complementary analysis on payments, income, distribution and expenditure. The study spanned from 2004 to 2007.

Only Yanacocha mining company joined the study as it was the only mining company operating in the region at that stage. Income-receiving institutions included the Regional Government of Cajamarca; the provincial municipalities of Cajamarca and Hualgayoc-Bambamarca; the municipal districts of Jesus, Baños del Inca and La Encañada; and the National University of Cajamarca. The Cajamarca Regional EITI Report was presented locally in June 2010.

Though the Regional Pilot Program contained guidelines to promote transparent use of mining funds and improve their management, as well as proposals to strengthen institutional capacities, it lacked a dissemination, analysis and debate plan involving the EITI initiative's regional stakeholders.

In Cuzco the 2003-2006 regional governor warmly received the regional EITI project so this region (state) became the second pilot region. To move the initiative forward, a tripartite working group was proposed to select and retain the consultancies needed to implement EITI. However, it was not possible to set up the Regional Commission despite many efforts by the region's governor to promote the initiative as the regional administration showed no interest in the project.

In 2011, after new regional officials had been elected, the EITI idea came back to life; nevertheless, as in previous attempts, the state's administration showed only very weak commitment and played a feeble role. A number of regional civil society institutions that were well aware of the EITI initiative tried to set up a group and to promote it in the region. However, the conflict in the province of Espinar between the local population and a mining project complicated the effort and, finally, it was decided to abandon the subject as conditions to fulfil it were not conducive to a successful effort.

Piura, Moquegua and Loreto regional experiences

Despite the initial experience's limited achievements, the National Commission ratified its commitment to the decentralization of EITI and incorporated it as a line of work in the 2012-2014 Action Plan, to which it has stuck to date. Between March and April 2013, representatives of the National Commission held initial talks with actors from different regions and in April identified three regions to carry out the new decentralized pilots, namely Piura, Moquegua and Loreto.

Based on the lessons learned before, the National Commission identified three criteria to prioritize the new regions for the new decentralized EITI processes: i) a committed regional authority; ii) interested companies; and (iii) an active and interested civil society.

The members of the Commission members split the task for promoting the initiative and accompanying each region through the process. This decision, coupled with the existence of a permanent technical support team in the Technical Secretariat, provided better conditions for ongoing sharing between the regional commissions and the National Commission, as well as to follow up and participate in its activities.

The enactment of regional ordinances (main regional public policy making tool) was coordinated to provide the necessary legal framework for implementing EITI. Piura and Moquegua advanced and promulgated their ordinances, while in Loreto the process lost momentum and eventually stalled. In November 2014, the National Commission agreed to consolidate the processes in Piura and Moquegua.

The National Commission prepared the terms of reference for the Regional Transparency Studies and presented them to each Regional Commission for comments. Members of the Technical Secretariat participated actively in this effort. In order to comply with regional regulations, to involve the three sectors in the initiatives and to have the terms of reference for the Regional Transparency Reports, the National Commission followed the procedure of convening, selecting and contracting the consulting company. The EITI National Commission focused on selecting an auditing firm of recognized track record and independence.

Between June and October, the Commission held several meetings with corporate executives to acquit certain objections that had been raised, but in October 2015 the Working Group agreed not to accept the final versions of the Piura and Moquegua Regional Transparency Reports. So, the Commission was forced to hire a consultant to complete the regional reports by the end of 2015.

In Piura, the initiative began with meetings with the governor, regional authorities and regional non-governmental organizations. The regional actors' leadership was greater and civil society and the regional governor agreed on approaches and criteria to draft the regional ordinance that would mainstream the process. The regulation was approved on May 26, 2014. It set up the Standing Multisectoral Regional Commission of EITI Piura, inaugurated in July. The ordinance established that each of the three sectors would have four representatives. The Technical Secretariat was in charge of a representative of the Regional Planning, Budget and Land Management Department.

Between August and October, the Regional Commission approved its internal guidelines and Plan of Action for the 2014-2016 period. An EITI dissemination plan was prepared for the region and municipalities. Meanwhile, the National Commission has played an important role in this process through the institutions it embodies, such as the Grupo Propuesta Ciudadana, SNMPE and the Technical Secretariat's team.

It was agreed to carry out the Regional Transparency Study for 2012-2013 and to include broken down data for the transfers from Government to the Piura Regional Government, the provincial municipalities of Piura and Talara, and the District Municipality of Castilla.

The 2012-2013 Regional Transparency Study was concluded in late 2015 and made public in February 2016. Members of the Regional Commission committed to disseminating the 2014-2015 report and to expanding the number of participating municipalities. Outreach activities have been scheduled, including a presentation and discussion of results. Despite the delay and that this is the first decentralized EITI experience in a multi-stakeholder scheme at subnational level, it was considered appropriate to report to the citizens about the payments made by companies, how they are distributed among subnational governments and how funds are used.

In Moquegua meetings were held in October 2013. Both the regional government and the companies operating in the region and civil society showed interest in introducing EITI. The region's governor, the technical secretary and some members of the National Commission evaluated the possibilities of promoting EITI in the region. On April 30, 2014 a regional ordinance was enacted establishing the Standing Multisectoral Regional Commission that took office in May, with a total of nine members, three from each sector. The Regulations of the Regional Commission were discussed and approved. In July, and the guidelines of the 2014-2016 Action Plan were defined. Subsequently, the National Commission sent them the proposed terms of reference for the Regional EITI Report, which they proceeded to review.

They then agreed to conduct the study for fiscal years 2012 and 2013. This study was completed in late 2015 and was made public in February 2016. The only public entity participating in the report was the Moquegua Regional Government. Apparently, as pointed out by members of the Regional Commission, the Commission and the municipalities failed to work together.

Moquegua failed to devise a transition strategy to pass on the initiative to the incoming regional authorities and commit them to the project. This may explain why scant progress was accomplished during the new administration's first six months in office. At this stage, the National Commission's Technical Secretariat played an important role in continuing the dialogue with the new regional authorities. Civil society organizations also lobbied to continue carrying on the Action Plan's calls and commitments. The region's governor did not join the Commission, but did appoint the Regional Director for Energy and Mines as technical secretary, thus providing continuity to the tasks at hand.

Some of the interviewees for this report declared the Regional Commission's loss of momentum was balanced by a greater intervention of the National Commission's Technical Secretariat. The National Commission understood that it was better to allow the Regional Commission to proceed at its own pace. This seemed an appropriate response to some members' demands to grant the Regional Commission greater independence and enhance its role in decision making.

The Loreto experience kicked off by engaging national civil society organizations including Grupo Propuesta Ciudadana, the Sociedad Peruana de Derecho Ambiental (Peruvian Environmental Law Society) (SPDA) and the Loreto

Economists' Association in preparatory activities for the initiative that were held for two years. As a result of their work, the Regional Council became interested in the subject and a draft regional ordinance was drawn up, enacted on December 14, 2012, to create the Standing Multisectoral Regional Commission with the mandate to implement EITI in the region.

The Standing Multisectoral Regional Commission was defined as a tripartite body, attached to the Regional Directorate of Energy and Mines, which was to preside over this process. The composition of the Commission was conceived with a majority participation of State institutions, especially the regional government. The Technical Secretariat would be exercised by the Canon and Concessions Deputy Manager, reporting to the Regional Collections Manager. The ordinance contained a clear and detailed mandate, which included a list of the functions to be carried out by the Commission. In spite of this, by the beginning of 2013 the process had come to a standstill. The regional governor stepped back on his commitment to push the initiative in the region while the existing mechanisms to move it forward were not strong enough.

4. Disseminating EITI Peru

The 2005-2006 Action Plan laid the foundation for guiding the design and development of communications in the EITI Peru implementation process. One of its first initiatives was the selection and hiring of a company or entity specialized in social communications, different from the company responsible for EITI reports.

Dissemination was conceived as a set of integrated efforts; for example, as part of a campaign or communications plan, and not as isolated dissemination actions, in order to enhance the impact of the communications program. It was also envisaged that the communications company would conduct opinion surveys to monitor and evaluate the initiative's progress.

The 2009-2010 Action Plan includes results on the progress and products of the first phase of implementation of EITI Peru, as they relate to the implementation of the communications plan. It defines the activities and allocates a budget of 115 thousand dollars, or 33% of the plan's budget, to hire a consulting company to design and develop the communications plan. The action plan underlines the concern of the previous plan to choose an entity that would directly contact the people and its representative institutions in order to collect their concerns and present the publication of study findings in friendly and understandable formats.

The 2012-2014 Action Plan proposes to engage in dissemination efforts that would turn the Multisectoral Commission into the institution that would create transparency in the mining and hydrocarbons industries through a program to disseminate and communicate the National EITI Reports for 2008-2010, 2011-2012 and 2013. Its goal was to disseminate and position the EITI process in national forums and social consultation spaces. To implement the communications plan, USD 191,500 were allocated, or 21% of the budget of the 2012-2014 Action Plan.

Talks on the communication strategies picked up speed in 2009 when the first report was about to conclude and its widest possible dissemination was required. In February 2009 the terms of reference were finally approved followed by a call for bids for a communications specialist company. Calandria Social Communications consultancy was finally chosen in October.

In December 2009 the Communications Plan was approved and a structured communications plan was set in motion, including: (i) a web page, (ii) a direct communications strategy, (iii) hard copy dissemination materials, and (iv) mass media.

Some Commission members thought this was a failed strategy as the purported goals were not accomplished, partly due to limited local stakeholder involvement.

Website

Launched in 2005 on the MINEM website, it has been progressively enhanced. In October 2009, the Commission agreed to publish on the web the records of its meetings and to publish analysis and opinion reports about the EITI implementation process in Peru. Subsequently, its layout was improved, the site made more interactive and available documentation expanded. In January 2010, most of the Commission organizations linked their electronic portals to Peru EITI's websites. 2010, 2011-2012 and 2013. Its goal is to disseminate and position the EITI process in national forums and social consultation spaces. To implement the communications plan, USD 191,500 were allocated, or 21% of the budget of the 2012-2014 Action Plan.

In 2013 coordination with GIZ started to design an interactive and friendly platform that allowed to see the results of the National EITI Reports. In 2015 a viewing system was incorporated for this purpose. In addition to serving as a dissemination tool, in March 2015 it was agreed to use the web to accelerate report drafting by gradually introducing an automated information uploading system.

Direct communication efforts

Between March and July 2010, the 'Transparent Figures' forums were organized to provide information on the EITI initiative in general and on the first National EITI Report's findings in particular. The effort's target audiences were community leaders, civil society organizations, local academia, regional government and municipal authorities and officials, as well as company executives engaged in extractive activities in each region. This strategy sought to encourage their interest in implementing EITI within their jurisdictions.

The forums were held in five regions: Ancash, Cajamarca, Cuzco, Loreto and Moquegua, including presentations by National Commission members. Participants discussed in groups and commented on the EITI process and the information shown in the National EITI Report. The Cajamarca forum presented partial findings of its Regional EITI Report.

Printed publications

In 2010, six 'Transparent Figures' dissemination booklets were published explaining the meaning, scope and characteristics of the initiative and the first report's findings. The booklets also provided background material for the regional forums. In 2014, the National Commission published a summary of the fourth report. In 2015 four booklets were printed and in 2016, the National Commission published a booklet reviewing EITI's 10 years in Peru.

Mass media

The communication strategy launched in 2010 was completed with a radio spot and microprograms to broadcast messages about the extractive industry's transparency. Aired in four languages: Spanish, Quechua, Achuar and Matsiguenga, they targeted the general public in the regions where the regional forums were developed and the people living in those areas where EITI Peru member companies ran their projects.

Chapter 1

The History of EITI in Peru

1. EITI's ten-year milestones in Peru

This chapter briefly summarizes the milestones along the implementation of the EITI initiative in Peru in just over a decade, during which significant products, such as those indicated in the charts, were obtained.

Main achievements of the EITI Peru process

Peru has been a 'compliant country' of the EITI standard since February 2012.

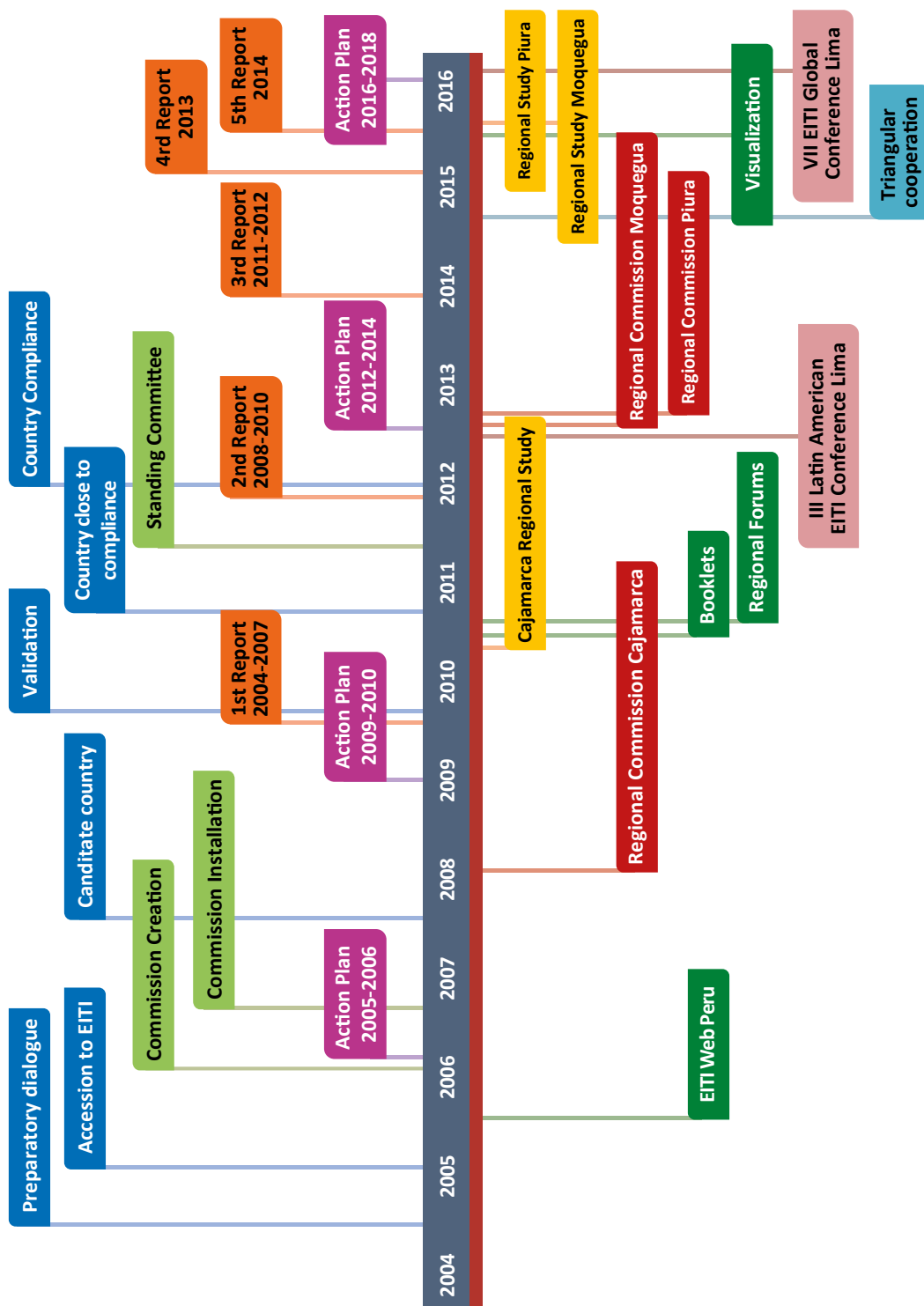
The EITI Peru National Commission has evolved from a tripartite Working Group to a formal, but temporary, Commission, until a Standing Commission is set up, which, based on the consensus between the Government, business and civil society, has become a fundamental process pillar.

Five National EITI Reports were prepared, gradually adding firms that now account for a significant percentage of domestic minerals and hydrocarbons output. All the payments made by each of them have been disaggregated. Reports are now published annually, after the first report started by covering four years.

Three Regional Transparency Studies were prepared for in Cajamarca, Moquegua and Piura. In the latter two regions, EITI Regional Commissions are preparing their second round of reports.

The decision to roll out EITI in Peru was made by the Government in 2004. Despite some delays during government administration transitions the process was not been interrupted by the 2006 and 2011 presidential transitions. Likewise, the regional Piura and Moquegua initiatives continue after the renewal of subnational administrations in 2014.

EITI Timeline



Process Milestones

2004 **The interest of the Peruvian Government to join EITI**

On September 15, the Minister of Energy and Mines requested assistance to the President of the World Bank (WB) to promote Peru's effective participation in EITI. On October 18 and 19, the World Bank and DFID mission together with the Ministry of Energy and Mines (MINEM) convened state, private sector and civil society institutions separately to explain the international initiative and promote the country's adhesion.

2005 **Peru becomes a formal EITI participant**

On March 17, representatives of the Peruvian Government attended the Second EITI Global Conference in London, which approved the principles and criteria that would guide implementation in countries adhering to the initiative. The Peruvian Government, already considered a formal signatory to and participant in EITI, expressed support for the London EITI Declaration.

2005 **The Tripartite Working Group elaborates the first Action Plan**

Convened by MINEM, a group of companies and civil society organizations supported the initial impetus given by the BM - DIFD mission and created the tripartite Working Group. MINEM designated a group coordinator reporting directly to the minister. In April, with the support of a consultant hired by the World Bank, the Working Group finished drafting the consensus first version of the 2005-2006 Action Plan, which focused on clarifying and reconciling the payments made by the extractive industries and the income received by the State; evidencing the resources channelled to spending entities at regional and local level, and disseminating its findings among the people. The EITI Peru website was also launched on the MINEM website.

2005 **The Government declares its support for the EITI principles**

On May 15, MINEM published a statement of the Peruvian Government's adherence to EITI principles and its willingness to implement the initiative in the country as a shared commitment between civil society organizations, state institutions and extractive industries of the energy and mining sector. The proposed public statement was drafted by a three-member committee of the initial Working Group. In this way, Peru became the first country in the Americas to apply for recognition as a 'candidate country'.

Process Milestones

2005 **Formal World Bank support to EITI Peru**

In September, the Peruvian Government and the World Bank signed a Memorandum of Understanding whereby the WB committed to supporting the implementation of the Action Plan to initiate EITI implementation.

2005-2006 **Steps to approve regulations formalizing EITI in Peru**

Between December 2005 and the first quarter of 2006, coordination with other sectors of the Executive Branch for the Council of Ministers to issue the rule that formalized the EITI Peru Work Commission and approved the Plan of Action.

2006 **EITI Peru Working Commission created**

On May 9, Supreme Decree 027-2006-EM approved the Action Plan for the implementation of EITI in Peru and created the Working Commission charged with executing it. The Commission was established with three parties, each sector with the same number of representatives and the same rights and obligations. The Working Group took office on 11 December.

2007 **MINEM signs a grant agreement with the World Bank**

On 17 July, the Ministry of Energy and Mines and the World Bank signed TF057870 grant agreement for up to US \$ 300,000 from the EITI Multidonor Trust Fund, which complemented the Memorandum of Understanding signed in 2005 to support setting up EITI in Peru..

2007 **Peru becomes 'candidate country'**

On September 27, Peru was formally admitted as a 'candidate country'. The deadline for completing the validation process and qualifying as an EITI 'compliance' country was set to March 2010.

2008 **Terms of reference of the first national report**

In September, the terms of reference of the first National EITI Report for 2004-2007 were approved. After a long deliberation in the Commission, it was specified the type of tax and non-tax revenues that would be included. Chapter 1 would narrate the history of EITI in Peru. Chapter 2 covered the process milestones, companies' tax returns protected by tax reserve, and characteristics of the

Process Milestones

audit firm charged with preparing the report, among other aspects. In addition, it was agreed that companies would decide whether they would submit detailed or consolidated payments data. A call for bids was made to select the independent firm that eventually prepared the report. The contract was signed on May 27, 2009.

2008 The sub-national EITI process begins in Cajamarca

On May 7, the Cajamarca Regional Promoter Group was set up to promote EITI in the region. It was composed of the three sectors involved in the initiative: regional government and municipalities, civil society organizations and companies operating in the region. In October, a framework agreement was signed between the Ministry of Energy and Mines and the Regional Government of Cajamarca for MINEM to provide technical assistance and resources to the region in order to implement EITI. A sub-national EITI experience was also promoted in the Cusco region. However, since not all sectors were sufficiently committed the project failed.

2009 The Action Plan 2009-2010

The Commission prepared the Action Plan for 2009-2010, which included the completion of the first National EITI Report, the design and implementation of the communications plan, the preparation of the first EITI Regional EITI Study in Cajamarca and completing the first validation of EITI Peru.

2009 The First National EITI Report is approved

On October 30, the Working Commission approved the First National EITI Report which for 2004, 2005, 2006 and 2007 with information on the tax and non-tax payments that the companies made to the State; the revenues received by public bodies from these sources; the difference between the figures registered by both parties and the amounts distributed by the national Government to the areas producing the extracted resources. Thirty-three companies were involved in extractive activities: 24 in mining and nine in hydrocarbons.

2009 The terms of reference for the first regional study

In February, the terms of reference were approved to prepare the first EITI Regional Transparency Study in Cajamarca, and in November the study for 2004-2007 started.

Process Milestones

2009 **Peru attends the Fourth EITI Global Conference in Doha**

In February, a delegation from the EITI Peru Commission attended the Fourth EITI Conference held in Doha, Qatar. In November 2008, each group of the Working Commission had appointed a representative to attend the meeting.

2009 **Validation of the EITI Peru process begins**

On 30 October, the terms of reference for the first validation of the EITI Peru process were approved, which was intended to independently assess the progress made by the country and to determine what measures were necessary to make the progress stronger and faster. The French firm CAC75 was selected to carry out the study.

2010 **2010 EITI Cajamarca Regional Study approved**

In June, the Cajamarca Regional Study was approved, which provided information on the EITI between the resources transferred by the national Government and the amounts received by the Cajamarca Regional Government, the National University of Cajamarca, the provincial municipalities of Cajamarca and Hualgayoc-Bambamarca and the districts of Baños del Inca, La Encañada and Jesus. Likewise, the use and final destination that these institutions gave to the resources received was reviewed.

2010 **EITI and the results of the First National EITI Report**

For several months, the communications plan of the EITI Peru Commission was implemented to publicize the characteristics and importance of the process, as well as the results of the first National Conciliation Study among interested institutions and the general public. Six booklets called 'Transparent Figures' were prepared; regional forums were organized in Ancash, Cajamarca, Cusco, Loreto and Moquegua, where information was analysed and discussed with senior management of regional and municipal governments, representatives of social organizations and the media, as well as with executives of extractive companies in each region. Broadcast radio campaigns were included news and microprograms in various languages.

2010 **EITI Council considers Peru 'close to compliance'**

The first validation of the EITI implementation in Peru was made, which consisted in the independent evaluation of the progress made by the country based on a set of EITI-determined indicators.

Process Milestones

On 3 September, the Commission sent the Validation Report to the EITI Board. On December 14, it issued the result of its evaluation and described Peru as a 'country close to compliance' and made recommendations to advance the process.

2011 Peru attends the 5th EITI Global Conference in Paris

On 2 and 3 March, a delegation from the EITI Peru Commission participated in the 5th EITI Conference held in Paris, France. Attending the conference facilitated exchanges to specify the actions that the EITI Peru National Commission should carry out for Peru to become 'compliant country'.

2011 Terms of reference of the Second National EITI Report

On June 7, the Commission approved the terms of reference to prepare the second National EITI Report for fiscal years 2008, 2009 and 2010.

2011 The EITI Peru Working Commission given permanent status

On June 11, pursuant to Supreme Decree 028-2011-EM, the EITI Peru Work Commission was constituted as a Standing Multisectoral Commission, responsible for monitoring and supervising the transparency of the use of resources obtained by the State from the extractive mining and hydrocarbon industries. Up to that time, the Working Commission's mandate was temporary and had to be renewed periodically.

2012 Second National EITI Report

On January 9, the Second National EITI Report was approved with information for fiscal years 2008, 2009 and 2010. Fifty-one extractive companies, including 33 from mining and 18 from hydrocarbons. Only some of these presented detailed data information. The difference between the payments declared by the companies and the income received by the State was very small.

2012 The EITI Secretariat recommends declaring Peru 'compliant country'

In January the EITI International Secretariat reviewed the Second National EITI Report and concluded that the three corrective measures proposed by the EITI Council in December 2010 had been made. On that basis it recommended the EITI Council to declare Peru compliant

Process Milestones

country. Previously, in June 2011, Peru had requested the Secretariat to evaluate the progress made by the Peruvian Government and the EITI National Commission, following Peru's declaration in a 'near-compliance' situation. The Secretariat made an assessment of the progress made between August and September 2011 and completed it in January 2012, with the information from the second report.

2012 The EITI Council declares Peru 'compliant country'

On February 15, after verifying the objections had been cleared, the EITI Council declared Peru 'compliant country', the first in the American region to achieve this status. It involved meeting the requirements for adherence, preparation, disclosure, dissemination and validation established by EITI standards. After five years there will be a second validation (February 14, 2017), that will start in 2016.

2012 Peru hosts EITI regional conference

On June 26, Lima hosted the Conference 'Open Government and Transparency of Extractive Industries in Latin America and the Caribbean'. The event was convened by the Peruvian Government, the World Bank, the Inter-American Development Bank and the EITI Peru National Commission. It was inaugurated by President Ollanta Humala and attended by 15 countries of the continent. Countries' approaches to transparency in extractive industries and EITI's potential to strengthen transparent policies in regional countries were discussed.

2012 Commission approves Action Plan 2012-2014

On 12 October, the Commission approved the 2012-2014 Action Plan which includes management tools to implement the initiative: logical framework, timetable and budget. Attention was drawn to the preparation of the National EITI Reports for 2011-2012 and 2013, promoting the implementation of at least two regional studies, disseminating their findings, and strengthening the Commission's institutional status.

2012 The EITI Peru Commission concludes and approves its regulation

On 7 November, the EITI Peru Commission approved its regulations as a further step to consolidate its operations. The document establishes permanent tripartite participation, ensures the participation of representatives of the highest level of government and defines procedures for decision making to balance the interests of the three parties.

Process Milestones

2013 The Commission adapts EITI logo to brand the national experience

On April 22, the EITI Peru Commission approved its official logo that combines the EITI International logo with the Peru brand isotype.

2013 Peru attends the Sixth EITI Conference in Sydney

On 23 and 24 May, an EITI Peru Commission team attended the 6th EITI Conference held in Sydney, Australia, that approved new EITI standards. The members of the team was appointed by each party to the Commission in December 2012..

2013 The terms of reference of the Third National EITI Report

In May, the Commission approved the terms of reference for the Third National EITI Report for fiscal 2011 and 2012. It was deemed necessary to adapt the implementation of EITI Peru to the recently approved international standards. Thus, the terms of reference considered increasing detailed information provided by the companies, on a gradual and voluntary basis.

2013 Peru attends EITI Regional Conference

On 19 November, representatives of the EITI Peru National Commission attended the Second EITI Regional Conference in Latin America and the Caribbean, held in Bogota, Colombia. The Peruvian team included the technical secretary and a representative of civil society.

2013-2014 World Bank support renewed

On September 5, agreement TFO15428 between MINEM and the World Bank was signed to strengthen the implementation and execution of the EITI process in Peru through a 350 thousand dollar grant. On February 4, Ministerial Resolution 053-2014-MEM / DM was published approving the grant.

2014 Third National EITI Report approved

In January, the Third National EITI Report for fiscal 2011 and 2012 was approved covering 59 extractive companies: 44 mining and 15 hydrocarbons. The report progressed in aligning the new EITI standard 2013 to include background information, although not all companies submitted detailed data.

Process Milestones

2014 Subnational EITI processes are initiated in Piura and Moquegua

After two previous management meetings in both regions, meetings were held in September to promote two sub-national EITI processes in the regions of Piura and Moquegua. Regional ordinances were approved that formalized the implementation of EITI in each jurisdiction and set up regional commissions for this purpose. They prepared their regulations, 2014-2016 action plans and dissemination plans. In coordination with the National Commission EITI Peru, the terms of reference were formulated and approved to elaborate the Studies of Regional Transparency of Piura and Moquegua on the use of the resources of the extractive activity.

2014 Peru becomes benchmark for other national EITI experiences

In October, a request for cooperation from the EITI Group in Guatemala was received and accepted to assist the implementation process of the EITI Group in Guatemala. Since then, there have been various exchanges coordinated with GIZ.

2015 Mission evaluates cooperation between Peru and Guatemala

In March a team evaluated cooperation through a triangular project between Peru, Guatemala and Germany. Two representatives of the Peruvian State, one from the companies and one of the civil society participated.

2015 Fourth National EITI Report approved

In May 2014, the Fourth National EITI Report was initiated. It was approved in April 2015 while dissemination began in September. With this report, Peru fully complied with process's international standards as it contains context information on the extractive mining and oil sectors; detailed data on payments made by individual companies and single year data, for 2013, which is not older than the penultimate fiscal period. The study involved 63 companies: 44 from mining and 19 from hydrocarbons.

2015 Cooperation between Peru and Guatemala begins

In July the triangular cooperation project between Peru, Guatemala and Germany began. It will last two years.

Process Milestones

2015 **Terms of reference of the Fifth National EITI Report approved**

Between October and November, the Commission approved the terms of reference of the Fifth National EITI Report and called a bid to select the consulting company. The study was to analyse data for fiscal year 2014.

2015 **Automation of information for national reports**

In March it was agreed to progressively implement a process to automate information gathering for the National EITI Reports in two stages: the first, a pilot for fiscal 2014, for the fifth report; and the second for fiscal year 2015, for the sixth report.

2015 **Disaggregated information is accessed on the website**

A visualization platform was added to the EITI Peru website, which allows more friendly and interactive access to the results of the National EITI Reports. The information shows the payments by the companies, by sector and per year; the state's revenues by sector and the distribution of these between the three levels of government and the public universities of the producing regions, year by year. From 2013 onwards it shows the disaggregated payments by company. The work was carried out jointly with GIZ.

2015 **Fifth National EITI Report approved**

In December 2015, the Fifth National EITI Report was approved with information for fiscal year 2014 on tax and non-tax payments companies made to the State. The report covers already half of the EITI process in Peru and involved 59 companies: 42 engaged in mining and 17 in hydrocarbons. The study was presented at the EITI Global Conference in February 2016 in Lima.

2015 **Regional studies of Piura and Moquegua**

In December 2015, the Regional Transparency Studies of Piura and Moquegua were approved, covering years 2012–2013. In each case, data were submitted on accredited transfers from the Ministry of Economy and Finance (MEF) to regional and local governments, as well as data on expenditure. In Piura, the study covered the region, the provincial municipality of Talara and the district municipality of Castilla. The study of Moquegua only scoped the regional government. Both reports were presented at the EITI Global Conference in February 2016 in Lima.

Process Milestones

2016 Peru receives the 51 EITI countries in Lima at the VII Global Conference

On February 24 and 25, the EITI VII Conference was held in Lima with the participation of representatives from the 49 countries implementing the initiative and the EITI institutional management bodies. Representatives from Germany and the Dominican Republic, the two countries accepted as new members at the conference, also attended. The National Commission prepared the Peru Agenda within the framework of the global event.

2016 Commission prepares for government presidential transition

The EITI Peru National Commission agreed to carry out actions that facilitate the work flow during the transfer of Government on July 28. Tasks include completing the management of the World Bank grant, which will enable regional transparency studies to be carried out; approving the terms of reference to carry out these studies; approving the terms of reference for the Sixth National EITI Report and starting paperwork for contracting staff for the studies.

2. From EITI adhesion to compliant country

2.1. EITI rules

EITI has defined a path for countries that decide to join the global initiative. The first step is to issue a clear and unambiguous statement of the Government's intention to implement it. This begins the affiliation process.

The next step is to become a 'candidate country' that meets a set of requirements, including the following:

- ◆ Appoint a senior government representative to coordinate EITI.
- ◆ Explicitly commit to work with civil society and business, for which a multi-stakeholder group should be formed to lead the implementation of the initiative.
- ◆ Set up a consensus multi/stakeholder group, and prepare a work plan including a budget and deadlines to carry it forward.

Then, the government, with the support of the group, must submit an application accompanied by information evidencing compliance with these requirements. The Council evaluates the request and if accepted, the country will become a 'candidate country'.

Validation is the critical point for the full participation of countries. Those that achieve 'candidate' status have thirty months to publish their first national report and to successfully complete the validation process. If they do, they become a 'compliant country'. Otherwise, they may be excluded from EITI.

Validation is done on a set of standard indicators for all countries. This external and impartial evaluation aims at determining whether the country meets EITI standards. An independent validator engages in discussions with the tripartite group, the consulting firm preparing the national study and other stakeholders comprised in the initiative. In addition, it thoroughly reviews key documents, including the work plan, terms of reference and national studies.

Upon completion of the process, the entity issues an interim report to the national tripartite group and to the Council's Validation Committee. The national group sends its comments, which must be cleared or answered by the consulting entity in its final report.

If the Council finds substantive albeit insufficient progress has been made, it may extend the deadline for the country to remove the validation's remarks. If it does and the complementary evaluation carried out by the Secretariat is positive, the Council declares the country to be 'compliant'.

2.2. Peru "candidate country"

Peru's first steps were aimed at achieving 'candidate country' status. To this end, in 2005 the Government issued a public statement of commitment to the EITI principles and its decision to implement the initiative in Peru. Immediately afterwards, the necessary actions were initiated to submit the application. The

Ministry of Energy and Mines, which led the national process from the onset, convened a group of companies and civil society organizations to set up a tripartite Working Group.

A consensus-based first version of the 2005-2006 Action Plan was prepared in this framework. In May 2006, Supreme Decree 027-2006-EM approved the Action Plan for implementing EITI in Peru and set up the Working Group to carry it out, installed on December 11. Previously, MINEM had appointed a group coordinator. With these actions fulfilled, the EITI Council was asked to recognize Peru as a 'candidate country'.

In September 2007, Peru was admitted as such. The time to meet the requirements to climb up to the higher 'compliant country' category began to run. The most important step in this stage was the preparation of the first National EITI Report. In September 2008, the terms of reference of the 2004-2007 study were approved. Preparing the document implied long debates within the National Commission to reach a common ground.

Once the three sectors agreed on the terms and the process to choose an independent consultant concluded, the Commission retained Ernst & Young in May to prepare the study which was finally ready at the end of 2009. With this finished product, the National Commission had to go through the validation process.

2.3. Validation

Between May and June 2009, the National Commission coordinated with the International EITI Secretariat the characteristics of the validation process, confirmed MINEM's commitment to finance the study and set up a subcommittee to analyse the terms of reference and the validator's selection and hiring.

In October 2009, the terms of reference were approved and expressions of interest were solicited from consulting firms accredited by the EITI Council. In December, MINEM began the process of convening, selecting and awarding the consultancy, which ended on February 18, 2010, but was declared deserted because no company was registered, although three had expressed interest in participating in the process in Peru.

In February 2010, the National Commission asked the EITI Council to extend the deadline for completing the validation process and CAC75 consulting company was awarded the contract on June 3, June and the contract was signed on June 21. In July a notice was sent to the Secretariat reporting the progress made.

When the validation process was completed, CAC75 issued its report spanning from the date of Peru's accession to EITI in May 2005 to the delivery of the First National Reconciliation Report in October 2009. The report mentioned Peru had made significant progress in implementing EITI; however, it also pointed to only partial compliance in 5 of the 18 validation indicators.

CAC75's report used a traffic light valuation of indicator compliance with green showing full compliance, yellow for partial compliance. No indicator was flashed a red light, but indicators 9, 12, 13, 14 and 15 received a yellow light, demonstrating significant progress but the need for improvement.

The National Commission challenged the observations of the Validation Report, especially regarding having excluded the voluntary mining contribution from the companies' payments¹; the submission of unaudited Peruvian Government figures; absence of 31 companies, and of three companies in particular which would account for a significant proportion of production.

The general opinion of the members of the Commission was that the observations made by the Validation Committee were not sufficiently substantiated to challenge the Peruvian experience. The feeling of its members was that CAC75 had not fully understood the institutional set up and operation, and the industry's conditions on the ground. A controversial issue was the use of yellow in the report, as it was not included in the Validation Guide. CAC75 argued this intermediate colour better reflected Peru's experience in implementing EITI.

In response to this situation, the CAC75 representative was asked to expand the text in specific parts of the Validation Report to support his opinion on the objected indicators. He was also asked to express, at the beginning of the Validation Report, a conclusive and favourable opinion on the Peruvian experience so that Peru could be considered a 'compliant country'.

Despite having included in the report the points identified by the Commission, the validator kept the yellow assessment for all five indicators. In November 2010, the Commission sent a letter to the EITI International Secretariat to comment on the validation of the initiative in

The five objected indicators

9. If an agreement had been reached on the reports' templates.

12. If industry reports were prepared following international standards.

13. If government reports were based on audited figures following international standards.

14. If all material payments from the oil, gas and mining industries prepared by companies had been delivered to the consultancy charged with preparing the National Reconciliation Report

15. If all material government revenue figures from the oil, gas and mining industries had been shared with the consultancy..

¹ The so called Mining Industry's Solidarity with the People Programme, an agreement between government and companies to invest an additional amount in social projects for five years, in agreement with local authorities and organizations following the exceptional rise in minerals' quotations.

Peru and to clarify some aspects of the conclusions contained in the final report. The communication was signed by the three sectors, including the president and the technical secretary.

Following an exchange of communications with the National Commission, in December the Council confirmed that Peru had been declared a 'country close to compliance, which is not an established category, as recognized by the Secretariat itself, but rather as a temporary status that gave Peru a short period to complete the necessary measures in order to be declared a 'compliant country'.

They also highlighted three areas for improvement:

- ◆ The National Commission should agree on a clearer definition of materiality - the relative importance of the companies and of the payments and income involved in the study - and demonstrate that all payments of oil, gas and mining companies, as well as all revenues received by the Government were covered in the study.
- ◆ The National Commission should clarify why the report did not include regional and municipal taxes, social security contributions and the windfall mining contribution in the 2008 and subsequent reports.
- ◆ Involving more oil, gas and mining companies through outreach activities targeting the most significant ones that were not yet involved.

The National Commission objected to the Council's agreements. It noted that the concept of 'country close to compliance' and the definition of materiality were not known until after the validation process was completed. In spite of this, the members of the National Commission ratified their participation in EITI and pledged to make the necessary efforts to move to the category of 'compliant country'.

In January 2011, the Secretariat undertook to assess compliance with indicators 9, 12, 13, 14 and 15 of the validation once the National Commission considered that the identified objections had been removed. The evaluation would be considered complementary to the report.

2.4. Peru declared compliant country

The National Commission approved the terms of reference to prepare the second National EITI Report in June 2011, to analyse the information for 2008, 2009 and 2010. Materiality would be defined as accounting for no less than 75% of the value of mining output and no less than 85% of the value of hydrocarbon output, and that the concepts of third-category income tax, royalties and mining rights would be considered as payments and income, since they are the most significant.

That month the Peruvian Government approved Supreme Decree 028-2011-EM to set up the Permanent Multisectoral Commission to replace the Working Group. In January 2012, the Commission approved the second National EITI Report that included a significantly larger number of companies.

In June 2011, Peru requested the Secretariat to evaluate the progress made by the National Commission in removing the objections that led to declaring Peru as a 'country close to compliance'.

The International Secretariat evaluated the Peruvian process between August and September 2011 - including a country review visit- and completed it in January 2012, when the second National EITI Report was approved. In the first part, the Secretariat reviewed progress in preparing the second Report and mainstreaming the Commission, among other aspects. The report's final section addresses the report's content and scope.

As a result of this effort, in February 2012, the EITI Council declared Peru a 'compliant country', thus making it the first nation in the Americas to earn this status.

Peru now faces the challenge to maintain this classification and pass its second validation, planned for 2016. The publication of three subsequent reports and the consolidation of the Commission, as well as the progress in decentralizing EITI are encouraging factors in achieving this goal.

A priority on convergence while recognizing differences

The perseverance of the National Commission to address the objections included in the validation and complementary evaluation, which allowed Peru to become an 'EITI country', reveals the defense of the Peruvian process by the members of the three sectors, who expressed their appreciation of the EITI forum and its potential to contribute to the governance of extractive activities despite their differences in some issues at that time, such as the detailed disclosure of industry's payments. This shows that it is possible to focus on the common points of view to move forward and that this does not mean to forget the discrepancies between the sectors involved in EITI.

3. Recognition of Peru's progress

3.1. Peru hosts EITI conferences

The global conference is the main EITI forum. At least every three years, it brings together the member countries and discusses the scope, experiences, new themes and standards of the initiative globally. Likewise, the Council's membership is reviewed.

Seven global conferences have taken place since EITI's inception. Three times the Commission appointed its representatives to the fourth Conference in Doha in 2009; the fifth one in Paris, in 2011; and the sixth conference in Sydney in 2013. In all cases, at least two of the three sectors of the Commission were involved.

EITI also convenes regional conferences as discussion and exchange meetings on the lessons learned by the countries, as they progress in implementing the initiative. Three conferences have been held in Latin America and the Caribbean.

a. VII EITI Global Conference in Lima

To recognize Peru's status as 'compliant country' and to promote the initiative region-wide, the VII EITI Global Conference was held in Lima on February 24 and 25, 2016.

It was the first time that EITI met globally in Latin America and the first event time of this kind in an implementing country since the initiative was launched in 2003.



VII EITI Global Conference, Lima, February 2016. Photo: MINEM.

Delegations from 51 countries attended the meeting: 49 were developing the initiative and two were admitted: Germany and the Dominican Republic. Attendees highlighted the role of Peru as an EITI promoter and its proposed role in expanding the representation of the region's countries because of the importance of the initiative's contribution to the governance of extractive activities in Peru and the Americas.

The conference presented the results of the implementation of the EITI standard at the global level and the implementing countries shared their advances and innovations in the national presentations. Ten parallel thematic forums were held

on issues of interest to transparency in the extractive industries and a selected set of better policies in the extractive sector were presented.

In line with the document presented by the EITI Council Presidency, 'From reports to results', debates on the initiative's current challenges included its integration into governance systems; the use of information from studies to change policies and drive reforms; identifying the actual owners of the enterprises and improving the participation of the implementing countries in EITI's decisions, in a low raw materials prices' scenario.

In the days leading up to the conference, various some preparatory and others activities were carried out to discuss the dissemination of progress, such as those mentioned below:

- ◆ Agenda Peru Forum
- ◆ Presentation of EITI sub-national experiences in Peru
- ◆ Presentation of Alliance for Transparency results
- ◆ Parliamentarians' roundtable
- ◆ National EITI coordinators' meeting
- ◆ Presentation of the Declaration of America for Transparency

For several weeks the members of the National Commission organized their participation to ensure the presence of the three sectors in the various events and to distribute the presentations of the themes, clearly distinguishing between consensus-based topics and areas of remaining divergence of opinion.

b. III Regional EITI Conference

EITI held its third Regional Conference in the Americas in Lima, from June 24 to 25, 2015. The meeting was attended by government officials from fifteen countries of the Americas, as well as representatives of civil society and business of the region's countries already implementing or considering to implement EITI.

The conference provided a forum for sharing experiences and ideas on the transparency and governance of extractive industries region-wide and how the EITI standard can contribute to addressing these issues. The conference also served to share learnings about and help better understand how to enforce various EITI standard procedures.

In the event the initiative's progress throughout the region as Guyana, Mexico and the Dominican Republic committed to take the steps needed to join EITI.

3.2. Participation in EITI's Council

Peru's commitment to the initiative and its leadership role in the region has been reflected in the participation of representatives of Peruvian institutions in the EITI Council. Peruvian members included:

- ◆ The technical secretary of the National Commission, for 2013-2016, representing the implementing countries.

- ◆ The representative of Grupo Propuesta Ciudadana in the National Commission, for 2011-2013, representing the global civil society.

During the VIII Conference in Lima, the members of the Council were elected for the period 2016-2019, and for the first time two members of the Council came from Peru:

- ◆ An alternate representative of global civil society belongs to Derecho, Ambiente y Recursos Naturales NGO
- ◆ An alternate representative of industry is from Southern Peru Copper Corporation.

Pursuant to EITI standards, each sector - whose institutions belong to various global networks and partnerships - has the right and duty to organize the overall election process of its peers before the Council. Therefore, the chosen persons represent their respective sectors - government, civil society and industry - and not to the EITI Commissions of their countries.

Notwithstanding this form of functioning, the members of the National Commission that participate in the EITI Council have had as their common practice to report on the topics discussed in this instance after their meetings, which allows its members to be informed first hand on the topics dealt with and the different perspectives discussed at the highest level of EITI.

As stated by several members of the Commission, this does not limit their autonomy to bring to the EITI Council the vision and issues of interest to the sector they represent at the global level. On some of them there may be consensus in the Commission, while in others the dialogue remains open.

Participation in the Council also provides an opportunity to promote alliances with other initiatives such as Open Government, Voluntary Principles or National Anti-Corruption Commissions.

The importance of disclosing institutional agendas

The participation of members of the Commission in a space such as the EITI Council raises the challenge of maintaining a balance between the positions built and agreed upon within the National Commission between the three sectors represented and those that are part of the agenda of their respective sector.

The Peruvian experience shows that one factor that contributes to strengthening the process is to raise the topics and contents that are of interest to the sector, both national and global, and to respect the agreements built in the Commission.

This builds enough confidence to accept and respect divergent opinions in certain public spaces by members of the Commission, without affecting the work of EITI in each country.

4. Triangular cooperation

Peru's progress and experience in implementing the EITI initiative have turned it into a benchmark for other national processes. In 2014 a request for cooperation with EITI Guatemala was proposed for Peru to provide technical assistance to implement the initiative in that country.

The evaluation mission ended in March 2015, and led to a triangular cooperation project between Peru, Guatemala and Germany (GIZ). The project was launched in July 2015 for a period of two years.

Subsequently, a suggestion has been made to support the process in the Dominican Republic, after its recent accession to EITI.

The members of the Commission we interviewed feel Peru could also share its experience with other countries, in particular concerning the following issues:

- ◆ Experience in setting up the Commission and assuring its sustained operation.
- ◆ Preparing reconciliation studies.
- ◆ EITI Peru's experience at the subnational level.

Chapter 2

Main EITI processes in Peru

1. EITI National Commission

1.1 *EITI regulations*

Among the steps that EITI establishes for a government to apply for membership is a commitment to work with civil society and business, for which it must form a multi-stakeholder group and count on the support of its members to the request. The group must be provided with legal support and it must define its own mechanisms for making decisions.

Government, business and civil society must be involved in the process in a full, active and effective manner. It is the responsibility of the Government to remove any obstacles to the participation of civil society or business. As a way of ensuring the autonomy of each sector, each of them must establish the procedures to appoint and replace their representatives.

These conditions set out by EITI stem from its principles, established in 2003 as the cornerstone of the initiative. They consider that all relevant stakeholders - Governments and their agencies, extractive industries, non-governmental organizations and multilateral agencies - have important and relevant contributions to make in the search for solutions.

The requirements to be met by EITI implementing countries indicate that the process should be monitored and conducted by a group involving the various stakeholders - government, business and civil society - which must assume the shared responsibility to put into practice the lessons and recommendations that emerge from it, and to analyse its results.

This is the framework defined by EITI that provides the basis for analysing the most important aspects of the formation and functioning of the National Commission responsible for guiding the implementation of the initiative in Peru.

1.2 *Peru's EITI National Commission and its trajectory*

a. The Working Group

In October 2004, a joint mission of the World Bank and DFID -institutions that assumed a role of active and operational support in the early years of the creation of this international initiative - convened separately a large number of

government entities, private sector companies and civil society organizations to inform them about the meaning and importance of EITI, explain the logic of their standards and functioning, and, in addition, promote the country's accession.

After the initial contact, the Ministry of Energy and Mines convened the mining and hydrocarbons companies and civil society organizations that showed interest in the EITI agenda's topics, to work in concert on the following steps of the EITI agenda.

In 2005, MINEM set up the Working Group with them and appointed minister adviser as coordinator. This reflected support for the initiative at the highest level of MINEM.

The group's first task was to prepare the Plan of Action 2005-2006 to implement the initiative. The guidelines and actions were defined in concert among the three sectors. The first version was published on MINEM's web portal for review and comments by all interested institutions.

The Working Group also participated in preparing the proposal for a declaration of adhesion to EITI issued by MINEM in May 2005, on behalf of the Peruvian Government. A drafting committee of three Group members was formed.

Don't wait for the regulations to set up the multi-stakeholder group

Peruvian Government's decision to immediately convene business and civil society organizations, following the meeting of the World Bank and DFID to explain the EITI process, benefited from the expectation and interest generated by the initiative.

Waiting to set up a formal forum, which also required the approval of the Council of Ministers, might have wasted the existing support for the initiative.

In this way, EITI requirements were not only met to move towards 'candidate country' status, but also took advantage of the opportunity to involve, very early and effectively through the concerted formulation of the first EITI Plan of Action, other sectors that had little relation between them and among which there were even some tensions.

b. Formalization of the tripartite group

After making public the adherence to EITI principles, formulating the first Plan of Action and advancing the linkages between the three sectors in the Working Group, in May 2006 the Working Group was given legal existence by virtue of Supreme Decree 027- 2006-EM by MINEM, which was subsequently approved by the Council of Ministers.

The decree also approved the Action Plan that the Working Group had prepared for the period from June 2005 to December 2006. With both decisions, the continuity of the process was ensured and the requirements to be declared as a 'candidate country' were met. MINEM sent the application to the EITI President, which complemented the public declaration of accession.

The decree defined the composition of the nine-member Working Commission: three from each government, extractive industries companies and civil society.

It defined as its objective to implement the Plan of Action and give active support to and participate in mainstreaming and assuring the process's permanence. Its specific objectives were:

- ◆ Clarification and independent EITI of the size of the payments made by the extractive industries and of the revenues earned by state agencies from these industries.
- ◆ Transparent knowledge of how these resources are channelled to and used by expenditure units, at all levels, and particularly in regions with significant extractive activities.
- ◆ Disseminate the results of its work.

Despite such broad mandate, the decree set forth an operating deadline for the Commission of only seven months, until December 2006, identical to the deadline set forth to complete the Plan. Such short deadline did not allow to make progress toward the objectives set by the inception norm itself or to engage in the actions envisaged in the Plan of Action.

The norm set forth ten days for the three sectors to appoint their representatives and ten additional days for the Commission to be set up. That is to say, it was to start operating no later than June 1. However, the deadline was not met. The outgoing administration that approved the decree did not get to appoint MINEM's representatives to the Commission. This was done only by the new administration that took office on 28 July.

Thus, on August 17, 2006, Ministerial Resolution 389-2006 - MEM / DEM was approved, in which, in addition to appointing the two deputy ministers, for energy and mines, as the representatives before the Commission, formalized the role of the minister's advisor and appointed him Technical Secretary of the Working Commission. Taking into account the change of administration, the time elapsed for its appointment was not very long. However, the formation of the Commission and the call for the first session took several months which happened only in December 2006, that is to say, the same month when their mandate concluded by law.

For the members of the Commission it was clear that their temporary mandate was not the best way to give process long term life. Since their second meeting, they had said a longer mandate was needed to fill the existing regulatory gaps. At the

same time, they underscored the importance of amending the legal framework to make it permanent. However, this demand was not met, and so between 2007 and 2010, three decrees were needed to extend the Commission's mandate.

- ◆ In June 2007, operations were extended for one year until June 2008 (Supreme Decree 030-2007-EM).
- ◆ In September 2008, mandate was extended until December 31, 2009 (Supreme Decree 044-2008-EM).
- ◆ In April 2010, the Commission's mandate was again extended until December 31, 2010 (Supreme Decree 020-2010-EM).

Despite these difficulties, the Work Commission made important progress in the fields set out in the Plan of Action:

- ◆ It guided the drafting of the first National EITI Report on payments made by extractive enterprises and revenues received by the State, which included information on government transfers to subnational governments.
- ◆ It sponsored a pilot program in Cajamarca, a region with a significant mining extractive industry.
- ◆ It carried out a wide public dissemination campaign on the EITI process and its relevance for Peru, as well as on the findings from the first study.

c. From temporary to Standing Commission

In June 2011, Supreme Decree 028-2011-EM by MINEM suspended the Working Commission and created a long-term commission, attached to the Ministry of Energy and Mines, called the Standing Multisectoral Commission. The norm pointed out the need to institutionalize this space to promote transparency, access to information and proper management of fiscal resources.

It set as the responsibility of the Commission to define and carry out the necessary efforts to implement the EITI initiative in Peru using the Working Commission's inputs, contributions and materials.

The decree preserved the Commission's tripartite nature, with the same number of representatives from each sector. To ensure continuity of operation, the norm stated that the sectors did not require to elect new representatives to the Commission, and that they could ratify their representatives, as indeed happened in all cases. It said that civil society and industry could call for new elections when the term of their previously ratified Commission members expired.

With respect to the purpose of the Commission, it was reiterated that it was its responsibility to monitor and supervise the transparency of the extractive companies' payments to and tax receipts by the State. A follow-up to the transfer of government resources to subnational governments and universities, as well as to the use made by these entities of the funds received, was defined as a central issue.

The decree defined three short-term tasks for the National Commission: concluding the validation of the initiative, preparing the second National EITI Report and disseminating its results.

The functions of the Commission confirm those enshrined in the supreme decree that set up the Working Commission in the first place, including in particular:

- ◆ Approve, monitor and evaluate Action Plans for the implementation of the EITI initiative.
- ◆ Prepare the terms of reference for and guide the drafting and approval of the National Conciliation Studies.
- ◆ Promote the implementation of the recommendations contained in the studies.
- ◆ Disseminate the Studies' findings.
- ◆ Ensure the Commission's tripartite make up and operation.
- ◆ Promote, walk through and oversee the implementation of EITI in the regions.

The National Commission accomplished its most important results during its operation as a permanent body:

- ◆ Obtaining Peru's status as an 'EITI country'.
- ◆ Drafting four National Conciliation Studies with greater participation of companies and detailed data on payments made.
- ◆ Conducting decentralized EITI experiences in Moquegua and Piura.
- ◆ Consolidating the National Commission as a tripartite body, to build and create consensus among its members.

The importance of a permanent EITI Commission

The members of the National Commission we interviewed agreed giving it permanent status was a turning point after several years of operation as a transitional body that had to be reinstated periodically. Only in this way would it be possible to consolidate the Commission, they said, since the opposite hurt its mainstreaming and sustainability.

They said that it was a good idea the decree provided for the actions of the newly created Commission to be based on what had been done before by the (Temporary) Work Commission and to allow the same representatives to finish their terms. In this way, it was made explicit that this was a single process, eliminating the task to choose and appoint new members.

The change also had a practical effect: it made it possible to make better use of the Commission members' time as they would no longer have to prepare and follow up on new draft regulations to extend their mandate but could thus rather focus on the agenda's core issues.

1.3 The Commission's three sectors

a. The tripartite space's make up

Supreme Decree 027-2006-EM established the Working Commission would sit nine members, three from each of the sectors: government, extractive companies and civil society. Supreme Decree 028-2011-EM, which gave the Commission its permanent character, preserved the representation apportioned in the previous provision, with only minor changes.

Thus, the Commission is chaired by one of MINEMs' representatives and shows the composition shown in the table on the next page.

The Internal Operating Regulations adopted by the Commission determine that the three sectors have the same number of representatives and the same rights and obligations. Likewise, representatives of the extractive industries and civil society elect their peers, three incumbent members and three alternates, for a period of two years with the possibility of renewal. Their names and positions in their organizations must be registered with MINEM.

The regulations specify the Commission will be chaired by the Deputy Minister for Energy or the Deputy Minister for Mines, as decided by the Ministry. Likewise, as stated in Ministry Resolution 281-2011-MEM / DM, the alternate of both deputy ministry officials will be the General Director of the Social Affairs Office of the Ministry of Energy and Mines.

Sector	N°	Institutions	Representatives
Government	1	Ministry of Energy and Mines	Deputy Minister of Mining or Deputy Minister of Hydrocarbons.
	2		Director General of the General Office of Social Management.
	3	Ministry of Economy and Finance	Representative of an office related to the fiscal, tax and other payments made by the extractive industries.
Industry	4	Trade association	Representative of the National Society of Mining, Oil and Energy (SNMPE).
	5	Companies	Representative chosen by the mining companies.
	6		Representative chosen by hydrocarbons companies
Civil society	7	Non-governmental Organizations (NGOs)	Representative of civil society organizations involved in the transparency or monitoring of extractive industries, based in Lima.
	8		Representative of civil society organizations involved in transparency or monitoring of extractive industries, based in the regions.
	9	Universities, public and private	Representative chosen among universities with experience in issues related to the extractive industries, especially its economic aspects.
A MINEM representative chairs the Commission			

Sources: Decreto Supremo 028-2011-EM and Resolución Ministerial 281-2011-EM/DM

Annex 1 presents the composition of the Commission in each period, by sector and by incumbent and alternate representatives.



EITI Peru National Commission session at the Ministry of Energy and Mines, with representatives of the three sectors: State, companies and civil society, chaired by the Deputy Minister of Mines and attended by the Technical Secretary and a Representative of EITI-International. Photo: MINEM.

b. The State

As noted, the Ministry of Energy and Mines was designated by the Peruvian government to lead from the outset the country's participation in EITI. Because this decision has not changed in more than ten years, the National Commission has always been attached to MINEM.

Although at some point consideration was given to its transfer to the Presidency of the Council of Ministers, a cross agency coordination entity in the Executive Branch, in general, interviewees thought that, in addition to the progress made in terms of building the institutional framework of the Commission within MINEM, belonging to this latter agency has the additional advantage of making it easier to convene mining and hydrocarbons companies, which have many links and continuously interact with this government agency.

As for the representation of the Ministry in the National Commission, although none of the two supreme decrees required it, these resolutions appointed the deputy ministers of energy and mines as MINEM's representatives, and one of them was charged with presiding it, reflecting a commitment by MINEM to place the EITI Peru Commission in highest echelons of the Ministry's organization.

However, in practice, the simultaneous participation of the two deputy ministers in the Commission has been sporadic and only the one who had the responsibility to chair it has remained linked to its activities, although this did not mean his/her regular attendance to the Sessions. Only since the last quarter of 2012, the Mines Deputy Minister appointed to represent MINEM and chair the National Commission, has attended regularly, enhancing this forum and providing the institutional support required by the Technical Secretariat to perform its functions. This has given a new impetus to the work of the Commission and has allowed for the more effective execution of the actions foreseen in the Plans of Action, according to the unanimous opinion of the people interviewed.

In addition, the participation of a representative of the Ministry of Economy and Finance was considered necessary to the extent that the initiative is aimed at collecting and analysing information on tax and tax-related issues. Moreover, it is not only a question of analysing the State's revenues, but also the distribution made by the Government to institutions receiving resources generated by extractive activities, as are the regional governments and municipalities, as well as the public universities in the producing territories. This information is managed by MEF through the state's budgetary and financial systems, which is why MEF's participation in the Commission is a key factor to facilitate activities related to EITI of payments and income and transfers.

c. Civil society

The space that opened to civil society with the invitation to participate in the EITI process in Peru was filled by institutions that had experience in promoting transparency or in monitoring public resources. However, after an initial presence between 2004 and 2005 - as a result of the extensive call made by MINEM, DFID and the World Bank - several institutions whose work was not linked to the extractive industries left as did some that were involved in mining issues but from the environmental or social conflict dimensions, and showed no interest in the EITI initiative.

The institutions that were accredited were organized to elect their representatives autonomously and through democratic procedures. This form of work enabled gave the Commission credibility and attract other actors who were linked in different ways to the extractive industries. Respect for the autonomy of civil society is a basic criterion of EITI and the Peruvian Government has complied with it since the beginning of the process.

Subsequently, NGOs have set forth a procedure to choose their members to the Commission.

Peruvian NGOs' assembly

Since the National Commission was created in 2011 as a permanent body, civil society convenes every two years an assembly of EITI interested NGOs to elect the representatives for the next period. At that convention they report on their work in the Commission.

The meeting sets the rules that will govern the (web based) elections. Some conditions are established; for example, elections are open only to national. Then the electoral timetable is defined. Within the established deadlines the applications are received, consolidated and information distributed among NGOs for the elections. When the voting is completed, the institutions in charge centralize the voting and report the results.

National NGOs also promote the participation of regional NGOs in the National Commission, following the same procedures as for Lima convention. In this case, the nomination and voting are made on the same day of the meeting. This procedure elects the two institutions (main and alternate) representing the regional NGOs in the Commission.

Regarding the election of university representatives, MINEM contacted the then National Assembly of Rectors, an organization that in 2005 brought together the rectors of public and private universities in the country. As there was no answer, MINEM appealed directly to the universities that had mining engineering programs that could be interested in the initiative. This is not a minor issue, both because public universities receive a percentage of the royalties, and because of the importance of involving this sector in promoting transparency and in monitoring the use of resources generated by the extractive industries.

Between December 2006 and January 2007, five public and two private universities were convened: National Engineering University, San Marcos National University, San Antonio Abad University of Cuzco, Universidad del Pacífico and Pontifical Catholic University of Peru. Only the last two accepted and assumed, as main and alternate representatives, to represent academia in the group, a position that they have filled alternatively for several terms.

As a result of the call made in November 2015 to elect universities' representatives, Santiago Antunez de Mayolo National University of Ancash joined the National Commission, in addition to the Pontifical Catholic University of Peru. It is the first time academia is represented by a public regional university.

d. Companies

From the outset the business sector was actively represented by the National Society of Mining, Petroleum and Energy (SNMPE), a trade association involving mining and hydrocarbon companies accounting for about 90% of the national product in each sector.

The participation of companies representing a high percentage of mining and hydrocarbon output gave legitimacy to the Commission and EITI itself, as the acceptance and participation of companies is a key factor in the design of this voluntary initiative.

Our interviewees agreed SNMPE has played an articulating and motivating role for companies. Meanwhile, the guild participates directly in EITI, increases the ability to convene the sector and generates confidence among its members. Persuading firms to agree to lift the tax reserve - which was required for the National EITI Reports - or to disclose detailed information on payments, are examples of the important role of the initiative.

e. Relations among the three sectors: building trust and the value of transparency

e.1. Making progress based on consensus and sector autonomy

As explained by survey respondents, this has not been a simple or tension-free process. At different times there were - and there still are - discrepancies and different approaches among the members of the Commission. When this happens, each sector presents its positions and, after debate, attempts are made to bring closer differing points of view and create consensus. If this is not possible, successive meetings are called until consensus is reached. That does not mean giving up points of view, the agenda and the interests of each party. The three sectors are clear that it is only possible to make progress on EITI in those areas where there are converging points of view.

Consensus as a rule of operation

In the 80 sessions held by the Commission during the ten years of the initiative, all agreements were reached by consensus. Deciding by voting, a mechanism provided for in the regulation, has not been used. As indicated by some, choosing this path might have accelerated certain decisions, but at the cost of hurting the forum and the relationships among its members, since some would have perceived certain agreements were imposed upon them.

This style of work has built trust among the three sectors and keep dialogue open, even at times of very intense debate on the role of extractive industries in

Peru or in situations of conflict regarding which National Commission members may hold diverging views.

Respect for each sector's independence

A basic rule of the Commission's operation, relevant to creating an adequate framework of relations, is respect for the autonomy of each sector to elect its representatives and the inability of the other parties to raise vetoes or challenges. The same approach applies to the views of sector on the various issues. Consensus does not limit the possibility of issuing different or critical opinions.

e.2 A voluntary initiative

Civil society organizations believe that the initiative should be backed by a law passed by Congress. They expect, for example, all relevant extractive enterprises to participate in the process or that all subnational governments and universities, which receive funds created by these activities, should disclose the information on their use and impact.

For business, the initiative's voluntary nature is an essential and positive characteristic, having allowed to make significant progress in little more than a decade of joint efforts. An example is that more and more companies agree to participate and submit broken down detailed data.

Civil society has the expectation that, as the initiative progresses, the advantages of institutionalizing the process through a law will be made visible. However, the business sector points out that it is the voluntary nature that justifies the existence of a tripartite forum for consensus-building. If a law makes it mandatory, they state, then it would suffice for a public body to ensure its mandate is fulfilled.

Recognizing these different approaches, the Commission has chosen to continue to dialogue on the subject.

e.3 Transparency gains ground

The concept of transparency has advanced as an instrument to improve public management in Peru and to address the serious problem of corruption. In spite of this, it is still a practice that is not easily adopted by the various actors. While NGOs and universities participating in EITI called for greater transparency from companies, for the latter the demand should be geared towards government at its various levels and should include the institutions of civil society itself. After the process of shared learning, with a growing appreciation of the positive impact of the initiative on the interests of each of the sectors, there is much more openness to adopt the standards of transparency raised at EITI and to create even better conditions to transcend this framework.

Companies, as some interviewees point out, have been convinced that EITI is an opportunity to demonstrate that they pay all their taxes and that they contribute significantly to the ability of the State to provide more and better services to its citizens. The fact that it is an independent third party that presents the figures in the EITI studies contributes to overcoming the distrust that may exist in some sectors of public opinion on the fulfilment of the industry's tax responsibilities.

For civil society spokespersons, transparency should go beyond the fiscal aspect and include environmental issues or social spending that companies incur in their projects' areas of influence. For their part, companies feel that these issues are not part of the EITI agenda and that there are still important tasks to consolidate the national process, especially in relation to the effective use of the resources generated by the extractive industries and how they influence the welfare of the people. Therefore, it would not be wise to include more issues. To the extent that there is no agreement on this, the Commission continues to focus its efforts on the issues on which there is consensus, in this case, on fiscal transparency.

1.4. The Commission's functioning

a. The Technical Secretariat's technical and administrative support role

In 2006, the decree that created the Working Commission also created the Technical Secretariat of the Commission, attached to MINEM. It was given the role of implementing the necessary operational co-ordinations and activities to ensure the Commission's operation and compliance with its agreements. Subsequently, Decree 028 of 2011 included among the TS's functions to propose and implement the Plan of Action; implement the provisions and actions adopted by the Commission; share its agreements; and monitor and provide technical assistance to the regional pilots.

In a first stage, until August 2007, the function was fulfilled by an advisor to the Minister who, although at the top of the Ministry's hierarchy, lacked the necessary executive and operational conditions to carry out the tasks corresponding to this position. Since September 2007, the director of the recently created General Office of Social Affairs at MINEM took over the Technical Secretariat, thus strengthening the operational capacity of this body from a position with the mandate to establish relationships with civil society and subnational governments.

Subsequently, the decree that created the Standing Multisectoral Commission in 2011 formalized what was happening in practice: that those tasks would be exercised by the General Office of Social Affairs at MINEM. The regulation approved by the Commission went a step further and it was established that the director of that office should perform the role of Technical Secretary.

The decree gave the Technical Secretariat appropriate staffing and the 2012-2014 Plan of Actions set itself the goal to provide sufficient administrative and logistic support personnel.

This finally happened in mid 2012, when the General Office of Social Affairs at MINEM allocated budget funds for the activities foreseen in the Plan. Three staff were hired full time for the Technical Secretariat.

b. Commission regulations

In November 2012, the EITI Peru Commission approved the regulations that defined its internal operating framework. Supreme Decree 028-2011-EM included the mandate to draft it and to submit it to the Minister for approval by means of a ministerial resolution.

A subcommittee consisting of representatives of the three sectors was formed one month earlier with the task of drawing up a draft regulation. This was submitted to the Commission, which unanimously approved it on 7 November. The document is included as Annex 2.

The regulations ratified aspects already raised in the inception decree, regarding the responsibilities of the National Commission and its functions. It makes explicit the three sectors have equal rights and obligations; that the representatives of extractive industries and civil society are elected by their peers, with three incumbents and three alternates, for a period of two years, with the possibility of being re-elected.

Leadership and institutional support

Interviewees recognize that strengthening of the Technical Secretariat with human and logistical resources has contributed to a marked improvement in its capacity to carry out the activities foreseen in the plan and agreements of the National Commission.

They point out, however, that the most important reason for achieving change has been the presence in the Directorate of the General Office of Social Affairs of a person with leadership to implement the initiative and the commitment of the Deputy Minister of Mines to the development of EITI, providing thus the necessary institutional support.

Pro bono work

The regulation reiterates that the members of the National Commission do not receive remuneration or compensation for their work.

In this regard, representatives of the business sector explain that their participation in these terms is part of the guidelines for good corporate governance; is a way of opening up to public opinion and increasing their legitimacy. For civil society institutions, their participation in this space is part of the actions they carry out as part of their commitment to improve governance in extractive industries based on their institutional mandates and activities related to transparency and monitoring. To prevent distorting the spirit of participation in EITI, no remuneration is set.

The Technical Secretariat has provided a small budget to finance the participation of representatives of universities and NGOs from the regions. These resources are limited to transfer costs and do not alter the quality of the pro bono participation of all commissioners.

The regulation elaborates on some aspects more precisely than the decree, such as the following:

- ◆ It establishes functions for the Chair of the Commission, including the role of representing the Commission before the EITI Council and International Secretariat.
- ◆ It details the functions of the Technical Secretariat.
- ◆ It defines some mechanisms for the functioning of the Commission such as calls, quorum, the role of the alternate representatives, decision making and the conditions in which a virtual session can be held. The box on the next page explains some of these features, which have contributed to facilitate its work.

Simultaneous incumbent and alternate members

To foster continued participation of Commission members, incumbent and alternate members may attend simultaneously.

This helps in reaching quorum and prevents cancelling sessions, and to circulate information and better quality participation in the Commission's meetings.

Only incumbent or replacing alternate members can vote, should a vote be needed.

While it is true that many of the definitions contained in the regulation already guided the way the Commission operated, it was important to systematize and order them in a public document, approved by consensus by all members and ratified by MINEM, as a general regulatory framework, beyond those who were Commission members.

Preserving the basic characteristics of the Commission's work, the regulation established that any doubts arising as to their interpretation would be resolved by consensus among its members.

Some National Commission management mechanisms

Records

The recording of the session's minutes and their formal approval has been part of the work dynamics since the beginning of the process. Today there is a complete file of the same which allows to analyse the work done by the instance that leads the implementation of EITI in Peru. They include the topics included in the agenda and the agreements taken in each session.

The Technical Secretariat prepares the draft minutes for the session, which, before being signed, are reviewed by the members of the Commission who participated in the session. Immediately after they have been approved and signed as appropriate, the minutes are published on the EITI Peru website. This not only records the actions of the Commission but also facilitates the follow-up of its agreements by all the actors interested in the initiative.

Meetings agreed in advance

Each session of the National Commission defines the date and time of the next, which avoids the search for available space in the agendas of its members before each meeting. The subsequent call, which must be made at least five days in advance and which, in practice, acts as a reminder, always includes the agenda to be addressed in the session.

Because members come from different sectors, with their own responsibilities and participate in the Commission pro bono, this style of work has been effective to ensure the regular attendance of its members, as shown by the minutes of sessions held throughout a whole decade.

Some National Commission management mechanisms

Sub commissions

Sub commissions are formed on a tripartite basis to address specific issues and complete their functions by delivering the products requested. They prepare drafts (regulations or terms of reference), analyse documents (technical proposals, partial consulting products, communication materials) or implement specific actions. This mechanism has streamlined the work and has also facilitated the construction of agreements to the extent that it allows differences to be dealt with, should they exist, in a smaller but representative group of the Commission.

Virtual queries

Used to move forward objections and suggestions to the proposals, reports or other type of documents that need to be analyzed for the sessions. The technical secretary distributes the documents among the members of the Commission, sets a deadline for submitting the proposals, and then consolidates the contributions received and sends the new version of the document in consultation. This mechanism has made the face-to-face debate and approval of the documents more agile.

1.5 Commission priorities

In order to better understand the priority issues addressed by the Commission in its ten years of operation, the Plans of Action and the minutes have been analysed, since both instruments define and shape their working guidelines.

a. Action Plans

EITI requires commissions to maintain an updated work plan, detailed cost records, and meet deadlines set by the Board to submit EITI studies and undertake validation processes. In EITI's decade in Peru, four Action Plans were prepared for 2005-2006, 2009-2010, 2012-2014 and 2015.

a.1. Action Plan 2005-2006

The first Action Plan was prepared by the Tripartite Working Group and was finished in April 2005, before the body was formalized to become the EITI Work Commission. Supreme Decree 027-2006-EM approved the plan in May 2006.

As the first document of the EITI Peru process, the plan contains guidelines on several issues that served as a starting point for the work of the National Commission. Some highlights follow:

- ◆ The EITI process, its scope, principles and requirements, as well as its importance to contribute to transparency on the income of the extractive industries.
- ◆ The relationship between Peru's participation in the EITI process and the country's transparency and access to information policies.
- ◆ The overall approach of the Action Plan as a participatory and tripartite process.
- ◆ A proposal to organize the Working Group - which would later become the Commission - to implement the plan.
- ◆ The need to hire independent companies to prepare the National EITI Report.
- ◆ The importance of regional studies within the EITI framework.
- ◆ The relevance of designing and implementing a communication strategy.

The plan includes a tentative program with a budget of USD 349,800, more than 60 per cent of which was planned for three pilot studies in the regions. Because the deadlines could not be met, the deliverables were carried on to the second plan.

a.2 Action Plan 2009-2010

The objective of the plan is to complete the first phase of EITI implementation in Peru. The expected results include those identified in the first plan that could not be achieved, and some new ones such as the validation and establishment of EITI's institutional foundations in Peru.

These are the following:

- ◆ Complete the first National EITI Report for 2004-2007.
- ◆ Execute the communications plan for the first phase of EITI implementation in Peru.
- ◆ Formulate the pilot program to implement EITI in Cajamarca.
- ◆ Complete the First Regional EITI Report for Cajamarca.
- ◆ Successfully complete the EITI validation process in Peru.
- ◆ Lay down the institutional foundations to guarantee the initiative's sustainability.

The schedule of this second plan spans from 2009 to September 2010. Its budget includes USD 350,000 from the World Bank and 200,000 soles from MINEM.

a.3 Action Plan 2012-2014

The third Action Plan was prepared for the second phase of EITI implementation in Peru and was approved on October 12, 2012, along with the respective budget framework and schedule. The introductory and background sections present the main conclusions of the First National EITI Report, the core of the communications plan, and accomplishment in the regional pilots and the validation process.

The objective is to consolidate EITI in Peru and make it a benchmark for transparency at the national and continental levels. For this, the following goals are proposed:

- ♦ EITI in Peru leads the process of transparency of extractive industries in Latin America and the Caribbean.
- ♦ The EITI Peru Commission is recognized nationwide as the institutional reference for the transparency of extractive industries.
- ♦ Take the EITI experience to the mineral and hydrocarbon regions.
- ♦ Make the EITI National Commission an institutional sustainable body.

The budget to implement the plan included a contribution of USD 264,500 from the Peruvian State, USD 359,500 from industry and USD 300,000 from international cooperation.

a.4 Action Plan 2015

The Fourth Action Plan corresponds to the third phase of EITI implementation in Peru. Based on the progress made in the previous phases, this period of the plan seeks to strengthen governance and management of the initiative, consolidate the relevance of the National Commission and National EITI Studies, and further decentralize EITI in Peru.

Five objectives are set for this plan.

- ♦ Strengthen the capacities of the EITI Peru National Commission.
- ♦ Strengthen the processes to prepare the National EITI Reports to obtain products relevant to the national extractive industry and meet international EITI standards.
- ♦ Strengthen EITI implementation processes at the sub-national level in Piura and Moquegua to prepare their respective Regional Transparency Reports.
- ♦ Strengthen the subnational process of implementing EITI to launch the initiative in Loreto.
- ♦ Promote the relevance of EITI in Peru by participating in and supporting the celebrations of a decade of EITI in Peru and to prepare the Global EITI Conference in 2016.

b. The Commission's agenda

Since its inception in December 2006, the National Commission has met 80 times. In a little more than a decade of work, the agendas of its sessions reflect its focus on the following topics:

- ◆ **Preparing five National EITI Reports**

This task entails the prior definition of the scope and contents of each report, as well as the characteristics of the consulting companies that will prepare them. It involves drafting the terms of reference, selecting the consulting firm, analysing its partial products and approving the final report.

The minutes of the Commission's sessions show the lengthy debate that led to the call for preparing the first report, the adjustments required by the second, in the framework of the validation process, and how EITI studies were then kept as a priority on the agenda, while definitions flowed rapidly.

- ◆ **Promoting four subnational EITI processes**

The records of this activity reflects the coordination efforts by and the motivation of the Commission members to reach the regional governments and institutions and involve them in the initiative. Also, the advice to start the process by setting up regional commissions and draft their regulations, work plans and communications. Then, the completion of Regional Transparency Reports and the consequent elaboration and discussion of the terms of reference to hire the preparation, review and approval of reports and their subsequent dissemination.

- ◆ **National Commission mainstreaming**

In the early years, part of the agenda was aimed at formulating proposals for legal provisions to extend the mandate of the Commission and the follow-up of the authorizations trail leading to its approval. It should be noted that provisions such as supreme decrees are not sanctioned only by the corresponding minister, but require the approval of the Council of Ministers. The process could take between two and three months.

Since its creation as a Standing Commission, its agenda on this subject has been the approval of its regulations, the Action Plans and their respective budgets and financing, as well as preparing activity reports.

- ◆ **Validating EITI in Peru**

This topic becomes relevant and remains on the agenda of the Commission between 2009 and early 2012. The activities begin with the knowledge about the meaning of validation, its indicators and procedures, financing and contracting the validator. The discussion then turns to the latter's report, the sustained exchange with the EITI Secretariat and Council, and the efforts of the members of the Commission to lead the actions that led to correcting objections and so achieve "complying country" status.

- ◆ **Communication and dissemination**

The Commission's agenda reflects the importance attached by its members to communication strategies so that the reports' complex and technical information can reach citizens. Part of the time of the sessions is devoted to

discussing these ideas and creating the conditions to have a specialized entity to design and execute the communication plan.

Also included are actions for the continuous improvement of the EITI Peru website.

♦ **Coordination with EITI International**

This section covers coordination for Commission members' participation in EITI conferences and other events, as well as meetings with EITI International bodies, and the review of and training on new standards approved by the Council at various times.

Annex 3 details the issues addressed by the Commission each year of work.

c. A turning point. A new administration takes office.

According to several interviewees, the two recent government transitions had a detrimental impact on the work of the National Commission. The new administration did not pay enough attention to EITI at the beginning of its term, generally because during the transfer the importance of the initiative was not emphasized nor the advanced or the pending issues communicated.

These constraints were also experienced by the actors interviewed in the regions when the pilot experiences were implemented. The changing of authorities at the subnational levels can halt all progress made. Changing commitment of the new regional and local authorities can hamper the continuity of work, especially when a strategy to improve the visibility of EITI in the transfer process is not designed and implemented.

In this context, the National Commission has decided to work in the areas that are within its scope and to create better conditions for the continuity of the Commission's work after the new administration is sworn in on July 28, 2016.

For example, the appointment of civil society and industry representatives to the Commission is recognized through a resolution from the General Office of Social Affairs at MINEM. This gives it stronger credibility before the incoming administration's officials and facilitates the dialogue with the public policy making entities.

In addition, we work with the Technical Secretariat on the following topics:

- ♦ Approve the terms of reference for and move forward with- if not possible to conclude -the procedures to retain the consulting firm that will prepare the sixth National EITI Report.
- ♦ Finalize the documentation to process the World Bank grant, which will allow preparing five Regional Transparency Reports in as many regions.
- ♦ Organize the Commission's paper files and publish the documents on the EITI Peru website.

Some Commission members suggested to organize a meeting with the new administration's Energy and Mines team and preparing a report on EITI Peru formally submitted as part of the transition and hand over documentation.

In parallel to these initiatives, some members of the Commission consider the consolidation of EITI as a State policy is important, by including, for example, in MINEM's Strategic Plan or in the National Agreement. Promoting its mainstreaming by law of Congress is ruled out because there is no consensus on this.

Issues resulting from a disorganized transition

Between August 2011 and September 2012, the National Commission only met once, in January 2012, to review and approve the second National EITI Report. Our interviewees explain that, at the outset, they considered that the Commission's paralysis was due to the new administration's lack of interest in the initiative. The new administration had taken office on July 28, 2011.

In August 2011 a clearer picture emerged. The incoming Deputy Minister of Energy, a position that had always been assigned the Presidency of EITI Peru, did not include the issue among his priorities nor did the General Director for Social Affairs, who was the Commission's Technical Secretary. The Commission was paralyzed and the representatives of companies and civil society took a joint position before MINEM and insisted on the resumption of meetings and the implementation of the work plan. Having no response, they sought support from institutions that support EITI.

In September 2012, MINEM appointed a new Director General of the Social Affairs Office to address the situation. In addition to resuming the call to the members of the National Commission, he sought support from the Deputy Minister of Mines, who considered the initiative relevant to Peru and chose not only to resume work but also assumed the Presidency of EITI Peru in his capacity as deputy minister.

As acknowledged by all the people interviewed, as of September 2012, the National Commission acquired the most important dynamics in a decade of operation.

2. National EITI Reports

2.1. EITI standards

EITI reports are one of the fundamental EITI instruments because they allow for periodic display and comparison of the payments that companies make to

the states for the mining and hydrocarbons operations they carry out in their territories, and the revenues governments receive from these companies.

EITI defines the basic characteristics of the reports and the criteria to be observed by the countries implementing the initiative to draft them. For example, it provides that information produced by reports should be available to a large audience. Therefore, reports must be rigorously prepared and, at the same time, understandable and easily available to citizens. In addition, commissions should seek various mechanisms that allow wide dissemination of reports.

It is also established that payments and revenues must be reconciled by an independent, technically capable and reliable administrator, in accordance with international auditing standards.

EITI states that national commissions should define the concept of materiality (relative importance of the companies that should be involved in the study) and approve the formats used in the report. Also, all relevant companies, including state owned companies, should participate, and the figures they report should be based on audited reports following international standards.

At the 6th Global Conference in 2013, EITI adopted new higher standards for the reports. These should be published in a timely manner, with current data, and be useful and relevant. The publication of annual studies with data that are not prior to the penultimate full accounting year is envisaged. That is, a report that appears in 2016 should contain information from 2014 at the most. In addition, they must present the information disaggregated by company and state entity that participates in the sector.

EITI reports should provide context information on the extractive industries, which is understandable and useful to the public. This may include a brief description of the legal framework and tax regime applicable to the extractive industries; information on the production and contribution of the sector to the economy; distribution of revenues; and information on contracts and concessions, and their conditions and registration.

According to EITI, if companies must make significant social expenditures by law or contract, the information should also be included in the studies, as well as the transfers made by the State to subnational governments of the revenues generated by the extractive industries.

2.2. Report characteristics

From this general framework, the EITI Peru Commission determined the characteristics of the National EITI Reports in the terms of reference it prepared for them. The ToR determine the purpose of the report; identify the extractive enterprises and government institutions that should participate; the type of payments and income to be considered; the road to obtain the information, as

well as the conditions that must be met by the consulting company preparing the report.

To differentiate the 'EITI Report' from an audit, the Commission agreed to call it the 'EITI National Reconciliation of Payments and Revenues Report' and the firm responsible for its preparation as a 'reconciliatory consultant'. Subsequently, they were called National EITI Reports ("Estudios Nacionales de Conciliación" in Spanish).



The five National EITI Reports prepared by the EITI Peru Commission provide information on Peru's extractive sector between 2004 and 2015.

a. Purpose of the reports

The overall objective of the National EITI Reports was clear to all from the outset, so their overall form has been preserved in all five studies. It is as follows:

To carry out independent, reliable and systematic verification and clarification of payments to the State made by the mining and hydrocarbons companies operating in the national territory and participating voluntarily in the initiative and of the revenues that the state's bodies have received from these companies. Also, their distribution at the regional and local levels, for a given fiscal year, as part of compliance with the tax and non-tax obligations established by the country's regulations.

The five studies stipulate that the collection of information and its reconciliation is not limited to the payments declared by enterprises and the revenues received by government, but must include the distribution of resources among the various government agencies and levels of government.

Payments made by companies	National government transfers to regions
<ul style="list-style-type: none"> ♦ Income tax. ♦ Mining tax. ♦ Mining levy. ♦ Mining royalties. ♦ Hydrocarbon royalties. ♦ Mining rights fees. 	<ul style="list-style-type: none"> ♦ Mining canon royalty. ♦ Oil canon and canon surcharge. ♦ Gas canon. ♦ Mining royalty. ♦ Oil royalty. ♦ Mining rights fees.

See Annex 4 for details.

For the second report, specific targets were set to move increasingly towards greater corporate participation and the dissemination of a greater proportion of disaggregated information. The National Commission set itself the following objectives for the reports:

- ♦ Achieving a greater participation of active extractive companies in Peru, compared to the first study, both in terms of the volume of production of the companies involved and the value of their payments.
- ♦ Ensuring the participation of a larger number of companies that disclose information compared to the first report to reach a significantly higher level of disaggregation.

The terms of reference of the second report include specifications to be considered in its drafting, namely:

- ♦ It determines the type of tax and non-tax payments applicable to the mining and hydrocarbons sector that must be taken into account in the studies.
- ♦ It defines the minimum percentage of the annual value of production that should reflect the participation of the companies involved in the study by subsector.
- ♦ Determines the relative value of the production of each relevant company (in relation to the total value of the annual output of each sub-sector) according to which it may be included or not in the report study.

b. Consultant's characteristics

Although the National EITI Report is not an audit, the Commission concluded that the most appropriate profile for the consultant preparing the report was that of a consulting firm specializing in audits due to its experience in evaluating the consistency of accounting and financial information, compliance with standards and reconciliation of income and expenses. Another important criterion was the fact that companies of this type are accustomed to analyse privileged or confidential information, to respect confidentiality rules and to issue independent conclusions.

Consulting firms were always hired by competitive bidding, following standards set forth by the World Bank (as donor) that provided the basis for the reports' terms of reference. In addition, criteria to evaluate bidders have been defined and, together with demonstration of experience, importance was attached to factors such as good reputation, to ensure that work is not only independent but also reliable and of high quality. These factors are considered key to the credibility of the effort to reconcile figures, both to public opinion and to the extractive companies themselves.

The five reports confirmed that the characteristics identified by the National Commission were adequate. Ernst & Young prepared all five reports.

Contracts for the execution of studies include the signing of a confidentiality agreement with the National Commission and with each of the companies voluntarily participating in the study. The fundamental concept of this agreement is that the reconciliator cannot show, reveal or publish any of the data collected and analysed concerning each and every one of the private companies involved in the process. The contract form used is shown in Annex 5.

In addition, together with the results of the reconciliation of figures, the consulting firm is requested to identify the main difficulties in applying the established methodology and to issue recommendations to improve access and transparency of information for generation, collection and distribution of income from the extractive industries.

Experience from the five studies shows that the time to prepare them, from signing the contract with the consulting company to delivery, is approximately seventy days, not including the time that the Commission devotes to reviewing the reports' findings.

However, in order to better understand the timing of each report, it is important to consider that, even when financed with international cooperation funds, resources are incorporated into the MINEM budget. Therefore, the consulting services are subject to the extensive state procurement paperwork. This time must be taken into account.

c. A call for companies to participate

Up to the fourth National EITI Report, the process began with the sending of letters from MINEM, representing the EITI Peru National Commission, to hydrocarbon companies and large and medium-sized mining companies in the exploitation stage to request their voluntary adhesion to the initiative.

The companies that chose to participate in the National EITI Report had to respond formally and accept their adhesion within the deadline set by the National Commission using an adhesion form, which was previously submitted by the Technical Secretariat, and designed by the consultant company.

The form included an option whereby the companies authorized publishing the figures of payments made to the State in a disaggregated manner. Otherwise,

their information would be included only in the aggregate presented in the study for each subsector.

As of the fourth National EITI Report, all companies agreed to submit their individual information, as required by the EITI standard approved in 2013, so it is no longer necessary to authorize the way information will be disclosed. For the fifth study, MINEM no longer had to use the adherence form, but directly requested the companies to send their information within the established deadlines.

As people involved in these processes report, there is a progressive increase in knowledge about EITI and the confidence and value mining and hydrocarbons attach to the initiative. This is evident when comparing the current situation with the efforts made by MINEM and SNMPE in 2008 to convince companies to participate in the first study. At that time, MINEM sent the letter of invitation, reiterated it and was forced to postpone the deadline for the return of the adherence form due to the low initial participation of the companies. It was also necessary to follow up on the invitations sent to each of them.

For its part, the SNMPE also sent communications to its members to underscore the call and explain the characteristics of EITI and the study. In addition, it coordinated with the MINEM a meeting to present the initiative and the study to the companies and distributed documents with complementary information.

The members of the Commission, and in particular the representatives of the companies and SNMPE, engaged in advocacy efforts to recruit not only a growing number of participating companies but also to allow them to disclose their payments in a disaggregated manner, which was fully achieved in the fourth National EITI Report.

d. Gathering data

d.1 Payments by companies

In order to obtain the information about the payments made by the companies, the first step is for the Technical Secretariat of the National Commission to send a communication to the companies that agreed to participate and that signed the adherence form, through which it informs shares with them the name of the consultant chosen to prepare the study and accrediting the members of its team so they can assist them in doing their work.

The consulting firm then sends the form with the information request, which have been approved by the National Commission. Companies are requested to declare payments made for the following items:

- ◆ Income tax
- ◆ Special mining tax
- ◆ Mining levy
- ◆ Mining royalties
- ◆ Hydrocarbon royalties
- ◆ Mining rights fees

Annex 6 shows the form.

The companies that participate in the study return the forms to the consulting firm with the requested information, with which the consultant has the amounts of the payments made by each company.

d.2 Revenues received and distributed by government

In order to obtain information on the income received by the State, the consulting firm must coordinate with different public entities, according to the type of income to analyse:

Government agency	Type of payment
Superintendencia Nacional de Administración Tributaria (SUNAT)	Income tax
	Mining royalties
	Mining levy
	Mining tax
Perupetro	Oil royalties
	Revenues from license contracts
Instituto Geológico Minero Metalúrgico del Perú (INGEMMET)	Mining rights fee

MINEM, through the Technical Secretariat of the National Commission, sends communications to each of these entities explaining the purpose of the information request and accrediting the consulting firm to facilitate its work.

Access to income tax data

Companies must provide express authorization for the consulting firm to access income tax data, which is protected by constitutional data reserve.² This is not so with other payments which are not under constitutional protection and are in the public domain.

Companies therefore needed to give the consultant a letter addressed to Sunat requesting access to the income tax paid and to deliver print s and electronic files to the consultant they authorize in their letter. Annex 7 shows the corresponding form. With this information, the consulting firm can reconcile the figures between what is declared by income tax and what was actually received by government.

To compile information on revenue distributed by the Government to regional and local governments and other State agencies, the consulting firm should coordinate with the following public entities:

Government agency	Type of payment
Ministerio de Economía y Finanzas	Distribution of all types of canon and royalties.
INGEMMET	Distribution of mining rights fees.

The collection of information made by the reconciliator, both the one requested by the companies, and the public institutions, does not include supporting documentation, except in cases where discrepancies are found between the reconciled figures.

² The process followed by the National Commission and extractive companies on the lifting of the tax reserve for the purposes of the National Conciliation Reports is explained in detail in section 3.1

Background information

The Third National EITI Report includes background information on the extractive mining and oil sectors in Peru, which has been progressively expanded in the fourth and fifth reports to align them to the EITI standard approved in 2013.

This information covers the following issues:

- ◆ Importance of extractive activities in the national economy.
- ◆ The institutional framework.
- ◆ Types of mining industries.
- ◆ Mining production.
- ◆ Foreign trade and mineral prices.
- ◆ Projects, concessions and reserves.
- ◆ Mining investments.
- ◆ Mining tax revenues.
- ◆ Hydrocarbons production.
- ◆ Hydrocarbons value chain.
- ◆ Petrol production, refinement and commercialization.
- ◆ Foreign trade and hydrocarbon prices.
- ◆ Petrol contracts in force and contributions to the labor market.
- ◆ Investments and hydrocarbon reserves.
- ◆ Revenue from petrol royalties and canon.
- ◆ Camisea gas.

2.3. Critical issues in report drafting

a. Income tax reserve

As mentioned earlier, the income tax declared and paid by companies to the State is protected by the tax reserve established in the Constitution and ratified in Peruvian law, including by the Tax Code (Supreme Decree 135-99- EF).

In order to establish the format used in the preparation of the studies, which is indicated in section 2.4, the National Commission continued a long process of dialogue with MEF and SUNAT to explain the characteristics of the study, to define the exact concept which sought to obtain information and jointly find the mechanism to remove this protection.

This was an effort to align the respect for the legal framework, which protects the taxpayers' tax return, and the State's commitment to facilitate the obtaining of information that would allow to make transparent the flow of resources generated by the extractive activities.

The consultation process lasted from mid-April to September 2007. SNMPE also played an important role in this process. It examined the various options with its tax advisory bodies and those of its members who had joined EITI, to help find a solution.

Initially it was suggested that SUNAT should be the body validate the information of the amounts declared as income tax payments made by each company, when compared to what was actually received for the same item according to its records. This could have been done in two ways:

- ◆ Either the Commission entered into a prior agreement with the participating companies and sent the list of companies and their payments to SUNAT, or
- ◆ Each company directly requested SUNAT to confirm the figures.

However, the idea was later dismissed by SUNAT because it could not provide a third party with the amount of income tax that each taxpayer had established because that would mean determining the tax base and that information was protected by the tax reserve.

After several inquiries, it was found that the procedures contained in SUNAT's Single Administrative Procedures Text (TUPA) allow the taxpayer to request their annual return and information on payments made, and can do so through a third party, if this is duly accredited by the taxpayer's legal representative.

In order to comply with this requirement, the companies involved in the study must issue a power by public or private document with the signature legalized by a notary or notary of SUNAT, for this entity to deliver the said statements to the persons authorized by the legal representative. The deadline to provide the information is five business days.

Once these procedures were defined and SUNAT's formal response to its viability was received, the procedure was incorporated into the preparation of the National EITI Reports and all the companies involved accepted the mechanism. With the business charter, the consulting firm receives from the tax administration the information on the final amount of the income tax determined by each company and can verify if what companies claim to have paid on taxes is what actually entered the State.

b. Materiality

For the reports to be valid, it is important that they should be representative, that is, they should reflect that the participation of companies, which, together, account for a significant percentage of the value of production and, individually, are the most significant.

The concept of materiality must be clearly explained in the terms of reference, because it is also an important reference in the EITI standard and in validation.

In the First Study of National Conciliation the criterion of the relevance of the companies was the volume of the main mining and hydrocarbon products.

For the second and third study, the terms of reference established materiality more precisely and indicated that the following participation should be reflected:

- ♦ In the case of mining, the participating companies should represent not less than 75% of the value of domestic production.
- ♦ In the case of hydrocarbons, the participating companies should represent a proportion not less than 85% of the value of domestic production.

In the terms of reference for the fourth and fifth reports, the percentage of the companies' material participation increased to 85% for mining and 90% for hydrocarbons.

In addition, all studies establish that these should include companies whose production value exceeds the following average:

- ♦ 2% of the total value of domestic production in mining.
- ♦ 2% of the total value of national production of liquid hydrocarbons.
- ♦ 1% of the total value of the national production of natural gas.

This percentage, called materiality threshold, determines whether a company or a payment is significant for the total result of the study and, therefore, if it should be included in it.

c. Aggregate or disaggregate disclosure of data

A topic for discussion in the Commission since the first study was how to disclose the information on payments made by the companies, whether in a disaggregate way, identifying the amounts paid by each company, or consolidated for the subsector as a whole.

In this regard there were two positions. Representatives from civil society, NGOs and universities argued that companies that decided to participate voluntarily in EITI should accept the disaggregated publication of their figures. Companies, on the other hand, argued that such a decision should be left to the discretion of each company to the extent that it was a voluntary initiative. Therefore, they should be allowed to choose between the disaggregated or aggregated disclosure of their information.

The National Commission held several meetings to bring closer the different positions on this point. In addition, meetings were held with the Senior Management of MINEM, the SNMPE coordinated with its partners the terms of reference, and representatives of civil society discussed internally the options they identified.

After a protracted debate, which took a few months, the Commission found an intermediate point and admitted both options: to present the aggregated information by subsector and the disaggregated, that is, of each company participating in the study, only in those cases they authorized.

The representatives of civil society accepted the agreement, although they registered their position favouring the presentation of detailed figures, since they considered that the aggregate tax information of the extractive industries was already of public character in SUNAT's annual publications.

The session of July 2, 2008 reached the following agreement:

[...] the publication and dissemination of tax information provided by the participating companies and by State agencies, as well as the final results of the National EITI Report, will be made for each participating company that so authorizes. Otherwise, this information will be presented in aggregate by subsector.

As indicated, for the fourth National EITI Report, all companies accepted their data could be disclosed in detail. It was a gradual process that led to present day compliance with the EITI standard on this issue.

d. Including new issues in the reports

The civil society organizations that participate in the National Commission have an interest in expanding transparency to other issues that they consider just as important as tax issues, so that the initiative remains useful and valid. In this sense, they propose analysing and reconciling information on social spending by companies their projects' areas of influence.

They also suggest that including environmental information such as environmental impact assessments (EIAs and their processes) and environmental payments and commitments made by companies, would contribute to an informed dialogue on a highly sensitive issue and to improving the governance of the sector.

A third issue they propose is to make the real owners of the companies and their intermediary companies transparent; that is, the owners of the operations, shareholders and final owners, to know the profits' actual destination.

On these propositions, the business sector considers that social spending is not public investment but a private expense and therefore should not be included in the EITI framework. They also say that it is not clear what should be made transparent or to what those expenses should be compared.

As far as the information about the owners it is thought that it is not relevant in Peru, since there are no state mining companies and there is only one public hydrocarbons company that is moving towards becoming a stock exchange listed company.

Business representatives are concerned that there is still a long way to go to streamline national studies and, above all, to improve and incorporate other regions into the regional reporting scheme. In this scenario, they do not share the idea of broadening the issues addressed by the reports. Also because they believe that the initial concept of EITI should not be left out.

These issues have been discussed in the National Commission at the initiative of civil society and it has become clear that these are issues where there are no

common views. These organizations agree that the conditions do not exist to insist on the discussion, but part of the agenda with civil society groups at the national level and globally represented in the EITI Council, seeks to advocate for changes in standards to reflect their proposals on these issues.

On the other hand, the three sectors agree on the need to make more progress in the transparency of the decentralized distribution and use of the income generated by the extractive activities. They feel transparency should not be limited to verifying how much the companies have paid and how much the State has received but that we must know the real effect that these resources have had on the quality of living of the population.

In that sense, the decision taken unanimously by the Commission to carry out decentralized pilot experiences shows that it is possible to deepen the scope of the initiative when consensus is achieved. This line of work is not part of the EITI standard and it was a decision of the three sectors to extend it beyond the established frameworks.

The value of National EITI Reports

Despite differences on the issues that could be included in the reports, there is a common appreciation of the importance of the EITI reports. Their value results not only from the fact that the data is provided by the involved parties, but also because it is confirmed by a tripartite Commission and an independent auditor through a pre-established mechanism.

e. Automating report data gathering

The National Commission wants to automate gathering of data needed for the reconciliation process, through updatable databases, in order to speed up report drafting.

there is consensus among the three sectors in the National Commission on this need. In all cases this is seen as an opportunity to have the studies in the shortest time in order to reduce costs, as there is concern that the delay in publishing the studies will result in the information demanded by EITI dynamics not being up to date. The use of the proposed platform would not only meet the EITI standard with respect to deadlines, but also avoid that interest in the information presented by the studies may be lost if it is far behind schedule.

It is necessary to better specify the type of information that would have to be available in the database and the one whose collection will require an institution-by-institution coordination, such as the payment of income tax, subject to the tax reserve and which demands a special procedure. It is also proposed to link this database with others in the public sector, such as the one managed by the Integrated System of Financial Administration of the State (SIAF) or INGEMMET.

These are topics that the Commission will specify from the pilot that it has proposed to develop for the elaboration of the next National EITI Report.

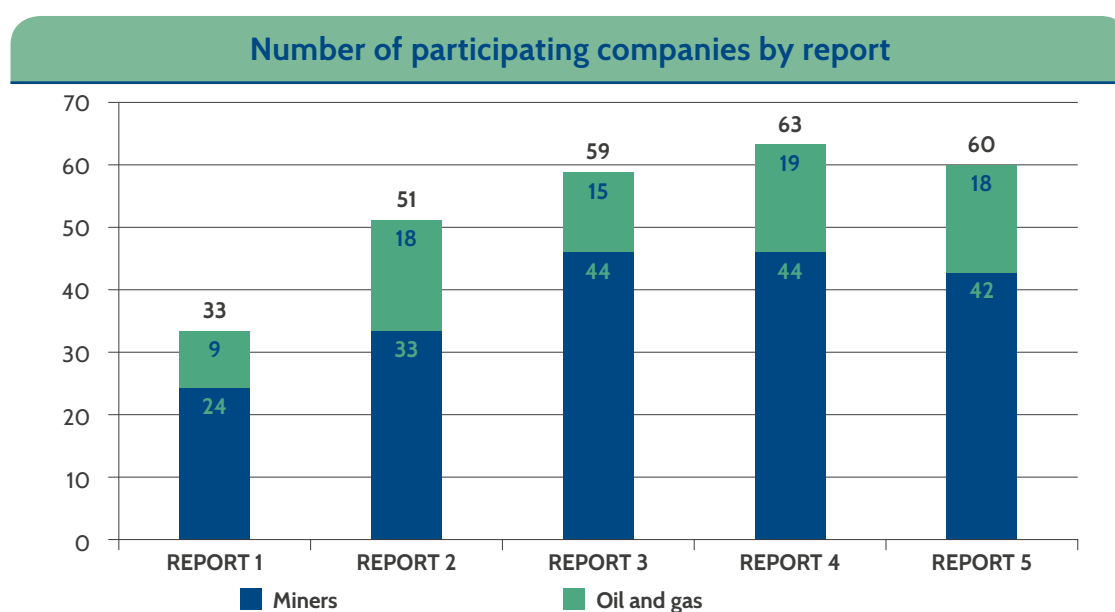
2.4. Main report indicators

EITI Peru has prepared five studies in ten years. The first one covered four fiscal years, the second three, the third two and from the fourth report on, they are annual reports, as shown in the table below.

Report	Fiscal Year	Approval date
1°	2004, 2005, 2006, 2007	2009
2°	2008, 2009, 2010	2011
3°	2011, 2012	2014
4°	2013	2015
5°	2014	2015

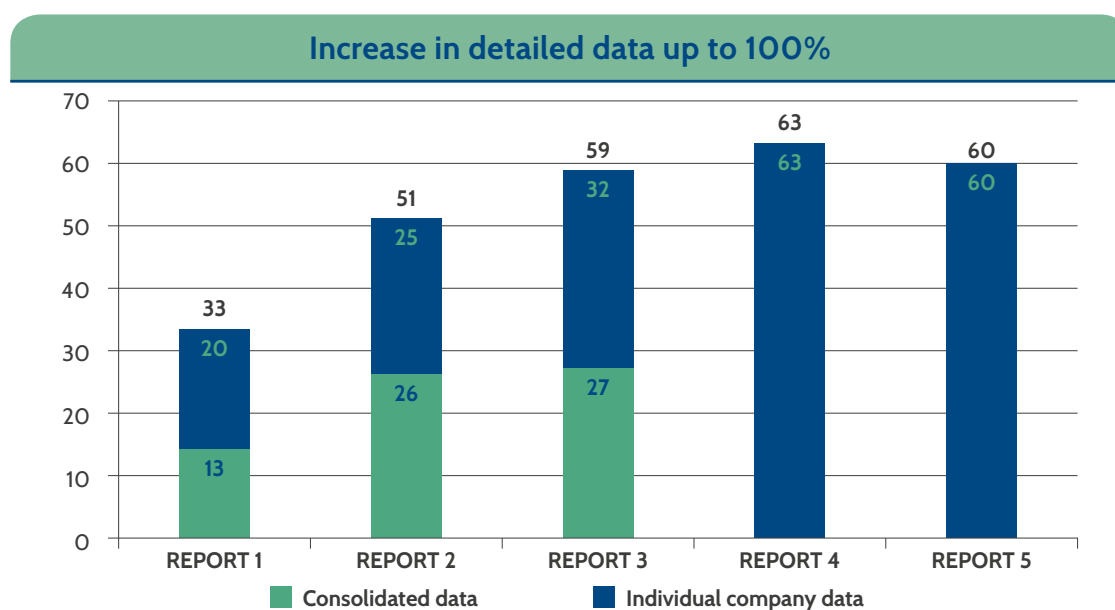
This improvement in reporting dates seeks to comply with the EITI standard of June 2011, as well as to provide the most up-to-date information to the participants of the initiative and to the public at large.

The process began with 33 companies and by the fifth study 60 companies had joined. There has been a steady increase in each report which shows the growing appreciation of this initiative by industry companies. The slight reduction shown in the fifth study did not impair the materiality of the reports.



National output covered in each report has gradually increased and in the last study it exceeded 85% for mining and 95% for hydrocarbons.

The five studies show the gradual progress in disaggregating data. While in the first three reports, only a few companies agreed to publish their payments to the State individually, in the last two reports all have done so.



In the five studies, the results show that the information reported by the mining and oil companies affiliated to EITI Peru for income tax and royalty payments matches the amounts recorded by the State, with only minor differences.

Peru has confirmed thus its voluntary and progressive commitment to the EITI recommendation to publish the disaggregated information by each of the companies. Today, the information is identified for each of the companies and Peru has moved forward in this direction even before the decision was made in 2013 to include this requirement in EITI standards.

3. Expanding EITI to subnational governments

When the initiative was launched in Peru in 2005, EITI had not established a requirement for participating countries to expand to subnational levels of government. Despite this, the EITI Peru Working Group decided to decentralize and launched a novel experience for a process that was still in its early stages in some countries where extractive activities have great economic and fiscal relevance.

Only after the 6th Global EITI Conference, held in Sydney in 2013, some issues related to decentralization were raised as part of the background information requested in the approved requirements. These include the degree of fiscal decentralization, information on the regions where production concentrates,

disaggregated production and export volume figures by region, or the description of revenue earmarked for certain regions.

This shows that, despite the progress made by EITI, decentralization is still not included in a structured way as a requirement for the countries that are part of the initiative. Against this backdrop, as its members put it, the National Commission has picked up a new challenge.

3.1. Decentralizing EITI in Peru

The National Commission has implemented various experiences to advance the decentralization of EITI in Peru with diverse results. This option is important for the country because, through mechanisms such as royalties and canon royalties, regional governments and municipalities, as well as public universities - and in some cases technological institutes - receive a significant percentage of the income generated by the extractive industries that operate in their territories.

Two factors are most relevant in this context. First, the finding of a significant gap between the required institutional capacities and those existing in the regional governments and the municipalities for the good use of the resources at their disposal. Second, the existence of limited knowledge among the population and the public opinion of the use of the funds that are transferred to these instances.

These problems of decentralized management increase the risk for an inefficient use of public resources, which can lead to misguided decisions, such as targeting items that are not a priority or have a very low impact on people's quality of life, or by keeping them unused in savings accounts held by regional or local governments. Transparency can contribute to these resources being invested in permanently improving the quality of life of the population.

Pilot experiences of decentralization have been steadily promoted for more than a decade of EITI implementation in Peru. The four Action Plans prepared by the National Commission include subnational processes as part of the initiative and proposals for specific activities.

Main reasons to decentralize EITI

- ♦ Important changes in the management of resources and public policies brought about by the decentralization process initiated in 2002.
- ♦ The significant increase in the availability of resources from extractive activities in the hands of subnational governments, due to the increase in the prices of minerals and oil.
- ♦ The growing number of citizen watchdog programs, by civil society organizations, as mechanisms to increase transparency on the use of public resources by regional and local governments.
- ♦ The interest of companies to give visibility to their contributions in the territories where they carry out extractive activities.

In the 2005-2006 Plan, the National EITI Commission set forth the objectives of the Regional Transparency Studies, shown below:

- ♦ Design mechanisms that allow greater transparency in the use of resources transferred to regional and municipal governments.
- ♦ Establish methods to adequately calculate the amount of royalties, canon royalties and fees, as well as their projection in the medium term and under different scenarios.
- ♦ Identify and analyse various options for an adequate financial management of the resources of the extractive industries, such as stabilization funds.
- ♦ Design programs to strengthen the institutional capacities of subnational governments in prioritizing and formulating investment projects.
- ♦ Establish policies and mechanisms for to monitor the use of resources from the extractive industries.

3.2. *Regional Cajamarca and Cuzco pilots*

In the first two Action Plans two regions were defined to implement the pilot experiences: Cajamarca and Cuzco. In the first of these, two relevant products were advanced, such as the Regional EITI Report and the EITI Implementation Program in the region, but the initiative was not sustainable. In the case of Cuzco, despite repeated attempts by various actors, the Regional Commission was not formed, which is the first step in developing the initiative.

a. Cajamarca pilot experience

a.1 The process

The decision to implement regional EITIs came from the National Commission, which considered various criteria when choosing Cajamarca as a pilot region, including:

- ♦ It is a mining region of prime importance. The expansion of the sector began in 1992 and the trend continues to this day.
- ♦ The region has seen several conflicts between the population and some extractive enterprises, whose effects have at various times transpired at the regional level and have had a significant national political and economic impact.
- ♦ The regional Improving Municipal Investment (MIM) program, supported by the World Bank Group's International Finance Corporation (IFC), which promoted the monitoring of canon funding that finances municipal investments and the information disseminated about it.

As part of the preparatory activities, representatives of the National Commission talked with the authorities and officials of the regional government to present and explain the characteristics and scope of EITI, as well as the motivations and expected results of its expansion to the regions.

The regional governor and his team showed interest in the proposal and pointed out that for them this also meant the possibility of analysing the discrepancies they found between what the national government declared to have transferred and what they registered in the regional accounts.

The implementation of the regional experience began with the creation of the EITI Cajamarca Provisional Regional Promoter Group in May 2008, formalized through Regional Executive Resolution 219-2008-GR / CAJ-P. This defined two main functions for the group:

- ◆ Promote the EITI initiative in the Regional Government of Cajamarca and ensure its sustainability.
- ◆ Organize and monitor the entities responsible for the design and implementation of the pilot program for the implementation of the EITI in the regional government.

The resolution gave the group two months to do its job. This term proved insufficient. However, in fact, the Promoter Group worked well while the initiative was active.

In 2008, MINEM and the Regional Government of Cajamarca signed an agreement that provided the necessary legal framework so that the Ministry could provide the region with technical assistance and resources from the World Bank grant to implement the pilot experience. The agreement ran from October 2008 to October 2010.

The second 2009-2010 National Commission Plan of Action confirmed the impetus to the pilot experience of Cajamarca and established two results to be achieved, which were also part of the agreement between MINEM and the regional government.

- ◆ Regional Pilot Program for EITI implementation in Cajamarca
- ◆ First Regional EITI Report of Cajamarca

The National Commission was responsible for preparing - through a consultancy - and approving the terms of reference for the Regional Pilot Program and for the Regional EITI Report. Both were approved in February 2009 and forwarded

Cajamarca Regional Promotion Group

- ◆ Economic Development Department; Cajamarca Regional Government
- ◆ Cajamarca and Hualgayoc-Bambamarca provincial municipalities.
- ◆ Regional Energy and Mines Department
- ◆ Frente Unitario de los Pueblos del Perú
- ◆ Grupo Norte companies
- ◆ Centro Ecuménico de Promoción y Acción Social Norte (CEDEPAS Norte).
- ◆ MIM-IFC Project

to the Regional Government of Cajamarca and the Regional Promoter Group of Cajamarca (GPRC). Once the procedure was completed, the call, selection and hiring of the consultants started. The GPRC was in charge of these processes and the final selection, in coordination with the National Commission. In November 2009, was made almost 18 months after the GPRC was set up.

New information contributed by the regional report

- ◆ Reconciled data on government and regional funds
- ◆ Use of funds by government agencies

In May 2010, the GPRC sent the two deliverables to the EITI National Commission: the Regional EITI Report and the pilot program for the implementation of the EITI in Cajamarca. In June, the National Commission approved them. It had been two years since the process began.

a.2. Las características del estudio

The Regional EITI Report included information on the following issues:

- ◆ Economic resources paid by the extractive company participating in the study to the State.
- ◆ Economic resources received by the Government of the mining companies participating in the regional initiative.
- ◆ Economic resources transferred by the Government to Cajamarca institutions receiving mining canon, royalties and mining fees.
- ◆ Analysis and determination of the income received by the institutions participating in this initiative.
- ◆ Analysis and determination of the use of funds at the regional level and by the participating municipalities.
- ◆ Supplementary analysis on payments, income, distribution and expenditure.

As this is a mining region, the transfers include mining canon, mining royalties and mining rights fees.

The study ranged from 2004 to 2007.

On the business side, only Minera Yanacocha participated, which was the only one that was in operations in the region at that stage.

On the receiving end, the following institutions were involved:

- ◆ Regional Government of Cajamarca
- ◆ Provincial Municipalities of Cajamarca and Hualgayoc-Bambamarca
- ◆ District Municipalities of Jesus, Baños del Inca and La Encañada
- ◆ National University of Cajamarca

The Regional EITI Report was presented at a forum held in the region, called 'Transparent Figures' in June 2010. Some remarks on the study gathered at the event that can help in new initiatives are as follows:

- ♦ The document is dated (analysis covers from 2004 to 2007) so it is of little use beyond confirming what has happened.
- ♦ There are no indicators to assess the quality of expenditure and the impact of investment of resources on local and regional development.
- ♦ It lacks a dissemination strategy on EITI and the importance of transparency in public information.
- ♦ The Promoter Group is precarious, as it lacks legal formality and adequate representation of the various sectors of the region.



Cajamarca Regional EITI Report 2004 to 2007.

Annex 8 shows a summary of the Cajamarca Regional EITI Report.

a.3 Cajamarca EITI Regional Pilot

The program, approved by the GPRC, contains a set of guidelines to promote transparency in the use of income derived from mining, as well as to improve financial management. Proposals are made to strengthen institutional capacities, including monitoring and evaluation of the program.

The program was prepared by a consultant and discussed in the GPRC. However, it lacked a plan for dissemination, analysis and debate among the sectors represented in the Group and involved in the EITI initiative in the region. Neither was there a plan to disseminate it among public opinion. The 'Transparent figures' forum failed to adequately present the program, disseminate its guidelines or gather the points of view and suggestions of the participants.

In addition, the approval of this proposal took place at a time of regional and local elections. The new administration not only did not participate in the process but lacked information on EITI at both national and regional levels. Progress by the GPRC was not part of the transition. This made the progress of the program considerably more difficult beyond some dissemination of the Regional EITI Report.

b. Cuzco

The commissioning of the major natural gas fields in Camisea – and the important gold and copper production – was a strong reason to choose Cuzco for one of the pilot experiences.

In addition, the representatives of the World Bank found a very favourable attitude of the 2003-2006 regional governor to implement EITI in the region. Based on this, the institution decided to financially support the process, which motivated the National Commission to propose the Regional EITI Report in the First Action Plan 2005-2006, with the following levels of analysis:

Advantages of a Cuzco decentralized EITI

- ♦ Civil society watchdog organization's focus on regional government expenditures
- ♦ Diversified and important social organizations' tissue
- ♦ Successful dialogue and negotiation between extractive companies and people's organizations

- ♦ Estimation of the canon and its allocation in the region.
- ♦ Use of funds by receiving institutions.
- ♦ Information mechanisms to the population on amounts, destination and quality of expenditure.

In order to advance the initiative, it was proposed to create a working group representing the regional government, civil society and extractive companies operating in the region. This body should be responsible for choosing and hiring the consultants to implement EITI. The expectation of the National Commission – expressed in the first Action Plan – and of various actors in the region was that the EITI implementation process would take place between May 2005 and December 2006.

The presence of a regional institution as a representative of civil society in the National Commission – the Bartolomé de las Casas Center – was considered as an asset to promote the initiative and favoured the persistence to carry out the process.

However, this decentralized process was hampered initially. So, the Regional Commission was not formed for 2005-2006. In 2006 the regional and local elections were held and, in January 2007, a new administration moved in requiring new talks, since EITI was not included in the transition agenda.

In September 2007, contact with the regional government authorities was resumed. Parties showed interest in implementing decentralized EITI. It was agreed to hold an EITI forum in October that year, with representatives of provincial and

district municipalities, business and civil society. The deadlines were not met and the activity took place in February 2008.

The forum was attended by some of the aforementioned actors and they held working and coordination meetings to advance the regional EITI pilot. However, it was not possible to sign a framework agreement between the MINEM and the Cuzco Regional Government, to support the commitment of the regional authority and to allocate resources to the process basically due to the lack of interest shown by the regional authorities.

In early 2009, the National Commission took up the issue and, in coordination with a representative of the regional government, agreed to prepare a new meeting with the main regional extractive industries actors. Of the twenty institutions that were invited, only five attended. This new attempt by the National Commission and regional civil society failed and the initiative stalled again.

In 2011, after new regional authorities had been elected, the idea of promoting EITI was resumed, but as in previous attempts, the commitment and role of the regional government was very weak. A number of regional civil society institutions attempted to form a group that was well aware of the EITI initiative and to take on the task of promoting it in the region. They held information meetings in which they addressed the Cajamarca experience, the National EITI Report and the importance of promoting the pilot experience in the region.

Although there was greater knowledge on the subject among different actors, weak regional and local authorities failed to set up the Regional Promoter Group. Local media were not committed enough, weakening the group's ability to reach the population and put the issue on the public agenda.

Although the EITI Regional Promoter Group did not materialize, between March and July some civil society institutions decided to form the Regional Platform for Natural Resources and Sustainable Development (RENADES), which included in its agenda implementing EITI. They prepared a draft regional ordinance and talked to various regional authorities. They also achieved to appear in the media. At that time a conflict arose in the province of Espinar between the population and a mining project, which complicated the effort. Finally, they dropped the initiative due to lack of appropriate conditions.

3.3. Persisting in decentralizing EITI

Despite the limited achievements of the first experience, the National Commission ratified the commitment to decentralize EITI and included it as a line of work in the 2012-2014 Action Plan. And to implement the initiative in at least two regions.

Between March and April 2013, representatives of the National Commission held initial talks with actors from various regions, some of whom expressed their interest in implementing EITI in their areas.

On that basis, in April, the Commission defined three regions where the new decentralized pilots could be implemented: Piura, Moquegua and Loreto. With this agreement, the members of the Commission distributed the responsibility for promoting the initiative and accompanying each of the three regions. This decision, coupled with the existence of a support team in the Technical Secretariat of the Commission, created better conditions for a more continuous exchange between the Regional Commissions and the National Commission, as well as to follow up and participate in their activities.

To confirm the commitment of the authorities of each of the regions, an ordinance was prepared to provide the legal framework for the implementation of EITI. This was needed since experience showed that lack of commitment by the regional authority had stalled prior initiatives. Working meetings were also held with the authorities, civil society institutions and extractive enterprises operating in those regions.

Piura and Moquegua moved steadily forward and promulgated the necessary regional ordinances, while in Loreto, after initial encouraging steps, the initiative stagnated. In November 2014, the National Commission agreed to consolidate the processes in Piura and Moquegua.

The National Commission prepared the terms of reference and presented them to each Regional Commission for comments. In some cases, regional EITI members felt that deadlines were too short for the review or that the possibility of making changes was very limited, partly because the National Commission, in turn, is subject to the procedures defined by the Institution that funds the study.

With the goal of having the regional ordinances, involving the three sectors in the initiatives and having the terms of reference for the reports, the National Commission followed the procedure

Guidelines to move subnational EITI programs forward

- ◆ Foster a regional tripartite group including local governments.
- ◆ Work alongside with regional organizations in drafting the terms for participation in the tripartite group.
- ◆ Propose and approve the ToR for the regional and regional transparency reports.
- ◆ Include in the report reconciliation issues and the regional and local social and economic impacts of extractive activities.

Objective of the first Regional Transparency Reports

Providing detailed data on economic resources created by the mining and hydrocarbons industries, transferred by the national government through the Ministry of Economy and Finance to the regional and municipal governments, and to provide information on the use of funds in 2012 and 2013.

of convening, selecting and contracting the consulting firm. Moore Stephens Peru-Vizcarra and Associates were chosen.

In January 2015, the National Commission approved and signed both contracts. This coincided with the start of the efforts of the new subnational authorities that elected in October. The consulting firm Moore Stephens Perú-Vizcarra y Asociados was hired to carry out the Regional Transparency Studies in Piura and Moquegua, in accordance with the approved terms of reference. As for National EITI Studies, the EITI National Commission focused on selecting an independent audit firm with a recognized track record.

Between June and October, the Commission held several meetings with company executives to acquit the observations on the content and presentation of the results, as well as on the recommendations included in the study, without obtaining a satisfactory result. Finally, in October 2015, the Commission agreed not to accept the latest version of the reports for Piura and Moquegua as the objections were not removed. The procedures started then to terminate the contract.

It was agreed to send a formal communication to the regional governments of Piura and Moquegua to report the situation. At the same time, the Commission decided to seek the means to complete the regional studies and to have the necessary information to implement a dissemination plan. A consultant was hired who completed the regional studies appropriately in December 2015.

Some people interviewed think that great importance was attached to the international experience of the consulting firm. This company did not have sufficient knowledge of budget processes and regional and local budget categories when it developed the work and was unable to complete the assignment. The consultant hired to complete the document had not only local experience, but also in the budgets and state spending schemes at the subnational level. In spite of the difficulties, the effort of the National Commission to carry out the study was considered meritorious.

It is also recognized that better communication was required from the National Commission. There could be greater exchange on the characteristics of the bidders and, later, to explain the causes of the delay in the completion of the reports. It was suggested that the time taken for the hiring of the company and the preparation of studies could be reduced if a local company or consultants were hired. The work by the national consultant to finish the work, which the company could not do, set a precedent in favour of contracting national entities.

a. Piura

The EITI process began with meetings of representatives of the National Commission with the governor and regional authorities, as well as regional NGOs with recognized convening capacity. Unlike the previous experiences, in this case the regional actors played a greater leadership role. Through the sustained dialogue between civil society and the regional governor, approaches and criteria were formulated for the formulation of the regional ordinance necessary to

institutionalize the process. This joint effort took almost four months and the regional government was responsible for conducting and convening the Centre for Strategic Planning (CEPLAR). It was an orderly and successful process.

On May 26, 2014, Regional Ordinance 289-2014 / GRP-CR created the Standing Multisectoral Regional Commission of EITI Piura, attached to the Regional Directorate of Energy and Mines of the regional government. It took office in July at a ceremony attended by the Deputy Minister of Mines and President of the National Commission EITI Peru, the Technical Secretary and a representative of the SNMPE.

Why Piura was chosen

- ◆ The importance of hydrocarbon production in the region, which account for more than 90% of funds transferred by the Government.
- ◆ The responsiveness of regional authorities to the proposal to carry out EITI in the region.
- ◆ Strong regional institutions, both civil society and business, as well as the experience of participation, dialogue and consultation to promote concerted development plans or governance agreements.
- ◆ The interest of extractive companies operating in the region to participate.
- ◆ The interest of civil society and its experience in strengthening transparency and monitoring of extractive industries.

The ordinance established that each of the three sectors would have four representatives, including the regional government and the municipalities; and civil society's universities, professional colleges, NGOs and the Assembly of Civil Society Delegates (ADSC). The Regional Directorate of Energy and Mines made a wide call to these last organizations to elect their representatives and the Regional Commission was formed as follows:

Sector	Institution
Government	<ul style="list-style-type: none"> ◆ Energy and Mines Regional Office. ◆ CEPLAR. ◆ Talara Provincial Municipality. ◆ Castilla District Municipality.

Sector	Institution
Civil society	<ul style="list-style-type: none"> ◆ Piura Engineers Association. ◆ Centro de Investigación y Promoción del Campesinado (CIPCA). ◆ Universidad Nacional de Piura Economics Department. ◆ Central de Comunidades Campesinas del Bosque Seco. (CECOBOSQUE), ADSC.
Extractive companies	<ul style="list-style-type: none"> ◆ Sociedad Nacional de Minería Petróleo y Energía (SNMPE). ◆ INTEROIL. ◆ Miski Mayo. ◆ REPSOL.

The Technical Secretariat was in charge of a representative of the Regional Management of Planning, Budget and Territorial Conditioning.

Between August and October, the Regional Commission approved its internal regulations and Plan of Action for 2014-2016. An EITI dissemination plan was also formulated in the region and in the municipalities. In this process, the National Commission has played an important role through the institutions represented there; such as the Grupo Propuesta Ciudadana, the SNMPE and the Technical Secretariat team.

In November 2014, the regional government authorities and members of the Regional Commission met with the Deputy Minister of Mines and President of the EITI Peru National Commission, the Technical Secretary and other representatives of the same. They agreed to carry out the Regional Transparency Study for 2012-2013.

An objective of the Regional Transparency Study was to show detailed figures of the transfers made by government to the Regional Government of Piura, local governments, the national university and the technological institutes, as well as the use and destination of these funds in 2012-2013.



The Regional EITI Piura Commission discusses the approval of the Regional Dissemination and Communication Plan, with the participation of the Technical Secretary of the National Commission EITI Peru. Photo: MINEM.

Piura Regional Transparency Report members

- ◆ Piura regional government
- ◆ Piura provincial municipality
- ◆ Talara provincial municipality
- ◆ Castilla district municipality

The Regional Commission undertook to promote the inclusion of as many municipalities as possible and the National University of Piura in the study, although only the participation of the provincial municipalities of Piura and Talara and of the District Municipality of Castilla finally materialize. As participation was voluntary, the other municipalities and the university, despite receiving resources from mining and oil revenues, decided not to join the study.

The Regional Transparency Study 2012-2013 was finalized in February 2016. The regional actors represented in the Regional Commission committed to promote the study for 2014-2015 and to expand the number of participating municipalities. A priority is to include the Provincial Municipality of Sechura and the Municipality of El Alto, which are important recipients of the resources from extractive activities.

Dissemination events have been scheduled including universities, civil society organizations, professional associations, regional and municipal authorities, NGOs to present and debate the results and panel debates involving representatives of the Commission Regional and National Commission.

Members of the Commission have a high regard for the Regional Transparency Study. Despite the time lag, and being first decentralized EITI experience under a multi-stakeholder scheme at the subnational level, it is considered citizens should know about the payments made. The First Regional Transparency Report for period 2012-2013 allows to know how funds are distributed to subnational governments and how they are spent. How information is organized is another contribution made by the report. For example, it allows to track canon transfers and how they have contributed to improve sanitation systems. The study should be valued for its contribution to building a culture of transparency.

First Piura Regional Transparency Study 2012-2013



First Piura Regional Transparency Study. 2012-2013.

Orderly government transition facilitates process continuity

Continuity of this EITI experience was accomplished despite the change in regional government administration in January 2015. Concerted efforts by civil society and the incumbent regional governor contributed to persuade the incoming governor of the initiatives importance.

The Piura EITI Regional Commission invited the incumbent and incoming regional governors to the meeting held in November 2014 attended by the President of the National Commission and the Deputy Minister for Mines. A few weeks after the elections, the incoming governor committed to continue with the initiative. Once in office, in January 2015, he not only honored his promise but made significant progress in consolidating the regional process.

A significant aspect for the viability of the EITI regional process in Piura was the active participation of El Tiempo newspaper, which was a major promoter, joined by other mass media, such as Cutivalú radio. The role of the regional media is an important advantage for the viability and sustainability of the pilot experience in Piura. They were strategic allies of a civil society and an organized and legitimate business fabric.



The Piura EITI Regional Commission meets the Deputy Minister for Mines, the sitting Regional Governor and the incoming Regional Governor to give continuity to the EITI process in Piura during the transition to the new regional administration. Photo: MINEM

b. Moquegua

One factor that motivated the EITI Peru National Commission to select Moquegua for the second regional pilot was the successful holding of the roundtable discussion around the Quellaveco project, which involved all strategic sectors of the region and Government. Also, following initial meetings held in October 2013, it was found that both the regional government and the companies operating in the region and civil society had an interest in implementing EITI.

In October 2013, the regional governor, the Technical Secretary and some members of the National Commission opened a dialogue channel to evaluate the possibilities of promoting EITI in the region. The proposal seemed interesting and promised to convene other institutions to design a process to carry it forward.

On April 30, 2014 Regional Ordinance 02-2014-CR / GRM was promulgated creating the Standing Regional Multisectoral Commission, and thus institutionalizing the process. In May, the Regional Commission was installed, with a total of nine members, three per sector, with the following representation:

Sector	Institution
State	<ul style="list-style-type: none"> ◆ Regional government. ◆ Moquegua Regional Council. ◆ Planning, Budget and Land Use Department.
Civil society	<ul style="list-style-type: none"> ◆ Universidad Nacional de Moquegua. ◆ Moquegua professional guilds. ◆ Ilo Local Provincial Coordination Council.
Extractive companies	<ul style="list-style-type: none"> ◆ Sociedad Nacional de Minería, Petróleo y Energía (SNMPE). ◆ Anglo American. ◆ Southern Peru.

The Technical Secretariat of the Regional Commission was assigned to the Regional Director of Energy and Mines. According to the interviewees, members of the Technical Secretariat Team of the National Commission supported the beginning of the work of the Commission, which provided guidance and facilitated meetings by drawing on their greater experience in the national process. Progressively, the Regional Technical Secretariat started to guide the process.

As in the case of the National Commission, the incumbent and alternate members of the Regional Commission can participate in the sessions, adding impetus to the meetings by incorporating more points of view in the discussions.

Information included in the Moquegua Regional Transparency Report

- ◆ Taxes paid by companies with local operations.
- ◆ Reconciliation between government transfers to the region pursuant to mining canon and royalty regulations and revenues recorded by the latter on these items.
- ◆ Use and destination of funds.

In July, the Regulations of the Regional Commission was discussed and approved and the guidelines of the Plan of Action 2014-2016, ready since September, were defined.

Subsequently, the National Commission sent the proposed terms of reference for the Regional EITI Report, which they quickly reviewed. An agreement was reached to carry out the study for fiscal years 2012 and 2013.

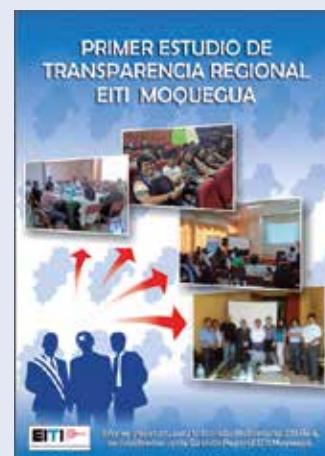
The report was completed in February 2016. On the income side, the research analyses information from the three mining companies operating in the region: Southern Peru, Minera Pampa de Cobre-Milpo and Aruntani. On the side of transfers to subnational governments, the only entity included in the study is the Regional Government of Moquegua. Despite the significant resources received by several municipalities for canon and royalties, such as those of Moquegua, Torata or Carumas, none has been involved in the initiative. Neither was the National University of Moquegua, although it participates in the Regional EITI Commission.

According to some interviewees, there has been a lack of rapprochement between the members of the Commission and the municipalities to present the benefits of the initiative to local governments. Today that resources have diminished, mayors may have an instrument to show this reduction and report to citizens on the correct allocation and execution of the lower available funds. Citizens must be informed to become interested.

In Moquegua there was no strategy to transfer the initiative to the new regional authorities in order to achieve their commitment or at least inform them of the scope and meaning of EITI for the region. This situation may explain why little progress was made during the first six months of the new administration. As some interviewees explained, the Regional Directorate for Energy and Mines had to review the documentation and evaluate the road travelled before the Commission could resume its job. This would not have been necessary with a planned transition.

At this stage, the Technical Secretariat of the EITI National Commission played an important role in continuing the dialogue with the new regional authorities and advisers. Civil society organizations also lobbied to continue the calls and commitments of the Action Plan, such as the preparation of the regional study. The Regional Governor did not join the Commission, but appointed the Regional Director for Energy and Mines as technical secretary, which allowed to continue the work, although the regional governor no longer played a driving role. This is an important issue because, in the case of the Regional Commission of Moquegua, the Regional Governor himself is a member of the Commission. Therefore, his absence had repercussions on the regularity of the Commission's work when the administration changed.

Moquegua 2012-2013 Regional Transparency Report



First Moquegua 2012-2013 Regional Transparency Report with 2012 and 2013 data.



Regional EITI Moquegua Commission meeting with the regional governor and members of the Peru EITI National Commission. Photo: MINEM.

According to some of the interviewees, the loss of dynamism of the Regional Commission had as counterpart a greater intervention of the Technical Secretariat of the National Commission. Although this helped in the continuity of the process, at times the right balance was not found to promote spaces and mechanisms that favoured the protagonist role of the regional actors, which created the feeling decisions were rash and vertical, without sufficient time for proposals from the region. Finally, the National Commission understood that it was better to let the Regional Commission advance at its own pace, as an adequate response to the demand of some members for greater autonomy and participation of the Regional Commission in making decisions.

Interviewees feel the regional report provides information that was not previously available within the region. Today we know how much each mining company that operates in the region contributes to the State and how much the State returns to the region by canon and royalties for local projects. Completing the sequence with the analysis of the destination of the resources is a contribution of the Regional Transparency Study. Perhaps all the information could be found in the State's portals, but now everything is at hand and easier to understand.

One aspect to be improved is the opportunity for access and use of the information provided by the reports. This first version includes data from fiscal periods 2012 and 2013, although they were published in 2016. In this sense, and in the spirit of a better use of information, it is important to start the proposed second study for 2014 and 2015 early.

Further dissemination of the report is needed. Other state entities (local governments) must be encouraged to participate in the next process. Events have been scheduled to disseminate the results of the first report in Moquegua

and Ilo. A panel has been planned with members of the Regional and National Commissions to present the findings and analyse the next steps. The participating public includes local leaders, municipal authorities, and universities, among others. Other actions include the distribution of a short version of the report which has also been posted on the regional EITI website.

c. Loreto

With the support of national civil society organizations such as Grupo Propuesta Ciudadana (GPC), the Peruvian Society of Environmental Law (SPDA), and the Loreto Economists' Association (CELOR), preparatory activities were carried out on the initiative for two years. Training workshops on the canon royalty, monitoring of public projects and on EITI, were part of this coordinated effort. As a result of this work, the Regional Council became interested in the subject and a proposal for a regional ordinance was drafted with them.

Regional Ordinance 23-2012-GRL-CR was approved on December 14, 2012 creating the Standing Multisectoral Regional Commission with the mandate to implement EITI in the region. It was defined as a tripartite space, with representatives of the regional government, civil society and companies active in the region. The Regional Directorate of Energy and Mines was assigned to chair it.

The composition of the Commission was conceived with a majority participation of state institutions, especially the regional government, as can be seen in the following table:

Sector	Institution
State	<ul style="list-style-type: none"> ◆ Regional Energy and Mines Directorate (1), Chair ◆ Regional Economic Development Department (1) ◆ Regional Loreto Council (2). ◆ Regional Planning Budget and Land Use Department (1). ◆ Regional Collections Department (1). ◆ Loreto provincial municipalities (1). ◆ Loreto district municipalities (1).
Civil society	<ul style="list-style-type: none"> ◆ Loreto professional guilds (1). ◆ Non-governmental organizations (1). ◆ Instituto de Investigación de la Amazonia Peruana (IIAP) (1). ◆ Economics Department, Universidad Nacional de la Amazonia Peruana (UNAP) (1).

Sector	Institution
Extractive companies	<ul style="list-style-type: none"> Representatives of extractive companies operating in Loreto (2).

The Technical Secretariat would fall to the Deputy Manager for Canon Royalty and Concessions of the Regional Collections Department.

Pursuant to the inception ordinance, the objective of their work was to provide transparency to the transfers received by the regional government, local governments, UNAP and the Peruvian Amazon Research Institute (IIAP). Likewise, information related to the use of these funds should be analysed and disseminated by and throughout the localities and the region.

The ordinance contained a clear and detailed mandate, which included a list of the functions to be carried out by the Commission. In spite of this, at the beginning of 2013 it was found that the process was paralyzed and its continuity was seriously jeopardized. Faced with this, the National Commission spoke with the regional governor and managed him to commit to resume the initiative. It was agreed to hold a dissemination forum in July 2013 that would be the starting point for resuming EITI in Loreto.

Unfortunately, the agreements were not fulfilled. In fact, the regional governor stepped back in his commitment to push the initiative in the region and there were no mechanisms with enough force to achieve their implementation. The various accusations of corruption against the regional administration ended blocking this possibility.

In this regard, the National Commission decided to strengthen this regional process in 2016 through efforts by and coordination with the authorities of the Regional Government of Loreto.

4. Dissemination as a strategic EITI component

4.1. EITI standards

EITI is considered to be of prime importance for open public debate and understanding of revenue and expenditure managed by government agencies, and to support the choice of appropriate and realistic solutions to achieve sustainable development.

Along this line, the initiative requires that the reports be comprehensive, actively promoted, made available to the public and contribute to citizens' debate. Therefore, part of the validation process is to evaluate the website and various communication materials used in the implementation of EITI in each country.

With a view at encouraging the formulation of communication plans and strategies as part of the initiative, a guide for disseminating the initiative was published in 2009. It included: (i) the definition of communication and its relevance to EITI; (ii) guidelines for designing and implementing a communications program; (iii) interesting communication case studies; (iv) recommendations to implement a web page of national initiatives; (v) indications on various types of publications.

4.2. Communications in EITI Peru plans

The **2005-2006 Action Plan** laid the foundation for guiding the design and development of communications in the EITI Peru implementation process. One of the first aspects that the Commission defined was the terms of reference for the selection and hiring of a company or entity specialized in social communication, with the ability to transform the findings of the first National EITI Report into forms and means citizens could access and understand easily.

Due to the nature of the work and the required profile, this company should be different from the one charged with preparing the EITI Report. Its activities would include direct contact with the public and its representative institutions. The aim would be to collect their concerns and adapt the publication of the findings in a way a wide sector of the population could understand.

Given the complexity of the information being processed at EITI, dissemination was conceived as a process that should be complemented by training for the general public, and not just limited to the dissemination of reconciliation findings. It was considered important to explain in the simplest possible way, the significance of these resources for the country's economy. This would be of relevance in assessing the transparency of the State's management of these funds, so they could be used effectively for national development.

The media company had to compile available information on the knowledge and attitudes of the population regarding the income and payments of the extractive industries, an exploration to be complemented by focus groups and other similar methods to obtain the information. On this basis a more relevant and effective design of the contents and type of materials to be used to communicate the figures would be possible in order to facilitate their understanding and interpretation. At the same time, the collection of

EITI communication challenges

One of EITI's main communication challenges is to explain the rationale of extractive industry's revenues and payments, i.e. the mechanisms and procedures to collect tax and non tax revenues created by the use of non-renewable natural resources, to provide a wider background for the issues.

This is a complex issue in an equally complex productive activity. These topics are addressed by experts and yet it is important for more people to become interested in and correctly understand them.

information would identify general public's training needs on the issue of revenues and payments of the extractive industry.

Training should also be geared towards strengthening social monitoring capacities as a means of contributing to the sustainable transparency of extractive industries. To this end, it was intended to draw on the expertise and resources available from non-governmental organizations and universities.

A starting hypothesis for the communication program was that the greatest interest in knowing the real amounts of these revenues would be in the regions and localities of the country producing minerals, oil or gas; areas to which it a significant part of the resources generated by the extractive industries reverts. For this reason, it was suggested that the information should include the transfer of the income received by Government to regional and local governments (provincial and district), since at these levels a significant part of the expenditure in the territories is defined.

The proposal contained in the 2005-2006 Action Plan conceived dissemination as a set of integrated actions; for example, around a campaign or communication plan, and not as isolated dissemination actions, in order to enhance the impact of the communications program. Likewise, it considered creating a mechanism to receive and process comments or suggestions on information, both from key actors and the general public.

Another aspect foreseen in the plan was that the communications company, as part of the initiative's progress monitoring and evaluation would carry out surveys on the public's perception regarding the transparency and credibility of the figures, at national, regional and local levels. These surveys should capture the people's perceptions on the efficiency of resource use in extractive industries.

The **2009-2010 Plan of Action** contains a result related to the implementation of the communications plan on the progress and products of the first phase of implementation of EITI Peru. Consequently, it defines the activities and allocates a budget of 115 thousand dollars, equivalent to 32.8% of the plan budget to hire a consulting company that will draft and put into practice the communication plan. Likewise, it envisages the National Commission will assess and approve the various communication products.

The Plan of Action reiterates its concern that the selected entity should establish direct contact with the public and its representative institutions in order to reflect their concerns and adapt the publication of the findings of the conciliation report in to formats and means that make them easy to access and understand.

At this stage, the communication strategy should also focus on publicizing the principles, criteria and benefits of implementing EITI in Peru to generate a current of favourable opinion around the initiative across the country.

The **2012-2014 Action Plan** contains several results, one of which states that 'The EITI Peru Multisectoral Commission is recognized at the national level as the institutional benchmark for the transparency of the mining and hydrocarbons subsectors'.

Activities of this outcome included the design and implementation of a dissemination and communications program for the National EITI Reports for the years 2008-2010, 2011-2012 and 2013. It was envisaged to disseminate and position the EITI process in national fora and social consensus areas sponsored by business (Annual Conference of Executives-CADE, the Perumin Mining Convention), regional governments (Interregional Amazon Council-CIAM, Macroregion Interior), Government (National Competitiveness Council) as well as by the State and civil society (Poverty Reduction Roundtable - MCLCP).

To implement the communications plan at this stage, USD 191,500 was programmed, accounting for 20.7 per cent of the budget of the 2012-2014 Action Plan.

4.3. The communications plan

While the communications plan was part of the 2005-2006 Action Plan, the initial phase of the first National EITI Report did not move forward much initially. Dialogue on the communication strategy picked up speed in the first half of 2009, when the first report was imminent and the communications plan was required to promote its wider dissemination. The Commission's minutes show that the communication strategy and the selection of the entity that was to take charge of the task was part of the agenda at several sessions.

Communications guidelines 2005-2006 Action Plan

- ◆ Hire a different consultant than for the reconciliation reports.
- ◆ Adapt findings to formats and media that will make them easy to access and understand.
- ◆ Explain in the friendliest way the importance of resources from mining and their transparent use.
- ◆ Take advantage of the experience and resources available at non-governmental organizations and universities.
- ◆ Carry out the strategy as a set of integrated initiatives and not as isolated dissemination efforts.

A subcommittee with members from the three sectors was created to define the terms of reference. In February 2009 the proposal was presented and approved by the Commission. Given the financial conditions and deadlines set by the working group, it was decided to keep only some of the guidelines defined in the 2005-2006 Action Plan.

After approval of the terms of reference, the subcommittee drafted the criteria for the evaluation of bidders and coordinated the selection process to assess the technical and financial proposals of the bidding companies.

Finally, in October 2009, Calandria Social Communicators Association was selected. Procurement government procedures resulted in such lengthy process.

In December 2009, the communications plan submitted by Calandria was approved. This has been the most structured dissemination experience carried out by the National Commission, and marked the way of work for the following years. Four major orientations were included regarding:

1. The EITI Peru website.
2. The direct communication strategy, through the call and development of discussion forums.
3. The dissemination of printed materials.
4. The use of mass media.

During 2010, these lines of action evolved in five departments of the country, in addition to Lima, namely Ancash, Cajamarca, Cuzco, Loreto and Moquegua. For some members of the Commission, this was a failed strategy, as the expected objectives in the regions were not achieved, partly because of the limited involvement of local actors.

4.4. Strategy components

a. EITI Peru web page

The EITI Peru website was launched in 2005 on the MINEM portal and has been progressively improved. It is the main instrument to disseminate the process's progress and the information obtained from the reports at both national and regional levels.



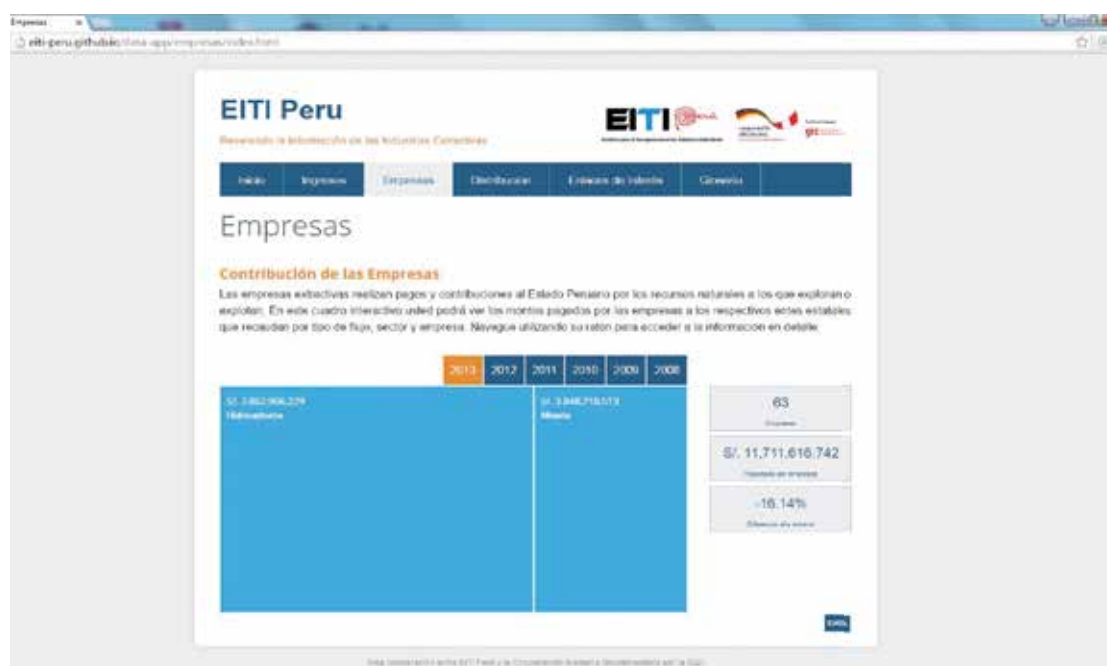
In October 2009, the Commission agreed to publish on the web the minutes of its meetings to disseminate the agreements reached. It also considered publishing the op-ed and analyses around the EITI's implementation in Peru, even if they were not written by Commission members.

Subsequently its design was improved to expand the documentation available on the web and to make it more interactive. Thus, it was possible to access the minutes, the National EITI Reports, the Validation Report, the action plans and activity reports, as well as the various printed and audio-visual materials.

In January 2010, the Commission members were asked to link their electronic portals to the EITI Peru website. Not all of them have yet done so, but most civil society organizations are compliant and several companies are adhering to the initiative.

In 2013, coordination with the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH led to design a platform to view the findings of the National EITI Reports in an interactive and friendly way. The result of this joint work has been a viewing system that since 2015 allows access to the National EITI reports information:

- ◆ State revenue by sector, year by year.
- ◆ The contribution of companies, by sector and by year. Since 2013, the information is presented by each of the companies.
- ◆ Distribution of state revenues between the three levels of government and public universities in the producing regions.



Interactive EITI Peru website showing detailed information on company payments and government revenues
<http://eiti-peru.github.io/data-app/empresas/index.html>.



Interactive EITI Peru website showing detailed information on revenue distribution at subnational level <<http://eti-peru.github.io/data-app/empresas/index.html>>.

In addition to serving as a dissemination tool, in March 2015 it was agreed to use the web to accelerate the development of studies through the progressive implementation of an information automation system for National EITI reports in two stages: the first, a pilot for fiscal 2014, for the fifth National EITI report, and the second stage, a system for fiscal year 2015, for the sixth National EITI report. The implementation of the system is a pending task, as well as the installation of a visitors' counter, a suggestion box and a search engine for report topics.

b. Direct communication

This strategy consisted in organizing discussion forums called 'Transparent Figures' to provide information on the EITI initiative in general and on the results of the First National EITI Report in particular. It was prepared between March and July 2010.

The target public consisted of social leaders, representatives of civil society organizations, local academia, authorities and officials of regional governments and municipalities, as well as executives of companies with extractive activities in each region. This strategy sought to encourage their interest in implementing EITI in their territories.

The regional forums focused on raising the regional and local players' awareness on the following issues:

- ◆ The greater transparency of public information and the gradual institutionalization of accountability.
- ◆ Better management and greater responsibility in the management of public funds.
- ◆ The greater participation of civil society in monitoring and decision-making on the use of public funds.
- ◆ Greater political, social and economic stability.
- ◆ A better climate for public and private investment.
- ◆ Mitigating corruption risk.
- ◆ Greater possibilities to ensure that income from mining and hydrocarbons will contribute to poverty reduction and sustainable development.

In coordination with regional actors, the EITI National Commission convened the forums in the five selected regions of Ancash, Cajamarca, Cuzco, Loreto and Moquegua.

The structure of the forums included presentations by the members of the National Commission, while the participants broke out into groups to discuss and comment on the EITI process and the information gathered in the National EITI Reports. It sought to collect the opinions, doubts, perspectives and proposals of the participants of each region and open a dialogue with them. The number of participants and their representation varied in each region, although in all cases the largest participation was from representatives of civil society organizations.

The forum held in Cajamarca presented the partial findings of the Regional EITI Report and the transfers made by the Government to the regional government and the municipalities participating in the study in 2004-2007.

The members of the National Commission organized to be present in each event with a tripartite representation. The choice of the region depended on the coincidence between the institutional interest and the availability of the calendar of each one. Before each forum they distributed the responsibilities to combine roles among the three sectors and affirm the image of horizontality in its composition and functioning. In the plenary of the Commission the forum was evaluated and the recommendations of those who had participated in them were collected to take them into account in the following one. This exchange helped to make some adjustments in the design of the events to improve their development.

c. Printed materials

In 2010, six 'Transparent Figures' dissemination booklets were published to explain the meaning, scope and characteristics of the initiative and the results obtained with the first National EITI report.

The booklets were used as support materials for the regional forums and provided the following information:

- ◆ Booklet 1 provided information on the meaning of the EITI global initiative, its operation and Peru's participation, the benefits it brought to the country and the implementation process. Particular attention was paid to how EITI Peru contributed to greater transparency on the payments that companies made to the State for the extraction of minerals and hydrocarbons, and how they are distributed at all three levels of government. Likewise, how the initiative encourages participation and favours citizen oversight in order to help reduce corruption and conflict.
- ◆ Booklets 2 and 3 explained the various payments made by the mining and hydrocarbons companies to the State, the procedure for their collection and distribution at different levels of government, i.e. national, regional and local. They also show the criteria used for the distribution and the institutions responsible for doing so.
- ◆ The findings of the first National EITI Report were disseminated in booklets 4 and 5; one of the booklets details the information of the mining sector and the other that for hydrocarbons.
- ◆ Booklet 6 reported on the work carried out by the Commission up to the preparation of the first National EITI Report and included information on the regional forums.



A series of six booklets published in 2010 to spread the meaning of EITI and the findings of the first National EITI Report.

In 2014, the National Commission published a summary of the fourth National EITI Report, which included the following considerations:

- ◆ Explanation of EITI.
- ◆ Presentation of the importance of the extractive industry in Peru.
- ◆ Information on the payments and income contained in the National EITI report.
- ◆ Information on the distribution of revenues.
- ◆ Information on the participation of companies.
- ◆ Data on the amounts reconciled in the fourth study.

In 2015 four information booklets were published on the following topics:

- ◆ Summary EITI information.
- ◆ Payments by extractive industries in the EITI reports.
- ◆ National EITI Reports and regional transparency studies.
- ◆ Standing Multisectoral Commission and Technical Secretariat.



A series of four booklets prepared in 2015 to disseminate the National EITI Reports and the Regional Transparency Studies.

Finally, in 2016, the National Commission published an information booklet presenting the 10 years of EITI in Peru. A milestones document ranging from initial contacts to the completion of the fifth National EITI Report is underway; the tasks of National Commission; EITI at the subnational level, and dissemination are priority items. The document concludes describing the main challenges of the process.

d. Mass media

The communication strategy prepared in 2010 was completed with the production of a spot and radio microprograms with messages about the transparency of the extractive industries in four languages: Spanish, Quechua, Achuar and Matsigenka.

They targeted public opinion of the regions where the forums were held and the populations living in the areas of influence of the companies that had joined EITI Peru in those regions.



Mass dissemination video on EITI in Peru

The meetings at the forums were both preceded and complemented by various communications initiatives. Radio campaigns included spots in several languages and microprogrammes disseminated for 15 days before the event.

Interviews with the members of the Commission who participated in the forums were aired on regional and local television and radio stations. Press releases were also disseminated and the various media were monitored for their coverage of the issues discussed during the forums.

Chapter 3

Lessons learned

The interviews and the review of the documents have allowed to identify diverse experiences, actions and approaches that can be useful to advance EITI in Peru and that should be considered as part of similar efforts in other countries of the region. The issues are presented for the four topics discussed above.

The National Commission

1. The experience of the National Commission shows the importance of endowing it with the greatest possible institutional strength from the beginning of the process. The decision in 2006 to establish it as a temporary body and to maintain that situation for five years did not ensure the stability and continuity of the initiative.

The permanent nature of the National Commission since 2011 contributes to create better institutional conditions for the EITI process in a long-term perspective and in terms of its consolidation as a State policy. It also gives it the necessary stability and makes it less vulnerable to any swings in government changes.

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2. The composition of the National Commission reflects a balance in the representation of the three sectors involved in the implementation of EITI. Each has three delegates, and civil society and business have alternate representatives. This allows all sectors to bear the same weight, which is reinforced because all three have the same rights and responsibilities in the decisions and collective actions of the Commission. This balance favours building trust between sectors and allows for progress in decisions made by consensus, which would be affected if, for example, the State had a majority representation. This set up is also replicated in the Regional EITI Commissions of Moquegua and Piura, where the State is represented by the regional government and local governments.

3. Decision-making in the Commission on the basis of consensus is considered very positive by the participants. This style of work based on dialogue and negotiation is important to consolidate team work and engage the three sectors in the EITI initiative. In this way, it has been possible to build agreements even on those issues where there are marked differences between the members of the National Commission and where it seemed difficult to reach an agreement. Maintaining this style of work, although the Commission Regulation provides for majority decision-making when efforts to reach agreement are exhausted, has very significant effects on the medium- and long-term sustainability of the initiative. It also implies mutual respect among the members of the Commission, maturity to address issues and trust in a shared forum.

4. The representation of the State in the National Commission has always fallen on the Ministry of Energy and Mines. The decision to place the EITI initiative in this ministry that has a more direct link with its agenda greatly contributes to its implementation, because of the extensive knowledge and management experience of its officials in the mining and hydrocarbons sector, as well as MINEM's leadership, which facilitates convening extractive companies with which it has a permanent and fluid relationship on issues related to the sector.

5. The Presidency of EITI Peru in all cases was filled by the Deputy Ministers of Energy or Mining. Although this fact does not in itself assure the commitment and the permanent support of the deputy ministers to the Commission, the location of EITI at the highest level of the ministry echelons was important when the Deputy Minister of Mines took its leadership in 2012. Having the support of a high-level authority in the State and the capacity of the Technical Secretariat to take advantage of existing political allows the National Commission to make significant progress.

6. The NGOs that participate in the National Commission have set up a coordinating committee and an assembly to be accountable and promote agreements. Despite some constraints, these mechanisms increase the legitimacy of NGO participation in the EITI process. It is also a mechanism to directly channel issues of the NGOs' agenda, an important sector of the institutions linked in various ways to the promotion of transparency and the monitoring of extractive activities.

7. Having a highly representative industry association as the National Society of Mining, Oil and Energy facilitated implementing the initiative. This is evident not only for convening the companies but because it's institutional strength

supports actions for the benefit of the sector as a whole and the future of the country.

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8. The Commission has heard two views on the voluntary nature of EITI. This discrepancy has been expressed almost since the beginning of the experience in Peru and nothing indicates that these positions will vary. Both companies and civil society have reasonable arguments. However, an issue on which some of the participants have drawn attention is in the application of the voluntary nature to the subnational levels of government. The argument for modifying this criterion is that decentralized governments are part of the structure of the State and of the commitments it undertakes. When managing public resources from extractive industries, they are obliged to be transparent and accountable for their use. Consensus could be feasible on this point. However, to date the participation of subnational governments in Regional Transparency Studies is based on their voluntary adherence.
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9. Although the supreme decree provides the legal framework for the functioning of the National Commission, it is insufficient in itself to guarantee its efficient operation. In that direction, it is highly appreciated that the Commission formulated, through concerted work, the regulation to institutionalize its mechanisms of operation, conduct and representation. Although often viewed as secondary aspects, it is important to adequately assess the mechanisms employed by the Commission for its day-to-day operation over the previous six years. Among them, the minutes of the sessions, which ensured the precision in the commitments assumed and the registration of the agreements. This and other mechanisms were converted into unwritten operating rules to be included in the regulation.
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10. The National Commission has managed to stay in operation throughout three governments and eight ministers of energy and mines, but the changes of national authorities have had different impacts on the loss of dynamism in the work of the Commission. This situation has also been observed in regional scenarios where the change of regional authority may mean stagnation and, in some cases, blockage of the subnational EITI process. On the basis of this experience, the National Commission is clear that taking the lead in preparing for the transfer pays off in greater stability in the work of EITI and in the possibility of achieving even greater projection. For that it helps to act in two planes. One is through the search for dialogue and advocacy with the new authorities to present or make visible the ongoing EITI process and its importance. The other is to try to ensure continuity in the execution of the activities contemplated in the Action Plans in order to contribute to the

sustainability of the initiative and to avoid as far as possible the paralysis at the beginning of the new administration.

EITI reports

11. One of the gaps in the first study was the definition of precise objectives and targets for the participation in EITI of the largest possible number of mining and hydrocarbons companies. From the second study and taking into account the difficulties encountered in the first study, this was one of the main lines of the Commission's agenda. The sustained increase in the number of participating companies is an indicator that this work has been effective. The voluntary nature of the participation of companies in the process makes it necessary to promote awareness and dialogue. The goal of involving the largest number of companies in the initiative is even more relevant by the criterion of materiality defined as part of the EITI standard. His absence in the first study was the Council's main observation to give Peru only the transition status of 'country close to compliance'. For the second study, precise goals were included, which were increased in each new study.

12. An important aspect that the Commission had to address in implementing EITI was the regulatory framework on tax information. In the Peruvian case, this work took many months and was coordinated with MEF and SUNAT to identify the solution to the subject of the tax reserve, which is applied to the payment of corporate income tax. Experience shows that this is a point that must be addressed from the beginning of the initiative, for which it is important to have specialized advice, as well as the necessary political support that allows the coordination between and disclosure of information at tax agencies.

13. There is a wide range of issues around the extractive industries which are not necessarily included in the National EITI Report. Including them requires consensus among the three sectors and this only exists on some of the issues raised. However, the positive assessment of the inclusion of relevant information on the context of the extractive industries in the studies can be an opportunity to include in a general framework - and not as specific information - the interest of the members of the Commission and various sectors of public opinion. In that sense, it is important to address with the greatest possible attention and breadth the definition of the characteristics and the scope of context information. Given the specialized characteristics of the company responsible for the reports, this component is prepared by the Technical Secretariat of the National Commission on the basis of official and public information.

14. An issue on which the Committee had a long and intense discussion was the form of presentation of the information, in an aggregated manner by each sub-sector or in a disaggregated manner by company. Although there were arguments to support both positions, the important thing to note is the agreement to publish consolidated information by subsector and detailed information for each company that voluntarily accepted it. This was a meeting point of positions that opened a road to move gradually to future reports until in the fourth report all companies volunteered their individual information. Patience was important to persuade the parties and bring their positions closer.
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15. The evolution of studies shows a positive trend with regard to the study period and the opportunity for its dissemination. The first National EITI Report covered four years, the second three, the third two and the fourth and fifth a year. From the fourth study, the two requirements of the EITI standard of annual reporting were met, with a maximum time difference of eighteen months between publication and the scope of the information. In this regard, it is important to highlight the Commission's decision to move forward in automating the information necessary for the reconciliation of information, through updated databases. It is not a simple item in the agenda of the Commission from the beginning of the initiative.

Decentralization of EITI

16. The Peruvian experience shows that it is not possible to design and implement actions, systems or programs of transparency of payments and revenues, or the use of generated income, covering all the information in the value chain of the resources from the extractive activity, but excluding the subnational governments, on which the use of a significant percentage of these resources depends. This line of action by the Commission is not only relevant to reconciling transfers and incomes, but also to provide information to evaluate the use of resources. This could be used to identify mechanisms and proposals to improve the capacity for autonomous management of these governance bodies. Improving management at this level is a contribution, among other things, to enhance the possibilities and productive capacities of local and regional spaces.
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17. Pilot experiences, both those that made progress and those that failed, show that a key aspect of their viability is the commitment of the regional authorities. Thanks to their involvement it is possible to convene companies, municipal authorities and universities. In Cuzco, the experience could not even begin because of the lack of interest of the regional authority and in

Loreto it was frustrated at a time when regional officials reversed their initial commitments to EITI. On the contrary, Piura is a good example of the fact that, when there is a commitment at the highest level of regional authority, not only Regional Transparency Reports can be prepared, but also conditions created for process sustainability.

18. Regional pilot experiences that have ended in Regional Transparency Reports show that working on EITI at the subnational levels has great potential for attracting the attention of the public and organized society. For decentralized governments an analysis is provided on issues of interest to the local population, such as the reconciliation of the resources transferred by MEF and those received by their institutions, including canon, royalties and fees, and the destination and expenditure of those funds. It should be noted that with this information it is possible to make an initial assessment of the relevance and priority of these investments, which has a direct impact on the quality of life of the people. The Regional Transparency Reports offer greater elements for the population to evaluate management by their authorities, as well as to implement surveillance actions. For this reason, it is necessary to deepen the decentralization of EITI so citizens can pay effective attention to their findings.

19. In order to take advantage of the potential of these regional initiatives, it is necessary to go beyond mere studies. When reports cover very old periods of time and even previous stages of government, the interest of public opinion falls and the usefulness of this information is very low for civil society and companies. Even with up-to-date information, the experiences show that an effective communication strategy of the main findings is necessary.

20. For the regional experiences of Piura and Moquegua, a road map was prepared for more deeply studying this EITI axis. The reasons for which limited results were obtained in Cajamarca and Cuzco were evaluated and, from that, some relevant steps were defined: a process of sustained dialogue with the regional authorities; designation of heads of the National Commission for the follow-up of each of the regional processes, in coordination with the Technical Secretariat; propose as a starting point the approval and publication of a regional ordinance that institutionalizes the process; designate the Regional Commission - with equivalent representation of civil society, State and companies - and define its objectives and functions; and organize information meetings and awareness-raising with civil society and businesses present in the region. In Piura, in addition, the process was transferred to the new authorities, which was a key step towards the continuity and progress towards

the sustainability of the initiative. These actions can be integrated into a working guide that directs the decentralized implementation of EITI.

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21. From the regional experiences, particularly from the Piura and Moquegua processes, we can garner the importance of adequately formulating the terms of the relationship between the National Commission and MINEM with the regional commissions and the subnational authorities. An adequate balance must be struck between the interests and capacities existing in the region, with national criteria, rhythms and plans. The perceptions of a sense of vertical decision-making and what they consider as a marginal involvement of the regional actors must be taken into account. Several proposals have been made on the basis of this, as for example, to improve coordination mechanisms between the National Commission and the Regional Commissions. Likewise, to establish precise roles for the National Commission and for the regional ones, affirming the role of advising and supervision of the former while considering greater decision capacity for the latter. Initially, these styles of work may have certain costs, but they may be relevant to the sustainability of the initiatives in the medium and long terms.

Disseminating EITI

22. While dissemination efforts were present in all four EITI Action Plans, a specific communications strategy was designed and implemented for the implementation of the second plan in 2009-2010. It was important to budget its implementation, as planned in the next two plans. Having staff with experience and expertise is indispensable to have an effective impact on public opinion. According to several of the participants, choosing a consulting firm did not deliver the expected results in terms of the impact of the initiative and the first report on the public agenda. However, this fact should not lead to losing sight of the relevance in this line of work there are specialized professionals and a network of contacts at various levels.
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23. One issue to be considered is the importance of the mass media and social networks as instruments for placing the issue on the public agenda. Some participants in the process point out that it is not enough to focus our attention on national media, but regional media should be included. Another aspect to be taken into consideration is that communication should be based on a strategy that integrates all the instruments and levels of intervention in a campaign, with indicators to evaluate their results. The various communication actions carried out at EITI must be improved so they will not be isolated and without the possibility of measuring their impact.

24. The EITI Peru website is a communication tool that has been in operation almost since the very beginning of the initiative. Over the years it has been sought to expand and improve its role and main products as well as facilitate access to information generated from a web platform. Building on this platform, the Commission intends to build an automated information system. It is a relevant instrument, although it should not be lost sight that it is mainly the institutions and people participating or interested in EITI who access the web, which creates a limited universe of users. Two issues to be considered have been raised in the interviews: one, the possibility of making the website a mechanism to feed the presence of EITI in social networks and media; two, the option of becoming independent, in such a way as to facilitate access and expand the number of institutions and persons interested in the initiative.

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- ♦ Actas de las sesiones sostenidas por la Comisión Nacional EITI entre el 11 de diciembre de 2006 y el 10 de marzo de 2016. (“Records of the sessions held by the EITI National Commission between December 11, 2006 and March 10th, 2016.”)

National Legal Standards

- ◆ Supreme Decree 027-2006-EM; May 12th, 2006.
- ◆ Supreme Decree 030-2007-EM; June 5th, 2007.
- ◆ Supreme Decree 044-2008-EM; September 6th, 2008.
- ◆ Supreme Decree 020-2010-EM; April 20th 2010.
- ◆ Supreme Decree 028-2011-EM; June 11th, 2011.

Regional Legal Standards

- ◆ Regional Ordinance 289-2014/GRP-CR; May 19th, 2014.
- ◆ Regional Ordinance 02-2014-CR/GRM; April 30th, 2014.
- ◆ Regional Ordinance 023-2012-GRL-CR; December 14th, 2012.
- ◆ Regional Executive Order 219-2008-GR-CAJ/P; May 7th, 2008.

Information of interest

EITI Peru links

- ♦ EITI Peru website
<http://eitiperu.minem.gob.pe/>
- ♦ First National EITI Report of EITI Peru 2004-2007
http://eitiperu.minem.gob.pe/estudios/primer_estudio.html
- ♦ Second National EITI Report of EITI Peru 2008-2010
http://eitiperu.minem.gob.pe/estudios/segundo_estudio.html
- ♦ Third National EITI Report of EITI Peru 2011-2012
http://eitiperu.minem.gob.pe/estudios/tercer_estudio.html
- ♦ Fourth National EITI Report of EITI Peru 2013
http://eitiperu.minem.gob.pe/estudios/cuarto_estudio.html
- ♦ Study results' friendly display platform
<http://eiti-peru.github.io/data-app/index.html>
- ♦ EITI Peru documents (proceedings, action plans, activity reports)
<http://eitiperu.minem.gob.pe/documentos.html>
- ♦ EITI Piura
<http://eitipiura.regionpiura.gob.pe/>
- ♦ EITI Moquegua
<http://regionmoquegua.gob.pe/web13/transparencia/eiti.html>

- ◆ EITI Peru Facebook
<https://www.facebook.com/EITI-PER%C3%9A-1455246184721454/>
- ◆ EITI Peru Youtube
<https://www.youtube.com/channel/UC490cz5XARoXHjPOi6Qbiag>
- ◆ Spots EITI Peru radio spots
http://eitiperu.minem.gob.pe/estudios/audios/MASTER-SPOT-EITI_vfinal_1abril.mp3
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Interviews

Name	Institution
Civil society representatives before the National Commission	
Carlos Wendorff	Pontifica Universidad Católica del Perú
Epifanio Baca	Grupo Propuesta Ciudadana (Citizen Proposal Group)
Julia Cuadros	CooperAcción
Pilar Camero	Derecho, Ambiente y Recursos Naturales (DAR) (Law, Environment and Natural Resources)
Business representatives before the National Commission	
Carlos Aranda	Southern Peru Cooper Corporation
Carmen Mendoza	Sociedad Nacional de Minería, Petróleo y Energía (SNMPE) / National Association of Mining, Oil and Energy
Caterina Podestá	Sociedad Nacional de Minería, Petróleo y Energía (SNMPE) / National Association of Mining, Oil and Energy
Eduardo Rubio	AngloAmerican (Mining company)
Government representatives before the National Commission	
Fernando Castillo	Director General, Office of Social Management; Technical Secretary, National Commission
Guillermo Shinno	Vice Minister, Mines; Chairman, National Commission
Representatives of the Moquegua Regional Commission	
Edgar Ayamamani	Former Director General, Directorate for Energy and Mines, Regional Government, Moquegua
Hernán Pacha	Centre for Education, Organization and Development Promotion, Ilo (CEOP Ilo)
Representatives of the Piura Regional Commission	
Manuel Alburquerque	Centro de Investigación y Promoción del Campesinado (CIPCA) / Center for Peasantry Research and Promotion

Acronyms

ADSC	Asamblea de Delegados de la Sociedad Civil. / Assembly of Civil Society Delegates
BM / WB	Banco Mundial. / World Bank
CEPLAN	Centro de Planeamiento Estratégico. / Center for Strategic Planning
CIPCA	Centro de Investigación y Promoción del Campesinado. / Center for Peasantry Research and Promotion
DAR	Derecho, Ambiente y Recursos Naturales. / Law, Environment and Natural Resources
DFID	UK Department for International Development
DREM	Dirección Regional de Energía y Minas. / Regional Directorate for Energy and Mines
EITI	Extractive Industries Transparency Initiative
GPC	Grupo Propuesta Ciudadana
GPRC	Grupo Promotor Regional de Cajamarca. / Cajamarca Regional Promotion Group
IFC	International Financial Corporation
INGEMMET	Instituto Geológico Minero y Metalúrgico. / Geology, Mining and Metallurgy Institute
MEF	Ministerio de Economía y Finanzas. / Ministry of Economy and Finance
MIM	Mejorando la Inversión Municipal. / Improving Municipal Investment
MINEM	Ministerio de Energía y Minas. / Ministry of Energy and Mines

ONG / NGO	Organizaciones no gubernamentales. / Non-Governmental Organizations
PWYP	Publish What You Pay
SNMPE	Sociedad Nacional de Minería, Petróleo y Energía. / National Association of Mining, Oil and Energy
SUNAT	National Tax Administration
TUPA	Single Conformed Administrative Procedures

Annexes

1. Members of the National EITI Peru Commission

State	Civil society	Companies
Installation of the Commission, December 2006		
Ministry of Energy and Mines (MINEM) <ul style="list-style-type: none"> Vice Minister for Energy (President) Vice Minister for Mines Technical Secretary (Advisor to the Minister) Ministerio de Economía y Finanzas (MEF) / Ministry of Economy and Finance (MEF) <ul style="list-style-type: none"> General Directorate for Social and Economic Affairs 	Nongovernmental organizations (NGOs) <ul style="list-style-type: none"> Grupo Propuesta Ciudadana (nacional) Centro de Estudios Bartolomé de las Casas (CBC) (regional) 	National Association of Mining, Oil and Energy (SNMPE) <ul style="list-style-type: none"> Office for Economic and Social Studies Mining subsector <ul style="list-style-type: none"> Southern Peru Copper Corporation Hydrocarbons subsector <ul style="list-style-type: none"> Aguaytia Energy
Period: 2007-2008		
MINEM <ul style="list-style-type: none"> Vice Minister for Energy (Chair) Vice Minister for Mining General Office for Social Management (Technical Secretary) MEF <ul style="list-style-type: none"> General Directorate for Social and Economic Affairs 	NGOs Peru <ul style="list-style-type: none"> Grupo Propuesta Ciudadana (P) CooperAcción, Solidarity Action for Development (A) Regional <ul style="list-style-type: none"> Bartolomé de las Casas Research Center (CBC) (P) Labor Popular Culture Centre (A) 	SNMPE <ul style="list-style-type: none"> General Management (P) Office for Economic and Social Studies (A) Mining Subsector <ul style="list-style-type: none"> Southern Peru Copper Corporation (P) Antamina Mining Company (A) Hydrocarbons subsector <ul style="list-style-type: none"> Aguaytia Energy (P) Repsol Exploration Peru (A)

State	Civil Society	Companies
	Universities <ul style="list-style-type: none"> ♦ Universidad del Pacífico (P) ♦ Pontificia Universidad Católica del Perú (A) 	
Periodo: 2009-2012		
MINEM <ul style="list-style-type: none"> ♦ Vice Minister for Energy (Chair) ♦ Vice Minister for Mines ♦ General Office for Social Management (Technical Secretary) MEF <ul style="list-style-type: none"> ♦ General Directorate for Social and Economic Affairs 	NGOs <p>Peru</p> <ul style="list-style-type: none"> ♦ CooperAcción, Solidarity Action for Development (P) ♦ Grupo Propuesta Ciudadana (A) <p>Regional</p> <ul style="list-style-type: none"> ♦ Labor Popular Culture Centre (P) ♦ Bartolomé de las Casas Research Center (CBC) (A) <p>Universities</p> <ul style="list-style-type: none"> ♦ Universidad del Pacífico (P) ♦ Pontificia Universidad Católica del Perú (A) 	SNMPE <ul style="list-style-type: none"> ♦ General Manager (P) ♦ Office for Economic and Social Studies (A) <p>Mining subsector</p> <ul style="list-style-type: none"> ♦ Southern Peru Copper Corporation (P) ♦ Antamina Mining Company (A) <p>Hydrocarbons subsector</p> <ul style="list-style-type: none"> ♦ Repsol Exploration Peru (P) ♦ Hunt Oil Company, Peru (A)
Period: 2013-2015		
MINEM <ul style="list-style-type: none"> ♦ Vice Minister for Mines (Chair) ♦ Vice Minister for Energy ♦ General Directorate for Social Management (Technical Secretary) 	NGOs <p>Peru</p> <ul style="list-style-type: none"> ♦ Grupo Propuesta Ciudadana (P) ♦ Derecho, Ambiente y Recursos Naturales (DAR) (A) 	SNMPE <ul style="list-style-type: none"> ♦ General Manager (P) ♦ Office of Economic and Social Studies (A) <p>Mining subsector</p> <ul style="list-style-type: none"> ♦ Southern Peru Copper Corporation (P) ♦ Anglo American Mining Company (A)

State	Civil Society	Companies
MEF <ul style="list-style-type: none"> General Directorate for Fiscal Decentralization and Social Affairs 	Universities <ul style="list-style-type: none"> Universidad del Pacífico (P) Pontificia Universidad Católica del Perú (A) 	Hydrocarbon subsector <ul style="list-style-type: none"> Hunt Oil Company of Peru Llc Peru Branch Repsol Exploration Peru
Period: 2016-2017		
MINEM <ul style="list-style-type: none"> Vice Minister for Energy Vice Minister for Mines General Office for Social Management (Technical Secretary) MEF <ul style="list-style-type: none"> General Directorate for Fiscal Decentralization and Social Affairs 	NGOs <p>Peru</p> <ul style="list-style-type: none"> Derecho, Ambiente y Naturales (DAR) (P) Grupo Propuesta Ciudadana (GPC) (A) <p>Regional</p> <ul style="list-style-type: none"> Centro de Educación, Organización y Promoción del Desarrollo de Ilo (CEOP Ilo) (P) Centro de Investigación y Promoción del Campesinado-(CIPCA Piura) (A) / Center for Research and Promotion of the Peasantry-(CIPCA Piura) (A) <p>Universities</p> <ul style="list-style-type: none"> Santiago Antúnez de Mayolo-Ancash National University (P) Pontificia Universidad Católica del Perú (A) 	SNMPE <ul style="list-style-type: none"> General Manager (P) Office of Economic and Social Studies (A) <p>Mining subsector</p> <ul style="list-style-type: none"> Southern Peru Copper Corporation (P) Anglo American Mining Company (A) <p>Hydrocarbons subsector</p> <ul style="list-style-type: none"> Repsol Exploration Peru (P)

2. Regulations of the Standing Multisectoral Commission

Title I: Name and constitution

Article 1°

These regulations set forth the mechanisms for the operation of the Standing Multisectoral Commission for the Monitoring and Supervision of Transparency in the Use of Resources Obtained by the State from the Mining and Hydrocarbon Extractive Industries (hereinafter EITI-Peru Commission), set up by the Peruvian Government by virtue of Supreme Decree No. 028-2011-EM, of June 11, 2011 (hereinafter DS 028-2011-EM).

Article 2°

The EITI-Peru Commission is responsible for designing, approving, executing and monitoring activities related to the Extractive Industries Transparency Initiative (EITI), to which the Peruvian State adhered in May 2005.

Article 3°

Pursuant to DS 028-2011-EM, the EITI-Peru Commission sits representatives of the State, the extractive industries and civil society, in equal numbers and with the same rights and obligations. Their appointment is subject to the following provisions:

- a. The State, extractive industries and civil society will each accredit three principal representatives and three alternate ones.
- b. The State's representatives are appointed by the Ministers of Energy and Mines, and Economy and Finance.
- c. Among the representatives of the extractive industries, two (principal and alternate) are chosen by their peers from the mining companies, two representatives (principal and alternate) are chosen by their peers from the hydrocarbons companies and two representatives (principal and alternate) are appointed by the National Mining, Oil and Energy Association, for two year terms. They may be reappointed at the end of their term following the respective election mechanisms.
- d. Two civil society representatives (incumbent and alternate) are elected by their peers from Lima-based non-governmental organizations focusing on extractive industries' transparency and citizen watchdog organizations, and by their peers from non-governmental organizations headquartered outside Lima; likewise, two representatives (incumbent and alternate) are elected by their peers from the country's public and private universities in all cases for two-year terms. They may be re-elected at the end of their term, following their respective election schemes.
- e. The appointed representatives, both incumbent and alternate, must be accredited before the Ministry of Energy and Mines, which will record their names and positions in their organizations.
- f. The members of the EITI-Peru Commission do not earn an allowance for their work. However, they will be allocated a per diem to cover expenses related to EITI Peru activities previously acknowledged by the EITI-Peru Commission.

Article 4°

The EITI-Peru Commission is chaired by the Vice Minister for Energy or the Vice Minister for Mines, in compliance with Ministry of Energy and Mines' mandate. The Director of the General Office for Social Management at the Ministry of Energy and Mines performs as Technical Secretary.

Title II: Functions

Article 5°

EITI-Peru Commission's functions are as follows:

- a. To define and approve the EITI-Peru Initiative's Action Plan.
- b. To define and approve the terms of reference to screen and retain the natural or legal persons responsible for providing services (EITI report drafting and actions to disseminate those reports' findings).
- c. To establish and approve the budget for carrying out the EITI-Peru Initiative.
- d. To approve applications to multi-, bilateral and private funders.
- e. To approve the granting of funds and provision of technical cooperation for carrying out the Initiative.
- f. To guide the implementation of the EITI-Peru Initiative.
- g. To approve the annual national EITI reports.
- h. To set up working groups to address specific subjects, either temporary or permanent.
- i. To coordinate with and support the EITI Regional Commissions in implementing the initiative at regional level.
- j. To approve the administrative or advisory support of national and international cooperation agencies both for the National Commission and for the Technical Secretariat
- k. To approve changes to these regulations.
- l. Others pursuant to Article 4° under DS 028-2011-EM.

Article 6°

The Chair of the EITI-Peru Commission will discharge the following functions:

- a. To chair the sessions of the EITI-Peru Commission.
- b. To represent the EITI-Peru Commission before the EITI International Board of Directors, the EITI Secretariat, and international and domestic organizations as regards the implementation of the initiative in Peru.

- c. To ensure the proper execution of the EITI Initiative in Peru, and assure the Peruvian State remains committed to its compliance, abiding by and guaranteeing observance of the EITI-Peru Commission's resolutions applicable to the Initiative.
- d. To enforce and implement the provisions and efforts approved by the EITI-Peru Commission.
- e. To convene and invite the representatives of official and private organizations, as well as representative personalities or experts, to the sessions of the EITI-Peru Commission, pursuant to the session agenda.
- f. To propose changes to the Regulations, as applicable.

Article 7°

The EITI-Peru Commission's Technical Secretariat shall discharge the following functions:

- a. To execute and implement the provisions and actions approved by the Peru-EITI Commission.
- b. To convey the agreements reached by the Peru-EITI Commission to domestic and international entities.
- c. To convene regular and extraordinary sessions of the EITI-Peru Commission, at the request of the Chair, or responding to a documented request by two-thirds of the sitting principal representatives.
- d. To process the requests for funds to multilateral and bilateral cooperation agencies as well as private organizations approved by the Commission for purposes of implementing the EITI-Peru initiative.
- e. To select the entities charged with drafting the EITI reports and disseminating their findings.
- f. To draft the records of the EITI-Peru Commission's sessions and keep an updated file.
- g. To keep the EITI-Peru website updated, informing of the agreements reached and the progress of the initiative
- h. To implement the EITI Peru Initiative's Action Plan, and report to the National Commission on progress made.
- i. Others, as decided by the Chair.

Article 8°

- a. Personnel working under any condition or modality in any EITI Peru department may not make statements or decisions on the implementation process of the initiative, without the express authorization of the EITI-Peru Commission.

Title III: EITI-Peru Commission sessions

Article 9°

EITI-Peru Commission sessions:

- a. Invitations to the Commission sessions shall be sent by email, at least 5 business days advance.
- b. The invitation shall clearly indicate the date, time (beginning and end), place and agenda of the session.
- c. The quorum for the Commission to sit in session shall be one half plus one of the official number of its competent members, i.e. five.
- d. Alternate members replace absent principal members. Nonetheless, if the incumbent member is present, alternates may attend, but not vote at, official meetings.
- e. The Commission's decisions shall be adopted by consensus. Only in exceptional cases and when all attempts to reach consensus have been exhausted, will the decision be taken by simple majority.
- f. Only in exceptional cases and if the urgency of the case so merits, the EITI-Peru Commission can meet using remote media. For this purpose, the Technical Secretariat will communicate by e-mail the session's agenda, and allocate a limited time period for members to exchange their opinions. With the contributions of the members, the Technical Secretariat will prepare a final document for the Commission's final approval either in person or remotely.
- g. After each session, the draft minutes (including the order of business and agreements reached) will be circulated by email within 48 hours of the session. The members of the Commission shall submit their comments within 48 hours, in order for them to be included in the minutes. The agreements will be made public immediately at the EITI-Peru website. The printed version of the minutes will be signed by the Commission members at the next session.

Title IV: EITI-Peru Action Plan's methodology

Article 10°

Monitoring of the EITI-Peru Action Plan will abide by the following provisions:

- a. The EITI-Peru Commission will review and approve for implementation all the activities comprised in the EITI-Peru Action Plan.
- b. Each activity and sub-activity (as appropriate) will be defined in an execution matrix that will include:
 1. A single identification name (a code may be entered).
 2. A steward.
 3. Starting date of activity.

4. Ending date of activity
5. The activity's expected result (Deliverable)
6. Identification of externalities (exogenous factors) that may prevent the activity from achieving its goals, and potential mitigation measures.
7. The amount of the expense allocated to each item or activity.
8. In case of delay in the execution of an activity, the Technical Secretariat will present a report identifying the factors that could explain its non-compliance. The rescheduling of the activity will be approved by the EITI Commission – Peru.

Article 11°

The EITI-Peru Commission may commission external entities to carry out activities related to compliance with the Action Plan, subject to approval of the terms of reference of the corresponding contracts by the Commission.

Title V: Final provisions

Article 12°

The provisions of these regulations shall come into full force and effect once they are approved by the EITI-Peru Commission; in order to ensure the effective fulfilment of the purposes of EITI Peru, the members of the EITI-Peru Commission are bound to comply with these regulations.

Article 13°

Any doubts that may arise as to the interpretation of these regulations shall be resolved by consensus of the members of the EITI-Peru Commission.

Title VI: Complementary provisions

Article 14°

The current representatives of the extractive industries and civil society before the EITI-Peru Commission will remain in their posts until January 31, 2013, and the new representatives must be elected or the current ones confirmed under the modality of these regulations during the months of December 2012 and January 2013. The two years of their term under these regulations start on February 1, 2013.

Article 15°

A Work Committee is set up to initiate the work of convening and registering the institutions from which the representatives of civil society and universities will be elected, to join the National Commission in accordance with these regulations.

3. Priority issues on the agenda of the National Commission

Year: 2006

Number of sessions: 1

- ♦ Installation and start of activities
 - ♦ Agreement to implement the 2005-2006 Action Plan
-

Year: 2007

Number of sessions: 7

First National EITI Report (2004-2007):

- ♦ Elaboration of the terms of reference.
- ♦ Criteria for selecting the consulting firm and evaluation of proposals.
- ♦ Coordination with the National Superintendence of Tax Administration (SUNAT) and the MEF to specify concepts about the type of payments made by companies and to know the procedures that allow access to information on company payments and State revenues. Search for viable formulas within the framework of the restrictions on the tax reserve.
- ♦ Coordination of companies with their tax consultancy bodies.
- ♦ SNMPE meetings with companies to define their participation in the study.
- ♦ Definition of concepts and terms to have a single understanding of them.
- ♦ Coordination with the General Office of Administration of MINEM on the process of selection and contracting of the consulting firm according to the procedures of the public administration.

Promotion of sub-national EITI processes:

- ♦ Coordination with the regional governments of Cajamarca and Cuzco.
 - ♦ Presentations of the EITI process to its representatives.
 - ♦ Elaboration of a normative proposal to extend the validity of the Commission.
 - ♦ Signing of the grant agreement with the World Bank and coordination of procedures for its implementation.
 - ♦ Procedures to complete university representation.
 - ♦ Exchange meeting with EITI representatives.
-

Year: 2008

Number of sessions: 8

First National EITI Report:

- ♦ Review, adjustments and approval of the terms of reference.
- ♦ Dialogue between the three sectors on the scope of the study and on the dissemination of aggregated or disaggregated information.
- ♦ Presentation of EITI and the proposal of the National EITI Report to companies that carry out extractive activities.

- ◆ Coordination for the adhesion of companies to the study.
- ◆ Participation in the selection of the consulting firm.

Promotion of sub-national EITI processes:

- ◆ EITI presentation meetings in Cajamarca and Cuzco.
- ◆ Subscription of framework agreement between MINEM and the Regional Government of Cajamarca.
- ◆ Creation of the Regional Promoter Group in Cajamarca.

Institutionality of the National Commission:

- ◆ Procedures to request the extension of the period of validity of the Commission.

International EITI International:

- ◆ Definition of the participation of Commission representatives at the EITI Conference in Doha.

Year: 2009

Number of sessions: 10

First National EITI Report:

- ◆ Coordination for the adhesion of companies to the study.
- ◆ Coordination and follow-up of the selection process and contracting of the consulting firm. Inclusion of a confidentiality agreement.
- ◆ Review of the partial deliveries of the study and presentation of contributions and observations.
- ◆ Review and approval of the final report.
- ◆ Presentation of results to the business sector, related public entities and international cooperation.

EITI Peru validation process:

- ◆ Explanation of the process; review of indicators; knowledge of other experiences; discussion on the process in the country.
- ◆ MINEM budget availability to finance the process with its own resources.
- ◆ Elaboration and approval of the terms of reference.
- ◆ Call for companies accredited to the EITI Board. Adjustment of the budget by increase of the taxes since companies are not domiciled in the country.
- ◆ Request to the International Secretariat of EITI the extension of completion validation periods.

Promotion of sub-national EITI processes:

- ◆ Elaboration of the terms of reference for the Regional EITI Report in Cajamarca and consultation of the Regional Promoter Group.
- ◆ Start of study and formulation of the pilot program.

Communications:

- ◆ EITI Peru website. Updating the page with the minutes of the sessions and articles on the implementation of EITI.
- ◆ Elaboration of terms of reference for the communications plan.
- ◆ Consulting firm profile definition and criteria for selecting it.
- ◆ Selection and contracting of the firm.
- ◆ Meetings with the consultant to present the Commission's expectations on dissemination and its characteristics.
- ◆ Plan review and approval.

EITI International:

- ◆ Exchange meeting with representatives of its management bodies at the international level.
- ◆ Organization and participation in the international seminar on transparency in the extractive sector in Latin America by the International EITI Secretariat.

Year: 2010

Number of sessions: 16

EITI Peru validation process:

- ◆ Convening, selection and contracting of the consultancy.
- ◆ Second request to the International EITI Secretariat to extend the validation deadline due to the length of contracting processes in Peruvian public administration.
- ◆ Meetings with the French company CAC75, responsible for the validation, at the beginning of the process and to discuss the final report.
- ◆ Discussion about the conclusions of the Validation Report. Expression of disagreement of the Commission.
- ◆ Work Organization to complement indicator information with observations.
- ◆ Obtaining qualification as a 'close to compliance' country.
- ◆ Coordination with EITI for comments.

Promotion of sub-national EITI processes:

- ◆ Analysis of the preliminary versions of the report on the Regional Pilot Program for the implementation of EITI in Cajamarca.
- ◆ Approval of the Cajamarca Regional EITI Report.

Institutionality of the National Commission:

- ◆ Extension of the term of the Commission.

Communications:

- ◆ Tripartite groups appointment to participate in the regional forums "Transparent figures" held in Moquegua, Ancash, Loreto, Cuzco and Cajamarca. Coordination of support and presence of extractive companies and NGOs with presence in the regions.

- ♦ Evaluation of public forums as they are carried out.
- ♦ Revision and approval of communication materials: radio spots, radio microprograms, meetings with media, six information cards, friendly version of the First National EITI Report.
- ♦ Coordination and participation in media interviews about EITI Peru.

Year: 2011

Number of sessions: 4

Second National EITI Report (2008-2010):

- ♦ Elaboration and approval of the terms of reference.
- ♦ Coordination with companies so that more people join the study and agree to disseminate their information in a disaggregated way.

EITI Peru validation process:

- ♦ Exchange of communications with the EITI International Secretariat.
- ♦ Organization of work to raise observations: definition of materiality criteria and coverage of payments to be included in the Second National EITI Report, actions to expand coverage of participating companies.

Institutionality of the National Commission:

- ♦ Procedures to process a supreme decree that extends the validity of the Commission or seeks permanent status.

Year: 2012

Number of sessions: 6

Second National EITI Report (2008-2010):

- ♦ Approval of the final study report.

Institutionality of the National Commission:

- ♦ Approval of the Standing Multisectoral Commission Operating Regulations.
- ♦ Adoption of the Action Plan 2012-2014, budget programming.
- ♦ Elaboration and approval of the 2011-2012 activity report.

EITI International:

- ♦ Definition of the participation of Commission representatives at the EITI Global Conference in Sydney.

Year: 2013

Number of sessions: 8

Third National EITI Report (2011-2012):

- ♦ Elaboration of the terms of reference. Inclusion of the demand for disaggregated information to companies, progressively and voluntarily.

- ◆ Call for companies to join the study.
- ◆ Participation in the selection of the consulting firm.
- ◆ Analysis of the study's partial reports.
- ◆ Request to the EITI Council to extend the deadline for report submission.
- ◆ Approval of the final study.

Promotion of sub-national EITI processes:

- ◆ Definition of regions for the implementation of regional pilots.
- ◆ Coordination with regional authorities and local actors in Loreto, Piura and Moquegua.

Communications:

- ◆ Adjustment and updating of the EITI Peru website to modernize and make it more interactive.
- ◆ Approval of the EITI Peru logo.

International EITI

- ◆ Participation of the Peruvian delegation at the EITI Global Conference in Sydney. Review and approval of broadcast materials: video and stand.
- ◆ Training of the members of the Commission in the new standard approved in the VI Global Conference for the adaptation and incorporation in the studies.

Year: 2014

Number of sessions: 9

Fourth National EITI Report (2013):

- ◆ Elaboration and approval of the terms of reference.
- ◆ Approval of materiality.
- ◆ Call for companies to join the study.
- ◆ Participation in the selection of the consulting firm.
- ◆ Exchanges and search of options with the purpose of automating the information of the studies reconciliation process.

Promotion of sub-national EITI processes:

- ◆ Appointment of the members of the Commission who will accompany the regional processes.
- ◆ Visit Loreto to promote the regional EITI process.
- ◆ Participation in meetings of the EITI Regional Commissions in Moquegua and Piura. Accompaniment of their processes.
- ◆ Elaboration and approval of the terms of reference for the Regional Transparency Studies of Piura and Moquegua.

Institutionality of the National Commission:

- ◆ Reformulation of the 2012-2014 Action Plan and budget programming.

Triangular cooperation:

- ◆ Technical assistance for the EITI process in Guatemala, with the support of the German Cooperation (implemented by GIZ).

Year: 2015**Number of sessions: 14****Fourth National EITI Report (2013):**

- ◆ Review and presentation of contributions on the partial products.
- ◆ Approval of the final study report.

Fifth National EITI Report (2014):

- ◆ Management of financial resources for its elaboration.
- ◆ Formulation and approval of the terms of reference.
- ◆ Participation in the selection of the consulting firm.
- ◆ Review of the progress made by the consultant on the report.
- ◆ Management to incorporate the participation of new companies and to ensure the adhesion of others in the study.
- ◆ Review and presentation of contributions on the partial products.
- ◆ Approval of the final study report.

Automation of National Conciliation Studies:

- ◆ Progressive incorporation of the necessary elements to automate the National Conciliation Studies report preparation. Management of the Technical Secretariat EITI Peru. Support of Deutsche Gesellschaft Für Internationale Zusammenarbeit (GIZ) GmbH. Elaboration of terms of reference.

Promotion of sub-national EITI processes:

- ◆ Participation in the selection of the company that will be in charge of the Piura and Moquegua Regional Transparency Studies.
- ◆ Coordination with Regional Commissions and follow-up of work.
- ◆ Review of the consultant's progress in both studies. Presentation and discussion of observations with the consultant. Termination of his/her contract due to dissatisfaction with the products.
- ◆ Resume evaluation and hiring consultant to complete regional studies.
- ◆ Working meetings with the consultant, reviewing his/her progress.
- ◆ Feedback from the Regional Commissions on the progress of the reports.
- ◆ Review of the (preliminary) Studies of Regional Transparency of Piura and Moquegua.
- ◆ Approval of the Moquegua and Piura Regional Studies of Transparency, corresponding to the periods 2012-2013.

2016 validation process:

- ◆ Initial conversation about its characteristics.
- ◆ Review of documents sent by the EITI International Secretariat.

EITI International:

- ◆ Support the organization of the VIII EITI Global Conference scheduled for February 2016 in Lima.
- ◆ Preparation of the “Peru Agenda” within the conference’s framework and organization of the members of the Commission’s participation.

Year: 2016 (until March)

Number of sessions 3

Fifth National EITI Report (2014):

- ◆ Public presentation of the EITI Peru Fifth National EITI Report.

Promotion of sub-national EITI processes:

- ◆ Public presentation of the (preliminary) Studies of Regional Transparency of Piura and Moquegua.

2016 validation process:

- ◆ Approval of the working methodology of the members of the Commission for Validation of EITI Implementation in Peru, a process that will take place in 2016.

EITI International:

- ◆ Accuracy of the “Agenda Peru” themes, day by day, to be held at the EITI VIII Global Conference in February 2016 in Lima.
- ◆ Implementation of the EITI VIII Global Conference to be held in February 2016 in Lima.
- ◆ Coordination to ensure the participation of the members of the National Commission and the Regional Commissions of EITI in Peru.

4. Definition of the concepts of payments, revenues and transfers of resources generated by extractive activities

Income tax

It is the payment made by all companies that record profits in the year. Each company makes monthly payments to the annual tax account. Between March and April of the following year, the companies make an affidavit before SUNAT in which they calculate the total amount of the income tax they should pay for the previous calendar year, according to the recorded income, and regularize what remains to be paid, if applicable.

Mining canon

It is the participation local and regional governments receive from the State for the income and revenue it obtains for the exploitation of mineral, metallic and non-metallic resources.

Gas canon

It is the participation local and regional governments receive from the State for the income and revenues it receives from the exploitation of natural gas and condensates.

Oil canon

It is the participation of local and regional governments on the income and revenues obtained by the State for the exploitation of oil.

Oil canon surcharge

It is an additional rate on the rate initially arranged for the oil canon, which is destined to certain departments: Loreto, Ucayali, Piura and Tumbes.

Mining royalties

It is an economic consideration, by which the holders (also concessionaires) of mining concessions are compelled to pay monthly to the State for the exploitation of mineral, metallic and non-metallic resources.

Oil royalty

This is a consideration paid by extractive companies from the oil sector to the State for the extraction of hydrocarbons in the national territory. The royalty is determined and collected by the state company Perupetro, according to the contract modality agreed with the company.

Gas royalty

It is the compensation that the companies pay to the Peruvian State for the extraction of gas in the national territory. The royalty is determined and collected by the state company Perupetro, according to the contract modality agreed with the company, and only applies to companies operating in departments where there was no gas production when the legislation on exploitation of hydrocarbons was approved.

Special tax on mining

It is a tax paid by the mining concession holders, the assignees and companies integrated through sales, self-consumption and withdrawals not justified by the exploitation of metallic mineral resources. It is effective as of October 1, 2011.

Special levy on mining

It is a non-tax public resource from the exploitation of natural resources that is applied to holders of the mining concessions and concessionaires that carry out activities of exploitation of metallic minerals from agreements with the State related to contracts of guarantees and promotion measures according to The General Law of Mining. It is effective as of October 1, 2011.

Mining Rights Fee

It is the annual payment made by the holders of a mining concession to maintain their status as holders of the concession area. It is paid by companies that produce and those that do not yet. It is calculated according to the number of hectares of the mining claim and the type of mining owner (general regime, small mining producer or artisanal mining producer). The payment is collected by the Mining and Metallurgical Geological Institute (INGEMMET).

The different types of canon and royalties, as well as the effective rights of income received by the national government, are channelled to the producing regions and localities on the basis of distribution schemes determined by the national regulations for each of them.

5. Confidentiality agreement between the extractive companies and the consulting firm

Confidentiality Agreement between the two parties hereto:

[], Identified with RUC N ° [], represented by [], identified with [] N ° [], according to powers registered in registry item N ° [] of the Registry of Legal Persons of the Registry Office of Lima and Callao; domiciled for these purposes in []; who shall henceforth be called []; and, on the other hand;

....., identified with RUC, represented by Mr., identified with National Identity Document; with address for these purposes in, Lima; hereafter the company

The present agreement of confidentiality is celebrated in accordance with the following stipulations:

First. Precedent

The parties, within the framework of the contract for the preparation of the Fourth National EITI Report, between and the Ministry of Energy and Mines (hereinafter “the Service Contract”), declare that can receive from [], information of reserved and confidential nature.

In that sense, the parties declare that they wish to protect the secrecy of such information in accordance with the terms of this agreement.

Second. Role of the agreement

By means of this agreement, is obligated in front of [] to comply with the obligations of confidentiality to which the following clauses are contracted.

Third. Confidential information

The parties agree that for the purposes of this agreement, “Confidential Information” means information that has been delivered to by [], in connection with the signing and execution of the Services Agreement, regardless of the physical format through which that information is expressed, and provided that it has been expressly identified as confidential by [].

Fourth. Term of validity and scope of confidentiality duty

- 4.1. acknowledges and accepts the confidential and reserved nature of the Confidential Information and agrees that during the term of this agreement and during the Two (2) years from the date of its termination, shall observe the duty of confidentiality with respect thereto. The expiration of the term does not mean that may disclose the information.

It should be noted that, with regard to the publication of the National EITI Report, the final report of the same will be disseminated in all its extent, respecting the desire of confidentiality of those companies participating in this initiative that have stated so. In this regard, the Standing Multisectoral Commission of EITI Peru will obtain and share with the conciliator a copy of each written expression of will that

each participating company responds to in this regard, exempting this commission and the conciliator from any responsibility and consequences of its disclosure.

Consequently, except in cases where [] authorizes it in writing or in the other cases permitted in this agreement, will not disclose to any natural or legal person the content of the Confidential Information.

- 4.2. Notwithstanding the preceding paragraph 4.1, may deliver the Confidential Information to its officers, representatives, advisers and workers who require it for the execution of the Services Contract. In this case, it is required that the persons indicated assume the obligation to maintain absolute confidentiality in relation to the Confidential Information delivered.

Fifth. Non confidential information

- 5.1. The obligation of confidentiality assumed by under this agreement shall not extend to information that:
- 5.1.1 Is public or is made public after the signing of this document, except if it becomes public as a result of a breach of the obligations assumed by
 - 5.1.2 Is legitimately available to the general public or legally obtained by from third parties other than [] or its representatives or staff, without obligation to keep it confidential.
 - 5.1.3 Is directly or indirectly generated by, its subsidiaries or affiliates.
 - 5.1.4 can prove was in his/her possession or was given to him/her before the signing of this document.

Sixth. Return of information

- 6.1. The parties expressly agree that the Confidential Information written or contained in any mechanical, electronic, magnetic, digital or similar type of support [] delivered to will continue to be the exclusive property of []. In that sense, will only use the Confidential Information for the purposes for which they are provided.
- 6.2. The parties agree that the Confidential Information written or contained in any mechanical, electronic, magnetic, digital or similar support shall be returned by to [] immediately after the execution of the Services Contract, unless prior written authorization is given in that respect, detailing the documentation whose preservation will be permitted. In any case, may keep a copy of the Confidential Information that allowed the execution of the services for the preparation of their working papers.

Seventh Delivery of information by legal mandate

- 7.1. In the event that is required by judicial, administrative or other order of a competent authority to disclose or deliver Confidential Information or any information that is related to [] or with the Services Contract, shall give written notice to [] immediately, provided that such notice is not legally prohibited, in order for [] to adopt the corresponding protection measures.

- 7.2. Returned by to [] immediately after the execution of the Services Contract, unless prior written authorization is given in that respect, detailing the documentation whose preservation will be permitted. In any case, may keep a copy of the Confidential Information that allowed the execution of the services for the preparation of their working papers.
- 7.3. In the event that is legally prevented from notifying [] concerning a request by the competent authority in relation to the disclosure or delivery of Confidential Information or any other information related to [], shall Adopt appropriate protection measures in order to safeguard the confidentiality of the information required.
- 7.4. In the event that the protection measures referred to in the previous paragraphs are not obtained by [], may disclose only the strictly necessary information, doing its best to treat that information confidentially.

Eighth. Life of the agreement

This agreement shall remain in force for the term of execution of the Service Agreement.

Ninth. Applicable law, controversy resolution and competence

- 9.1. The parties expressly agree that all provisions of this agreement are subject to the laws of the Republic of Peru
- 9.2. The parties agree that any doubt, controversy, disagreement or claim arising out of or relating to this agreement, including those relating to its validity, effectiveness or termination, even those of the arbitration agreement, shall be settled directly. To this end, the parties undertake to carry out their best efforts on the basis of the rules of good faith and in accordance with the common intention of solving such an eventual situation.
- 9.3. In the event that the doubt, controversy, disagreement or claim resulting, related or derived from this agreement or related to it, including those relating to its validity, effectiveness or termination, including those of the arbitration agreement, is not solved by the parties, any of them may submit it to arbitration at law in accordance with the applicable legal rules and regulations of the Centre for National and International Conciliation and Arbitration of the Chamber of Commerce of Lima, whose rules, administration and decision are subject to Parties in unconditional form, declaring to know and accept them in their integrity. The parties agree that the arbitration will be in charge of three (3) arbitrators, one chosen by each one of them and the third chosen by both arbitrators by mutual agreement, who will preside over the arbitral tribunal. The award shall be final and not appealable.

The expenses incurred by the parties as a result of the arbitration shall be borne by the party that loses.

- 9.4. Notwithstanding the foregoing, the parties submit the dispute for arbitrary disputes to the jurisdiction and jurisdiction of the Judges and Tribunals of the Cercado Judicial District of Lima, waiving in advance the jurisdiction of their domiciles.

Signed in two copies of identical content, in Lima on the ... of ... of ...

6. Forms for requesting information on payments made by companies

1. Annual Income Tax: Annual Return, Substitute Returns, and Rectificatory Returns

RUC: _____ Company: _____

Concept	Ref.	Concept / Period	Year 2013		
			PDT 684		
			Amount	Presentation date	Form order N°
Income tax annual affidavit. Category three	(A)	Amount for Income Tax recorded in Box 113 of the Category Three Annual Income Tax Affidavit.			
	(B)	Amount for Income Tax recorded in Box 128 of the Category Three Annual Income Tax Affidavit.			
Rectified Affidavits	(C)	Amount for Income Tax recorded in Box 506 of the Category Three Annual Income Tax Affidavit.			
	(D)	Amount for Income Tax recorded in Box 128 of the Category Three Annual Income Tax Affidavit.			

Concept	Ref.	Concept / Period	Year 2013		
			PDT 684		
			Amount	Presentation date	Form order N°
Substitute Affidavits	(E)	Amount for Income Tax recorded in Box 506 of the Category Three Annual Income Tax Affidavit.			
	(F)	Amount for Income Tax recorded in Box 128 of the Category Three Annual Income Tax Affidavit.			

Instructions to complete forms:

- (A) The company must consider the annexes that form part of the declaration: those that declare for mining concessions and/or for oil and gas lots.
- (B) Amount corresponding to payments to account for income tax credited against the ITAN.
- (C) For those rectificatory declarations presented for each annual tax, as indicated in the column, include the amounts for Income Tax recorded in Box 506 of the Category Three Annual Income Tax Affidavit, in itemized fashion (insert as many cells as necessary corresponding to the number of rectificatory declarations presented).
- (D) For those rectificatory statements filed for each annual tax, as indicated in the column, include the amounts for Income Tax recorded in Box 128 of the Category Three Annual Income Tax Affidavit, in itemized fashion (insert as many cells as necessary in function of the number of rectificatory declarations presented).
- (E) For those substitute statements filed for each annual tax, as indicated in the column, include the amounts for Income Tax Entered in Box 506 of the Category Three Annual Income Tax Affidavit, in itemized fashion (insert as many cells as necessary according to the number of substitute declarations filed).

- (F) For those substitute declarations presented for each annual tax, as indicated in the column, include the amounts for Income Tax recorded in Box 128 of the Category Three Annual Income Tax Affidavit, in itemized fashion (insert as many cells as necessary in function of the number of substitute declarations presented).

2. Special tax on mining

RUC: _____ Company: _____

Year 2013						
Trimester	PDT 699 used as Affidavit			PDT 699 used as Voucher		
	Form order N°	Date	IEM declared amount S/. Box 202	Form Order N	Form presentation date	IEM paid amount S/. Box 224
		(A)	(B)		(A)	(C)
1st trimester (Jan-Mar)						
2nd trimester (Apr-Jun)						
3rd trimester (Jul-Set)						
4th trimester (Oct-Dec)						
Total						

Instructions to complete form:

- (A) Corresponds to the date of the IEM payment for the indicated period.
- (B) Corresponds to the declared IEM amount as it appears in Box 202 of PDT 699.
- (C) Corresponds to the amount of the IEM paid as set out in Box 224 of PDT 699.

Statement of responsibility of the administration

We accept on behalf of..... our responsibility for the information sent in this template.

Legal Representative

Name:

Position:.....

3. Special levy on mining GEM

RUC: _____ Company: _____

Year 2013						
Trimestre	PDT 699 used as Affidavit			PDT 699 used as Voucher		
	Form order N°	Date	GEM declared amount S/. Box 302	Form Order N	Form presentation date	Played GEM amount S/. Box 366
		(A)	(B)		(A)	(C)
1st trimester (Jan-Mar)						
2nd trimester (Apr-Jun)						
3rd trimester (Jul-Set)						
4th trimester (Oct-Dec)						
Total						

Instructions to complete form:

- (A) Corresponds to date on which the GEM payment for the indicated period was made.

- (B) Corresponds to the declared GEM amount, as it appears in Box 302 of PDT 699.
- (C) Corresponds to the GEM amount paid, as it appears in Box 366 of PDT 699.

Statement of responsibility of the administration

We accept on behalf of our responsibility for the information sent in this template.

Legal Representative

Name:

Position:.....

4. Mining royalties

RUC: _____ Company: _____

Year 2013							
Month / Year	PDT 699 used as Affidavit				PDT 699 used as Voucher		
	Date	Royalty amount stated in Box 102	Royalty amount paid in Box 124	Form order N°	Date	Paid royalty amount	Form order N°
	(A)	(B)	(C)		(A)	(C)	
Jan-12							
Feb-12							
Mar-12							
Apr-12							
May-12							
Jun-12							
Jul-12							

Year 2013							
Month / Year	PDT 699 used as Affidavit				PDT 699 used as Voucher		
	Date	Royalty amount stated in Box 102	Royalty amount paid in Box 124	Form order N°	Date	Paid royalty amount	Form order N°
	(A)	(B)	(C)		(A)	(C)	
Aug-12							
Sep-12							
4th trimes- ter (Oct- Dec)							
Total							

Instructions to complete form:

- (A) Corresponds to the royalty payment date for the period indicated.
- (B) Corresponds to the declared mining royalty amount, as it appears in Box 102 of PDT 699.
- (C) Corresponds to the mining royalty amount paid, as it appears in Box 124 of PDT 699.

Statement of responsibility of the administration

We accept on behalf of our
responsibility for the information sent in this template.

Legal Representative

Name:

Position:.....

5. Hydrocarbon royalties

RUC: _____ Company: _____

Ref.	1 Period Concept	Year 2013													
		Lot	1st fort. Jan	2nd fort. Jan	1st fort. Feb	2nd fort. Feb	1st fort. Mar	2nd fort. Mar	1st fort. Apr	2nd fort. Apr	1st fort. May	2nd fort. May	1st fort. Jun	2nd fort. Jun	
(A)	Royalty amount paid (USD)														
(B)	Payment date														

Ref.	1 Period Concept	Year 2013													
		Lot	1st fort. Jul	2nd fort. Jul	1st fort. Aug	2nd fort. Aug	1st fort. Sep	2nd fort. Sep	1st fort. Oct	2nd fort. Oct	1st fort. Nov	2nd fort. Nov	1st fort. Dec	2nd fort. Dec	
(A)	Royalty amount paid (USD)														
(B)	Payment date														

Instructions to complete form:

- (A) Refers to the fortnightly dollar amount that the company has paid for royalties from hydrocarbons originated in the indicated period.
- (B) Corresponds to the date on which the hydrocarbon royalty payment was made for the indicated period.

Statement of responsibility of the administration

We accept on behalf of our responsibility for the information sent in this template.

Legal Representative

Name:

Position:

6. Mining Rights Fee

RUC: _____ Company: _____

Claim N°	Year 2013	
	Amount (A) (B)	Payment date (C)

Instructions to complete form:

- (A) a.1) Refers to the amount paid to INGEMMET for mining rights fee, based on what is recorded in the mining registry and applying the corresponding legal rates.
 a.2) Enter the amount paid for claims the company has held title to during the year 2013, regardless of whether the company or a third party has paid them. Indicate those cases in which the payment for mining rights was made by a third party.
- (B) Do not include payments due to penalties.
- (C) Corresponds to the date on which the Mining Rights Fee payment was made.

Statement of responsibility of the administration

We accept on behalf of our responsibility for the information sent in this template.

 Legal Representative

Name:

Position:.....

Public institutions information request form

a. Hydrocarbon royalties

Institution: _____

Ref.	1 Period Concept	Year 2013													
		Lot	1st fort. Jan	2nd fort. Jan	1st fort. Feb	2nd fort. Feb	1st fort. Mar	2nd fort. Mar	1st fort. Apr	2nd fort. Apr	1st fort. May	2nd fort. May	1st fort. Jun	2nd fort. Jun	
(A)	Royalty amount paid (USD)														
(B)	Payment date														

Ref.	1 Period Concept	Year 2013													
		Lot	1st fort. Jul	2nd fort. Jul	1st fort. Aug	2nd fort. Aug	1st fort. Sep	2nd fort. Sep	1st fort. Oct	2nd fort. Oct	1st fort. Nov	2nd fort. Nov	1st fort. Dec	2nd fort. Dec	
(A)	Royalty amount paid (USD)														
(B)	Payment date														

Instructions to complete form:

- (A) Refers to the fortnightly dollar amount that the company has paid for hydrocarbon royalties originating in the indicated period.
- (B) Corresponds to the date on which the hydrocarbon royalty payment was made for the indicated period.

Statement of responsibility of the administration

We accept on behalf of..... our responsibility for the information sent in this template.

Legal Representative

Name:

Position:.....

b. Mining Rights Fee

Institution: _____

Company (company name) No of Claim	Year 2013		
	Payment date (C)	Currency (USD / S/.)	Paid amount (A) (B)

Instructions to complete form:

- (A) Enter the amount paid for claims the company has held title for during the year 2013, regardless of whether the company has paid it or whether it has been paid by a third party. Do not include penalties.
- (B) Do not include payments due to penalties.
- (C) Corresponds to the date on which the mining rights fee payment was made.

7. Letter to the National Superintendence of Tax Administration (SUNAT) on information subject to tax reserve

Lima,

Dear Sir

National Superintendence of Customs and Tax Administration - SUNAT

c/o:

Taxpayer Services Division

Dear Sir,

By means of this letter, [.....] (hereinafter, the “Company”), with Single Taxpayer Registry No. [.....], residing in [.....], Lima, represented by its general manager, Mr. [.....], with ID No. [.....], in accordance with the power of attorney registered in Item No. [.....] of the Registry Office of Lima and Callao Registry of Legal Entities:

Under procedure N ° 58 of the TUPA (the determined and informative affidavit report request submitted by telematic and electronic means) requests access to and delivery of copies of the detailed information in the annex attached to this communication (hereinafter, The “Information”), in printed form and electronic TXT format.

For the purpose of processing the present application, we hereby authorize the following persons so that any of them, individually and indistinctly, can perform all the necessary procedures and acts to obtain and / or collect the required information:

Names	National ID

In order to obtain a prompt reply to the present letter, the company requests that, without prejudice to the notification that must be sent to our tax address, we are notified to the fax number [.....] (To: [.....]).

Yours sincerely,

[,]

Requested periods

The following information request must cover the fiscal period from to

The declarations requested must include the rectifications or substitutions presented for the tax periods indicated above.

The detail of the information requested is as follows:

1. Income tax

Forms	Information requested on each form
<ul style="list-style-type: none"> ♦ PDT 0670 - 2011 fiscal year income ♦ Third class. ♦ PDT 0682 - Fiscal Year 2012 ♦ Third class. 	<ul style="list-style-type: none"> ♦ Company name and RUC. ♦ Form number. ♦ Fiscal Year. ♦ Form filing date. ♦ Currency. ♦ Box 504. ♦ Box 126.

In the case of mining companies that declare information annexed to their Annual Affidavit, the following information must be reported for each concession or UEA mining unit:

Concession code or UEA	Currency	Income tax	Other receivables not entitled to repayment
.....	

In case of companies that exploit hydrocarbons and declare information annexed to their Annual Return, the following information should be reported per exploration or exploitation lot:

Exploration and exploitation lot N°	Currency	Income Tax
.....	

2. Special tax on mining (PDT 699)

PDT 699 used as Declaration	PDT 699 used as Voucher
<ul style="list-style-type: none"> ♦ Tax ID number and company name. ♦ Form Order Number. ♦ Tax Period. ♦ Form presentation date. ♦ Box 224- Total amount to be paid. 	<ul style="list-style-type: none"> ♦ Tax ID number and company name. ♦ Form Order Number. ♦ Tax Period. ♦ Form presentation date. ♦ Declaration Form Order Number. ♦ Total amount to be paid.

3. Special levy on mining GEM (PDT 699)

PDT 699 used as Declaration	PDT 699 used as Voucher
<ul style="list-style-type: none"> ♦ Tax ID number and company name. ♦ Form Oder Number. ♦ Tax Period. ♦ Form presentation date. ♦ Box 366- Total amount to be paid. 	<ul style="list-style-type: none"> ♦ Tax ID number and company name. ♦ Form Oder Number. ♦ Tax Period. ♦ Form presentation date. ♦ Declaration Form Order Number. ♦ Total amount to be paid (The amount to be paid shall be inserted manually).

4. Mining royalties (PDT 698)

PDT 698 used as Declaration	PDT 698 used as Voucher
<ul style="list-style-type: none"> ♦ Tax ID number and company name. ♦ Form Oder Number. ♦ Tax Period. ♦ Form presentation date. ♦ Box 106 – Royalty to be paid. ♦ Box 598- Total amount to be paid. 	<ul style="list-style-type: none"> ♦ Tax ID number and company name. ♦ Form Oder Number. ♦ Tax Period. ♦ Form presentation date. ♦ Declaration Form Order Number. ♦ Box 609: Total amount to be paid.

8. Example of summary information contained in a regional EITI report

Case of Cajamarca. Summary of reconciled figures

During the 2004-2007 period, the Government - through the Ministry of Economy and Finance (MEF) and the Mining and Metallurgical Geological Institute (INGEMMET) - reported cumulative transfers to the Cajamarca region for 819,667,001 soles, while subnational governments who participated in the study and the university reported 783,414,691 soles. A difference of 36,252,310 soles was recorded, as can be seen in the table below.

Institution	Resources transferred by the Government	Reported received resources
Cajamarca Regional Government	325.862.976	327.024.030
Cajamarca National University	50.261.522	50.261.522
Cajamarca Provincial Municipality	198.801.773	199.664.186
Hualgayoc- Bambamarca Provincial Municipality	27.922.248	28.447.720
Jesús District Municipality	27.583.755	27.624.339
Baños del Inca District Municipality	94.910.754	94.820.577
La Encañada District Municipality	94.323.973	55.572.318
Total	819.667.001	783.414.691

Source: Ministry of Energy and Mines (2010). "Cajamarca regional level EITI Report". Cajamarca: MINEM. Prepared by the authors.

The bulk of the discrepancy is registered in the District Municipality of La Encañada. The study notes that the differences are generally explained by the lack of documentation and information in the regional government and in the participating municipalities. It indicates that these bodies do not have a standardized system for mining resource revenue and expenditure management; they don't carry out either the necessary processes to match the resources transferred to them and

verify if they are receiving what is legally theirs. They also lack mechanisms to preserve documentation on transfers.

As for the efficiency of expenditure, the following table shows the investments these institutions made in the 2004-2007 period, compared to the resources received from the mining canon, the mining royalty and the fees, in soles.

Institution	Received resources	Invested resources	Expenditure efficiency
Cajamarca Regional Government	327.024.030	287.729.750	88%
Cajamarca National University	50.261.522	11.354.750	23%
Cajamarca Provincial Municipality	199.664.186	157.644.982	79%
Hualgayoc- Bambamarca Provincial Municipality	28.447.720	23.515.727	83%
Jesús District Municipality	27.624.339	13.373.199	48%
Baños del Inca District Municipality	94.820.577	106.620.324	112%
La Encañada District Municipality	55.572.318	59.667.114	107%
Total	783.414.691	659.905.846	84%

Source: Ministry of Energy and Mines (2010). "Cajamarca regional level EITI Report". Cajamarca: MINEM. Prepared by the authors.

During the study period, the participating bodies had a total expenditure of 659,905,846 soles with these resources, which meant an average spending efficiency of 84.65%. The lowest of them was registered by the National University of Cajamarca.

Regarding spending, most subnational governments directed these resources to the Education, Transportation and Health sectors:

Institution	Destination of expenditure			
	First destination		Second destination	
Cajamarca Regional Government	Education	41%	Energy	21%
Cajamarca National University	Laboratories	51%	Language schools	12%
Cajamarca Provincial Municipality	Transportation	44%	Education	22%
Hualgayoc- Bambamarca Provincial Municipality	Education	32%	Transportation	22%
Jesús District Municipality	Planning	32%	Health, sanitation.	23%
Baños del Inca District Municipality	Planning	21%	Health, sanitation.	19%
La Encañada District Municipality	Transportation	25%	Education	23%

Source: Ministry of Energy and Mines (2010). "Cajamarca regional level EITI Report". Cajamarca: MINEM. Prepared by the authors.

