

Board decision on the Validation of Liberia

Decision reference: 2017-28/BM-37

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The Board's decision

The Board came to the following decision regarding Liberia's status:

The Board agrees that Liberia has made **meaningful progress** overall in implementing the 2016 EITI Standard. The Board's determination of Liberia's progress with the EITI's requirements is outlined in the assessment card below.

The EITI Board agreed that Liberia has made meaningful progress in meeting requirements 1.4, 1.5, 2.2, 2.3, 4.1, 4.7, 6.1, 6.3 and 7.4. The Board also agreed that Liberia has made inadequate progress in meeting requirements 2.6, 4.9, 5.1 and 6.2, and no progress in meeting requirement 4.3. The major areas of concern relate to multi-stakeholder group governance (#1.4), work plan (#1.5), License allocations (#2.2), license registers (#2.3), state participation (#2.6), comprehensiveness (#4.1), barter agreements (#4.3), disaggregation (#4.7), data quality (#4.9), distribution of revenues (#5.1), mandatory social expenditures (#6.1), economic contribution (#6.3), outcomes and impact of implementation (7.4).

Accordingly, the EITI Board agreed that Liberia will need to take corrective actions outlined below. Progress with the corrective actions will be assessed in a second validation commencing on **24 November 2018**. Failure to achieve meaningful progress with considerable improvements across several individual requirements in the second Validation will result in suspension in accordance with the EITI Standard. In accordance with the EITI Standard, Liberia's EITI multi-stakeholder group (MSG) may request an extension of this timeframe, or request that Validation commences earlier than scheduled.

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

Background

Liberia became an EITI candidate in 2007 as part of the government's drive to improve transparency and management of revenues. A Multi-Stakeholder Steering Group was established, chaired by the Minister of Finance. Under President Ellen Johnson Sirleaf, LEITI evolved from policy to legislation through the LEITI Act in 2009 which mandated EITI participation for companies and government entities. Liberia became the first African country to be designated EITI compliant by the Board in October that same year. LEITI published EITI Reports for seven fiscal years from 2007 to 2014, a post-award process audit for two fiscal years, and a beneficial ownership report. Its EITI Reports cover the mining, petroleum, forestry, and agriculture sectors. Liberia's latest EITI Report covering 2013-14 was published in June 2016.

The Validation process commenced on 1 July 2016. In accordance with the Validation procedures, an [initial assessment](#) was prepared by the International Secretariat. The MSG was invited to comment. [Comments](#) were received from the MSG. The assessment was then reviewed by the Independent Validator, who prepared the [Validation Report](#). The MSG was invited to comment on the report with

a deadline for comments set for 28 February 2017.

The Validation Committee reviewed the case on 16 February 2017. Based on the findings above, and subject to any additional comments from the multi-stakeholder group being received by 28 February 2017, the Validation Committee agreed to recommend the assessment card and corrective actions outlined below. As per Requirement 8.3.c. this includes a requirement that the MSG agrees and discloses a time-bound action plans for addressing weaknesses in data comprehensiveness and data quality within 3 months.

The Committee also agreed to recommend an overall assessment of “meaningful progress” in implementing the 2016 EITI Standard. Requirement 8.3.c. of the EITI Standard states that:






ii. Overall assessments. Pursuant to the Validation Process, the EITI Board will make an assessment of overall compliance with all requirements in the EITI Standard.

...

iv. **Meaningful progress.** The country will be considered an EITI candidate and requested to undertake corrective actions until the second Validation.








The Validation Committee agreed to recommend a period of 18 months to undertake the corrective actions. This recommendation takes into account the number of challenges identified and seeks to align the Validation deadline with Liberia’s fiscal year, which starts on 1 July.

Scorecard

EITI Requirements		Level of Progress				
Categories	Requirements	No Progress	Inadequate	Meaningful	Satisfactory	Beyond
MSG oversight	Government engagement (#1.1) 					
	Industry engagement (#1.2) 					
	Civil society engagement (#1.3) 					
	MSG governance (#1.4) 					
	Workplan (#1.5) 					

EITI Requirements		Level of Progress					
Categories	Requirements	No Progress	Inadequate	Meaningful	Satisfactory	Beyond	
Licenses and contracts	Legal framework (#2.1)						
	License allocations (#2.2)						
	License register (#2.3)						
	Policy on contract disclosure (#2.4)						
	Beneficial ownership (#2.5)						
	State participation (#2.6)						
Monitoring production	Exploration data (#3.1)						
	Production data (#3.2)						
	Export data (#3.3)						
Revenue collection	Comprehensiveness (#4.1)						
	In-kind revenues (#4.2)						
	Barter agreements (#4.3)						
	Transportation revenues (#4.4)						
	SOE transactions (#4.5)						
	Direct subnational payments (#4.6)						
	Disaggregation (#4.7)						
	Data timeliness (#4.8)						
	Data quality (#4.9)						
Revenue allocation	Distribution of revenues (#5.1)						
	Subnational transfers (#5.2)						
	Revenue management and expenditures (#5.3)						
Socio-economic contribution	Mandatory social expenditures (#6.1)						
	SOE quasi-fiscal expenditures (#6.2)						
	Economic contribution (#6.3)						
Outcomes and impact	Public debate (#7.1)						
	Data accessibility (#7.2)						
	Follow up on recommendations (#7.3)						
	Outcomes and impact of implementation (#7.4)						

EITI Requirements		Level of Progress				
Categories	Requirements	No Progress	Inadequate	Meaningful	Satisfactory	Beyond
Overall Progress						

-  **No progress.** All or nearly all aspects of the requirement remain outstanding and the broader objective of the requirement is not fulfilled.
-  **Inadequate progress.** Significant aspects of the requirement have not been implemented and the broader objective of the requirement is far from fulfilled.
-  **Meaningful progress.** Significant aspects of the requirement have been implemented and the broader objective of the requirement is being fulfilled.
-  **Satisfactory progress.** All aspects of the requirement have been implemented and the broader objective of the requirement has been fulfilled.
-  **Beyond.** The country has gone beyond the requirements.
-  This requirement is only encouraged or recommended and should not be taken into account in assessing compliance.
-  The MSG has demonstrated that this requirement is not applicable in the country.

Corrective actions

The EITI Board agreed the following corrective actions to be undertaken by Liberia. Progress in addressing these corrective actions will be assessed in a second Validation commencing on **24 November 2018**:

1. In accordance with Requirement 1.4a, the MSG needs to ensure that stakeholders are adequately represented. In accordance with Requirement 1.4b, MSG members should have the capacity to carry out their duties and the MSG should undertake effective outreach activities with civil society groups and companies, including through communication such as media, website and letters, informing stakeholders of the government’s commitment to implement the EITI, and the central role of companies and civil society. The multi-stakeholder group should also widely disseminate the public information that results from the EITI process such as the EITI Report. Members of the multi-stakeholder group should liaise with their constituency groups. The multi-stakeholder group needs to also agree and publish its procedures for nominating and changing multi-stakeholder group representatives.
2. In accordance with Requirement 1.5, the MSG should maintain a current work plan that sets EITI implementation objectives that reflect national priorities for the extractive industries. In accordance with requirement 1.5.b, the work plan must reflect the results of consultations with key stakeholders. In accordance with requirement 1.5f, the MSG should ensure that the

work plan is reviewed and updated annually.

3. In accordance with Requirement 2.2, Liberia is required to disclose the following information related to the award or transfer of licenses pertaining to the companies covered in the EITI Report during the accounting period covered by the EITI Report: (i) a description of the process for transferring or awarding the license; (ii) the technical and financial criteria used; (iii) information about the recipient(s) of the license that has been transferred or awarded, including consortium members where applicable; and (iv) any non-trivial deviations from the applicable legal and regulatory framework governing license transfers and awards. This information should be disclosed for all license awards and transfers taking place during the accounting year covered by the EITI Report, including license allocations pertaining to companies that are not included in the EITI Report. Any significant legal or practical barriers preventing such comprehensive disclosure should be documented and explained in the EITI Report, including an account of government plans for seeking to overcome such barriers and the anticipated timescale for achieving them. Where licenses are awarded through a bidding process during the accounting period covered by the EITI Report, Liberia is required to disclose the list of applicants and the bid criteria.
4. In accordance with Requirement 2.3.b, Liberia is required to maintain a publicly available register or cadastre system(s) with the following timely and comprehensive information regarding each of the licenses pertaining to companies covered in the EITI Report: (i) license holder(s), (ii) where collated, coordinates of the license area, (iii) date of application, date of award and duration of the license, (iv) in the case of production licenses, the commodity being produced. Any significant legal or practical barriers preventing such comprehensive disclosure should be documented and explained in the EITI Report, including an account of government plans for seeking to overcome such barriers and the anticipated timescale for achieving them.
5. In accordance with Requirement 2.6(a), Liberia's EITI Report must include an explanation of the prevailing rules and practices regarding the financial relationship between the government and state-owned enterprises (SOEs), e.g., the rules and practices governing transfers of funds between the SOE(s) and the state, retained earnings, reinvestment and third-party financing. In accordance with Requirement 2.6(b), Liberia must provide disclosures from the government and SOE(s) of their level of ownership in mining, oil and gas companies operating within the country's oil, gas and mining sector, including those held by SOE subsidiaries and joint ventures, and any changes in the level of ownership during the reporting period. This information should include details regarding the terms attached to their equity stake, including their level of responsibility to cover expenses at various phases of the project cycle, e.g., full-paid equity, free equity, carried interest. Where there have been changes in the level of government and SOE(s) ownership during the EITI reporting period, the government and SOE(s) are expected to disclose the terms of the transaction, including details regarding valuation and revenues. Where the government and SOE(s) have provided loans or loan guarantees to mining, oil and gas companies operating within the country, details on these transactions should be disclosed.
6. In accordance with Requirement 4.1.a, the multi-stakeholder group is required to agree which payments and revenues are material and therefore must be disclosed, including appropriate materiality definitions and thresholds. The multi-stakeholder group should document the options considered and the rationale for establishing the definitions and thresholds. In accordance with Requirement 4.1.c, Liberia must provide a comprehensive reconciliation of

government revenues and company payments, in accordance with the agreed scope. All companies making material payments to the government are required to comprehensively disclose these payments in accordance with the agreed scope.

7. In accordance with Requirement 4.3, The multi-stakeholder group and the Independent Administrator are required to consider whether there are any agreements, or sets of agreements involving the provision of goods and services (including loans, grants and infrastructure works), in full or partial exchange for oil, gas or mining exploration or production concessions or physical delivery of such commodities. To be able to do so, the multi-stakeholder group and the Independent Administrator need to gain a full understanding of: the terms of the relevant agreements and contracts, the parties involved, the resources which have been pledged by the state, the value of the balancing benefit stream (e.g. infrastructure works), and the materiality of these agreements relative to conventional contracts. Where the multi-stakeholder group concludes that these agreements are material, the multi-stakeholder group and the Independent Administrator are required to ensure that the EITI Report addresses these agreements, providing a level of detail and transparency commensurate with the disclosure and reconciliation of other payments and revenues streams. Where reconciliation of key transactions is not feasible, the multi-stakeholder group should agree an approach for unilateral disclosure by the parties to the agreement(s) to be included in the EITI Report.
8. In accordance with Requirement 4.7, Liberia is required to disaggregate disclosure of tax payments.
9. In accordance with Requirement 4.9a, Liberia is required to provide an assessment of whether the payments and revenues are subject to credible, independent audit, applying international auditing standards. In accordance with Requirement 4.9b, Liberia should ensure that payments and revenues are reconciled by a credible, Independent Administrator, applying international auditing standards, and with publication of the administrator's opinion regarding that reconciliation including discrepancies, should any be identified. The multi-stakeholder group and the Independent Administrator are required to agree a Terms of Reference for the EITI Report based on the standard Terms of Reference and the 'agreed upon procedure for EITI Reports' endorsed by the EITI Board.
10. In accordance with Requirement 8.3.c, the MSG is required to disclose a time-bound action plan for addressing the deficiencies in data quality documented in the initial assessment and the Validator's Report within three months of Board's decision, i.e. by **28 August 2017**.
11. In accordance with Requirement 5.1, Liberia is required to disclose a description of the distribution of revenues from the extractive industries and indicate which extractive industry revenues, whether cash or in kind, are recorded in the national budget. Where revenues are not recorded in the national budget, the allocation of these revenues must be explained, with links provided to relevant financial reports as applicable.
12. In accordance with Requirement 6.1.a, Liberia is required to disclose and, where possible, reconcile material social expenditures by companies that are mandated by law or the contract with the government that governs the extractive investment. Where such benefits are provided in kind, Liberia is required to disclose the nature and the deemed value of the in kind transaction. Where the beneficiary of the mandated social expenditure is a third party, i.e. not

a government agency, it is required that the name and function of the beneficiary be disclosed. Where reconciliation is not feasible, Liberia should provide unilateral company and/or government disclosures of these transactions.

13. In accordance with Requirement 6.2, the MSG must include disclosures from NOCAL on its quasi-fiscal expenditures. The multi-stakeholder group is required to develop a reporting process with a view to achieving a level of transparency commensurate with other payments and revenue streams, and should include NOCAL's subsidiaries and joint ventures.
14. In accordance with Requirement 6.3, Liberia is required to disclose information about the contribution of the extractive industries to the economy for the fiscal year covered by the EITI, including the size of the extractive industries in absolute terms and as a percentage of Gross Domestic Product as well as an estimate of informal sector activity, including but not necessarily limited to artisanal and small scale mining (Requirement 6.3a) and total government revenues generated by the extractive industries (including taxes, royalties, bonuses, fees, and other payments) in absolute terms and as a percentage of total government revenues (Requirement 6.3b).
15. In accordance with Requirement 7.4a, the multi-stakeholder group is required to publish annual progress reports that include a narrative account of efforts to strengthen the impact of EITI implementation on natural resource governance. In accordance with Requirement 7.4b, all stakeholders should be able to participate in the production of the annual progress report and reviewing the impact of EITI implementation. Civil society groups and industry involved in the EITI, particularly, but not only those serving on the multi-stakeholder group, should be able to provide feedback on the EITI process and have their views reflected in the annual progress report.

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

News

EITI Board recognises the pioneering efforts of Liberia in implementing the EITI and sets out next steps

Liberia undergoes first EITI Validation under the EITI Standard and demonstrates meaningful progress despite Ebola disruption.

Wednesday 24 May 2017 - Liberia was one of the first countries to begin implementing the EITI in 2005. Liberia's recent Validation has demonstrated "meaningful progress" in implementing the EITI Standard. The decision was made on Wednesday by the EITI Board, who noted the "pioneering" efforts done by the country and the role it has played in the development of the Standard over time. According to the [documentation](#) backing the assessment,

“Liberia’s pioneering implementation of the EITI has had a direct impact on the development of the EITI Standard and been an inspiration to other implementing countries operating in particularly difficult environments. The initial findings of this Validation exercise suggest that Liberia EITI (LEITI) has taken advantage of the political commitment that arose from the devastating civil war to build a platform that has generated real change.”

- [View full decision including the scorecard and supporting documentation](#)

Liberia - shaping the Standard

Liberia was the second country in the world and the first in Africa to have demonstrated compliance with the EITI Rules back in 2009. Liberia did much to shape the subsequent and much more comprehensive EITI Standard by continuously going beyond some of the basic requirements. This is the first time that Liberia’s progress has been assessed against the EITI Standard.

“Even before the introduction of the EITI Standard”, the [initial assessment](#) reads, “Liberia’s EITI reporting extended beyond EITI Reporting to publication of post-award process audits of licenses and permits, beneficial ownership reporting and simplified contracts. It is fair to say that Liberia has had a direct impact in the development of the EITI Standard by providing proof of concept for a number of requirements.”

Corrective actions and recommendations

Referring to Liberia’s Validation, Fredrik Reinfeldt, Chair of the EITI, said:

“Political will led Liberia to pioneer a number of the requirements in the current EITI Standard, and political will is what will be needed to ensure that Liberia remains at the forefront of implementation. The Board’s corrective actions should help Liberian stakeholders direct their efforts in order to continue implementing the Standard in a way that leads to better governance of the extractive sector”.

The Board identified 16 corrective actions that Liberia will need to make progress on ahead of the next Validation in 18 months. These concern areas in the standard where Validation showed that Liberia had not made satisfactory progress to date and included challenges along all stages of the extractive industry value chain – from licenses and contracts, to monitoring production, to revenue collection and allocation, and to socio-economic contribution.

Applying lessons from Validation

According to Eddie Rich, Deputy Head of EITI:

“Validation under the EITI Standard creates a framework for resource-rich countries to consider how to improve their management of the extractive sector. Liberia will look at

the corrective actions and recommendations from Validation to see how best to apply them for their particular circumstances.”

As part of the team that provides support to Liberia EITI from the International Secretariat, Regional Director Pablo Valverde added

“It’s exciting to see how Liberia is already taking some of the early lessons from Validation and using them to inform their next report. Liberia has always shown leadership in implementing the EITI and we’re looking forward to seeing how this Validation will spark new discussions among stakeholders to keep improving”.

Scorecard

Notes

- [The EITI](#) is a coalition of governments, companies, civil society groups, investors and international organisations. Learn more at [eiti.org](#).
- EITI is chaired by [Fredrik Reinfeldt](#). Mr Reinfeldt was the Prime Minister of Sweden (2006-2014).
- **52 countries** are members of the EITI. No country has yet made [satisfactory progress](#) with the 2016 EITI Standard. See the list of countries at [www.eiti.org/countries](#).
- **Validation** is the EITI’s independent evaluation mechanism. It assesses countries against progress made in meeting the 2016 Standard.
- The **Board decision** in full, including corrective actions and impact of the EITI in the country, can be found here: [eiti.org/validation/liberia/2016](#)
- The reports giving an extensive review of Mali's extractive sector can be found here: [eiti.org/document/validation-of-liberia-2016-documentation](#)
- The Board has taken decisions on the status Mali and Liberia on 24 May 2017: [eiti.org/document/validation-schedule-decisions](#)
- See here for a [full explanation of the various levels of progress under the EITI Standard](#).

For further information about the EITI in Liberia, please visit the [country page on the EITI website](#) and [Liberia's own EITI website](#).