

Secretariat Review: Sierra Leone

For decision

Recommendation:

The Validation Committee recommends to the Board that Sierra Leone is designated EITI Compliant, and that suspension is lifted.

SECRETARIAT REVIEW: SIERRA LEONE

Recommendation

The Validation Committee makes the following recommendation to the Board via Board circular on a no objection basis:

The EITI Board designates Sierra Leone as EITI Compliant and its suspension is lifted as of <date of Board decision>. In accordance with the EITI Standard:

- *Sierra Leone must be revalidated within three years i.e. Validation will commence on <date of Board decision + three years> or earlier upon request of the multi-stakeholder group. Validation will be conducted in accordance with the EITI Standard.*
- *Stakeholders in the process may call for a new validation at any time within that period if they think the process needs reviewing. Where valid concerns exist that a country has become EITI Compliant, but its implementation of the EITI has subsequently fallen below the standard required for Compliance, then the Board reserves the right to require the country to undergo a new Validation or face delisting from the EITI.*
- *In accordance with the EITI Standard, Sierra Leone is expected to produce EITI reports annually. EITI Reports should cover data no older than the second to last complete accounting period. Sierra Leone is required to produce the 2012 EITI Report by 31 December 2014 in accordance with the EITI Standard.*
- *In accordance with requirement 7.2, Sierra Leone is required to publish an annual report on the previous year's activities, detailing progress in implementing the EITI. The annual report for 2013 should be published by 1 July 2014.*

The Board congratulates the government of Sierra Leone for its sustained commitment and leadership of the EITI process. The Board also congratulates the Sierra Leone multi-stakeholder group for its efforts and effective leadership in EITI implementation.

SECRETARIAT REVIEW: SIERRA LEONE

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SECRETARIAT REVIEW: SIERRA LEONE

1 Executive Summary

In February 2013, the EITI Board established four corrective actions required for Sierra Leone to achieve EITI Compliant status. The MSG published the 2011 EITI Report in December 2013 and subsequently invited the International Secretariat to assess whether the remaining EITI requirements have been met. The Secretariat's assessment is attached. In the Secretariat's view, all remedial actions have been completed and the outstanding requirements have been met. The draft Secretariat Review was circulated to the MSG on 26 March. The Secretariat received comments on 7 April.

2 Introduction

Sierra Leone announced its intention to implement EITI in the mining sector in June 2006. It was accepted as an EITI candidate country on 22 February 2008. The first report was published in March 2010. SLEITI has undertaken two Validations which have found Sierra Leone to not yet be compliant with the EITI requirements.

In December 2013, Sierra Leone published its third EITI report disclosing payments from the mining sector to government in 2011. Although revenues from the oil, gas and mining sector in [Sierra Leone in 2011](#) remained less than 1% of GDP, they are growing fast – from US \$7.5 in 2010 to US \$27m in 2011. [Previous EITI reports](#) had shown no increase in revenues between 2006 and 2010, so the increase in 2011 is significant with signature bonuses in the oil and gas sector being the major component. In 2011 oil and gas revenues outstripped mining revenues for the first time. Though still small, revenues from oil, gas and mining are forecast to grow to up to 17% of GDP by 2020.

The report discloses that the four oil and gas companies in the country - Talisman, Lukoil, Anadarko, and European Hydrocarbon – accounted for over US \$15m revenues, of which almost US \$14m was paid in signature bonuses. Talisman alone generated over a third of total government revenue from the extractive sector. In addition, the 21 mining companies – dealing in gold, diamonds, bauxite, iron ore and rutile - provided a further US \$12m.

The Government of Sierra Leone considers the EITI as central plank of its efforts to improve the prudent management of natural resources: the second pillar of the [National Agenda for Prosperity](#). The reforms include the development of a Core Minerals Policy, implementation of the [Natural Resource Charter](#), and the [Africa Mining Vision](#) of the African Union.

As HE President Ernest Bai Koroma said at the launch of the report in Freetown on 14 January: “My government is committed to avoiding the negative consequences by ensuring that the natural resource wealth of this country is harnessed responsibly and for the benefit of all Sierra Leoneans... becoming EITI compliant is one of the ways of ensuring improved governance of the sector”.

The [report](#) includes a brief description of the legal framework of the sector, and the types of licenses and taxation applicable to the oil, gas, and mining sectors. The report also includes the license register number of each company, information about the commodity explored/produced and details on equity ownership. Some companies have also reported on production.

The [validation report](#) for Sierra Leone was received on 9 December 2012. [The Board](#) on 26 February 2013 suspended Sierra Leone, concluding that Sierra Leone had made meaningful progress in implementing the EITI but that compliance had not been achieved. The Board asked Sierra Leone to complete four remedial actions. These corrective actions could be addressed by publishing a supplementary 2010 EITI Report, or through the 2011 EITI Report. Following a supplementary 2010 report, the SLEITI proceed with the 2011 Report. The MSG

then invited the International Secretariat to assess whether the remedial actions had been met.

The remedial actions agreed by the Board related to requirements 11, 13, 14, and 15:

1) In accordance with Requirement 11, the government is required to ensure that all relevant companies and government entities participate in the reporting process. The Board noted the efforts underway to clarify the significance of the payments from companies that did not participate in the 2010 report, and the local government entities that did not report revenues. The Board highlights the suggestion in Requirement 11(b) that where a number of small operators pay revenues which are individually not material, but collectively material, the government discloses the combined benefit streams from such small operators.

2) In accordance with Requirement 13, the government ensures that the disclosures from government entities are based on accounts audited to international standards. The Board recommends that the MSG agrees a strategy to address this issue, with particular emphasis on the sub-national entities.

3) In accordance with Requirement 14, the government ensures that all material companies comprehensively disclose all material payments in accordance with the agreed reporting templates. Where companies are no longer operating in the country, the government should unilaterally disclose all payments received.

4) In accordance with Requirement 15, the government ensures that all government agencies comprehensively disclose all material revenues in accordance with the agreed reporting templates.

The next EITI Report covering 2012 is expected to be published in the fourth quarter of 2013 under the EITI Standard.

2 Sierra Leone's response to the Board decision

SLEITI undertook a number of activities to address the four corrective measures agreed by the Board and comply with the unmet requirements (11, 13, 14, and 15).

SLEITI has submitted evidence that these corrective actions had been undertaken as part of the 2011 reporting process, including:

- The MSG conducted a scoping study to establish which revenue streams were material and consequently which companies and government entities should be covered in the EITI report. Based on the findings of the scoping study, the SLEITI agreed a definition of materiality and established a materiality threshold.
- The MSG ensured that all 21 mining and 4 oil and gas companies that made payments above the materiality threshold reported. Payments from these companies accounted for over 85% of total mining revenues and 100% of oil and gas. Payments from an additional 325 small companies listed in the cadastre were individually immaterial and collectively contributed US \$2.05m.
- The MSG ensured that all government entities that received material revenues reported.
- Most of the reporting entities were familiar with the templates from the previous two reports and had participated in training workshops. For the 2011 report, the national secretariat visited almost all of the entities prior to filling in the reporting templates. Written guidance for filling in the reporting templates was also provided.
- Members of the MSG were involved in all stages of the production of the 2011 EITI Report, and made all relevant decisions. The reconciler attended several meetings together with the MSG during the reconciliation work.

Based on the above, the EITI International Secretariat proceeded with a Secretariat Review. The Terms of reference for the review are presented in Annex G. The International Secretariat conducted a desk review in March 2013. During the review, stakeholders in Sierra Leone were consulted and given an opportunity to share their views.

3 Secretariat review of remedial actions and assessment of indicators

The EITI Board agreed four remedial actions and tasked the Secretariat with reassessing compliance with Requirements 11, 13, 14 and 15.

3.1 Remedial action 1

In accordance with Requirement 11, the government is required to ensure that all relevant companies and government entities participate in the reporting process. The Board noted the efforts underway to clarify the significance of the payments from companies that did not participate in the 2010 report, and the local government entities that did not report revenues. The Board highlighted the suggestion in requirement 11(b) that where a number of small operators pay revenues which are individually not material, but collectively material, the government discloses the combined benefit streams from such small operators.

Validator's findings

The validator concluded that "subject to the limitation regarding the comprehensiveness of the scope companies considered in requirement 9, we consider that this requirement is met" (Validation report, p. 58). With regards to requirement 9, the Validator expressed concerns that according to the Cadastre system 27 non-reporting small scale companies had made payments above the materiality threshold of US\$ 4,000, collectively contributing approximately US\$ 572,000. Seven of these companies were comparatively large. The Validator considered this total "omission" of US\$ 572,000 as material. Similarly, while discussing Requirement 15 the Validator established that 3 Districts councils and 6 Chiefdom administrations did not report. Thus, the EITI Board did not find enough evidence in the Validation report to substantiate that all material companies and government entities had participated in the EITI reporting process and disagreed with the Validator that requirement 11 had been met.

Progress since Validation

Identifying material revenue streams for the 2011 EITI Report

Based on the 2010 Report, the MSG established threshold scenarios, and decided to cover at least all payments above US \$74,689. Based on this, the MSG sent reporting templates to a total of 31 mining companies that met the materiality threshold from 2010, and to all four oil and gas companies.

At the same time, the MSG conducted a scoping study to establish which revenue streams were material. In determining which revenue streams were material, the MSG first excluded all existing indirect taxes (i.e. PAYE, withholding tax etc. – see page 13 of EITI report for full list of indirect payments that were excluded). Any revenue stream that amounted to less than US \$3,000 was also considered immaterial. Based on the findings of the scoping study, the MSG agreed a definition of materiality that covered 14 revenue streams, across oil, gas and mining. A list and description of the revenue streams agreed to be material is included on page 15-16 of the EITI Report.

The scoping report drew on the Online Repository. Because there was under-reporting and some errors in the Repository, it also drew on the 2011 data from the National Revenue Authority. The cleaning of the Repository is an ongoing process and errors are being corrected. Moreover, the National Minerals Agency is currently developing an Auditing and Maintenance Strategy to minimise the occurrence of such errors in the future.

Materiality threshold for mining companies

Following the scoping report, the MSG revisited the materiality threshold at its meeting on 14 November 2013 and agreed that it should be set at US \$99,360 for mining companies. From the scoping report, the MSG calculated that this threshold would capture almost 87% of total revenues to the government. The reason for establishing the threshold at this level was to ensure efficiency of the reporting process whilst at the same time ensuring comprehensive disclosure.

There were 366 mining companies listed in the Online Repository. Of those, 90 companies did not pay revenues against the revenue streams identified as material in 2011. Another 255 did make payments against the revenue streams identified as material, but the payments did not meet the materiality threshold. Although the EITI Report does not contain unilateral disclosure of all government revenue from these 345 immaterial mining companies, SLEITI has provided information indicating that the revenues from these companies amounted to US \$ 2,63 million, or 8.7% of total revenues from the extractive sector in 2011. That left the 21 mining companies that made material payments and were requested to report.

Materiality threshold for petroleum companies

For the petroleum sector, only four companies were operational in 2011. The MSG decided that all of these would be required to report on all payments within the scope of the agreed revenue streams, regardless of the size of their payments (i.e. a materiality threshold of zero).

Reporting entities in the 2011 EITI Report

Therefore, based on the definition of materiality and reporting threshold, a total of 25 companies were requested to report (see p.17 of the EITI Report for a list of all the reporting companies). The Secretariat went to great lengths to ensure that the companies completed the reporting templates. This involved many visits to the companies and lots of discussions with key officials to get them to comply fully.

Six companies did not report. The government disclosed the revenues (disaggregated) from these six companies. The companies collectively paid US \$1.15m to the government in 2011, representing 4.15% of total government revenues from the extractive sector reported in the 2011 EITI Report.

When visits were made to these six companies' registered addresses, the companies could not be located and therefore did not receive the instruction nor the reporting template. After checking the license status of these companies on the Online Repository, they were deemed to be no longer operating, as stated in the report. However, this was subsequently found not to be the case for two companies. Both Lion Stones (SL) Ltd and Danasha Gem (SL) Ltd were operating in 2013.

In the case of Danasha Gem, its licence had been suspended. The company subsequently attempted to make an export of diamonds, but was denied the right to do so due to this suspension.

In the case of Lion Stones, a subsequent investigation found that the company did indeed have an active license in 2013. However, due to it being signed during the transition of the Mining Cadastre Office (MCO) from the Ministry of Mines and Mineral Resources (MMMR) to the National Minerals Agency (NMA), this information was not inputted on the Mining Cadastre and Administration System (MCAS) and therefore was not displayed on the Online Repository.

When SLEITI learnt that Lion Stones Company was in existence and at the same address that SLEITI visited when informing companies of their involvement in the Reconciliation Report, the MSG attempted to get them to complete the reporting template but it was too late as the reconciler was no longer receiving new information in order to complete the report. Again the issue on the status of their licence that was issued during the transition and without the knowledge of NMA drew a lot of attention and concerns. This begged the question why people at the address during this visit denied knowledge of the company. The dispatcher that delivered the letter and template in the first instance said he observed apprehension on the part of the people found on the premise when he paid subsequent visits (to check on their availability) as they perceived that the

office was about to be investigated by State House.

Operating companies in Sierra Leone are now subject to mandatory EITI reporting requirements according to the Mines and Minerals Act 2009 and Section 105 of the Petroleum (Exploration & Production) Act 2011. In addition, work has begun on a SLEITI Act to reinforce these requirements. However, further reviews have revealed that both companies are actually not subject to Sections 159 & 160 of the Mines and Minerals Act of 2009. The six companies in question are exporters and therefore holders of trading license. The Act applies to mineral rights holders only. "Extractive Industry" as outlined in these sections includes the business of reconnaissance, exploration, mining, extracting, processing and distributing minerals and gas.

Considering the fact that Exporters Licences are only granted for a year, the National Minerals Agency has therefore withheld Lion Stone's application for renewal this year until a penalty of US \$1,000 is paid for failing to comply with official written instruction as outlined in the first schedule of the Mines and Minerals Regulation. The same procedure applies for Danasha Gem.

Letters sent to all companies including the above two are available on the internal site. There were lots of other efforts in the form of visitations, enquires on the whereabouts of these companies, phone conversations and discussions.

On the government side, seven agencies were required to report: the National Revenue Authority; the Ministry of Mines and Mineral Resources; the Petroleum directorate; District councils; Chiefdoms administrations; and local governments.

The report notes that surface rent paid by mining companies is shared between five parties in accordance with the following formula: District Council (15%), Chiefdom Administration (10%), Paramount Chief (15%), Constituency Development Fund (10%) and Land Owners (50%). The rent to be paid is negotiated on a case by case basis. While District Councils and Chiefdom administrations were included in the report (they only collect surface rent from mining, amounting to 2% of total revenue in 2011), the three other collectors of surface rent - Paramount Chief, Community Development Fund, and Land owners – were not asked to report on the receipts although they collectively receive 75% of surface rent. As these three groups are not government bodies and are numerous, the MSG agreed not to request them to report as it will be impossible to reconcile the monies received by hundreds of private actors with that from companies. Apart from landowners, these figures are below the materiality level.

Secretariat's Assessment

The Secretariat has reviewed the 2011 EITI Report and the supporting documentation provided by the MSG, especially the scoping study. It is satisfied that the MSG made agreed a level of materiality in an appropriate way and that sufficient actions were taken to ensure that all material payments by the companies and government entities were disclosed satisfactorily in the 2011 EITI Report. The Secretariat notes that the MSG undertook all reasonable efforts to receive templates from all companies, and unilaterally disclosed information from those it did not get the information.

The EITI International Secretariat is satisfied that the remedial action requested by the Board has been completed.

3.2 Remedial Action 2

In accordance with Requirement 13, the government ensures that the disclosures from government entities are based on accounts audited to international standards. The Board recommends that the MSG agrees a strategy to address this issue, with particular emphasis on the sub-national entities.

Validator's findings

The validator concluded that “the most important public offices such as the NRA, the MMR, the Petroleum Directorate and the GGDO have submitted reporting templates endorsed by the Auditor General for the SLEITI 2nd reconciliation report. For the supplementary report to SLEITI 2nd reconciliation report, the NRA has submitted new reporting templates, also endorsed by the Auditor General. Therefore, even though, the District councils and Chiefdom administration did not provide certified reporting templates, as most important public offices did so, we consider that this Requirement is met”. The EITI Board expressed concern about the lack of certified data from District councils and Chiefdom administrations and disagreed with the Validator that requirement 13 was met.

Progress since Validation

In order to ensure that the data submitted by government entities were reliable, the MSG decided that the Auditor General would certify all government reporting templates submitted by government entities. This included auditing all reporting templates submitted by Chiefdom Administrations and District Councils. All government entities therefore submitted certified reporting templates, including subnational government entities. The government data was audited by the Auditor General who also certified the reporting templates. The Auditor General only certifies government reporting templates if the accounts of these agencies had been previously audited by them.

The minutes of the MSG meeting of 13th June 2013 (Annex B) confirm that the MSG had requested the Auditor General to explain the method/standard used in certifying government reporting templates and a letter from the Auditor General dated 8th July 2013(annex C) provided an explanation on the audit standard used. The letter notes that ‘...our approach in certifying the reporting templates is in accordance with our Audit manual which is based on International Standards of Supreme Audit Institutions (ISSAI). These standards require us to carry out our work on a test basis, assessing evidences supporting the amounts disclosed in the templates. Key officers of the various entities are also interviewed to provide relevant explanation related to the collection of revenues’.

Secretariat's Assessment

The Secretariat has reviewed the 2011 EITI Report and the supporting documentation provided by the MSG and is satisfied that the disclosures from government entities are based on accounts audited to international standards.

The EITI International Secretariat is satisfied that the remedial action requested by the Board has been completed.

3.3 Remedial Action 3

In accordance with Requirement 14, the government ensures that all material companies comprehensively disclose all material payments in accordance with the agreed reporting templates. Where companies are no longer operating in the country, the government should unilaterally disclose all payments received.

Validator's findings

The validator concluded that “most of the 15 companies within the scope have provided reporting templates (the missing company is not significant), most of the 15 companies within the scope have provided self-assessment forms and confirmed having disclosed all significant payments to the reconciler, and the SLEITI 2nd reconciliation report does not express any material limitation to the comprehensiveness declaration of the 15 companies within the scope. Therefore, subject to the limitation regarding the comprehensiveness of the scope of companies considered in Requirement N°9, we consider that this Requirement is met.” The EITI Board

did not find enough evidence in the Validation report to substantiate that all material companies and government entities had participated in the EITI reporting process, and disagreed with the Validator that requirement 14 was met.

Progress since Validation

As noted under remedial action 1, six companies failed to report because they no longer have licenses or presence in Sierra Leone. The government disclosed the revenues (disaggregated) from these six companies, amounting to US\$ 1,146,579, or 4.15% of total revenues reported by the government in the 2011 EITI Report.

One company, 'Talisman Sierra Leone BV/Prontinal Ltd', failed to submit a certification by their external auditor. This company no longer operate in Sierra Leone, but was nevertheless the largest tax payer (33.43% of total revenue). The International Secretariat has been copied into extensive correspondence with Talisman, seeking their certified templates. Talisman's template was completed but not signed off by an auditor as this was not required of Talisman whilst they were still in operation. The reconciliation shows that the government reported to have received US\$ 109, 321 in Surface Rent for oil and gas, while Talisman did not confirm that this payment has been effectuated. The government also declared to have received US\$ 72, 905 more from Talisman in Training Fund for oil than what Talisman reported in its template. The total unresolved discrepancy related to Talisman amount to US\$ 182, 226. Talisman sought the advice of the International Secretariat on the matter and the International Secretariat advised the MSG that required international auditing sign-off in the case of Talisman may not be necessary for compliance, though they should consider other means of verification. According to the minutes of the MSG meeting of 17 December, "the MSG acknowledged that it is important for Talisman BV to report. On this note, members agreed that the reporting template which was submitted without certification by their external auditor should be accepted as the company is no longer in operation in Sierra Leone".

Secretariat's Assessment

The Secretariat has reviewed the 2011 EITI Report and the supporting documentation provided by the MSG. The Secretariat notes that while a certified template from Talisman could have shed light on the unresolved discrepancy of US \$182,226, the discrepancy is relatively small, amounting to 0,66 % of total revenues received from the government. The Secretariat is satisfied that the MSG undertook all reasonable efforts to receive templates from all companies, and unilaterally disclosed information from those it did not get the information.

The EITI International Secretariat is satisfied that the remedial action requested by the Board has been completed.

3.4 Remedial Action 4

In accordance with Requirement 15, the government ensures that all government agencies comprehensively disclose all material revenues in accordance with the agreed reporting templates.

Validator's findings

The validator concludes that "the scope of companies for the SLEITI 2nd reconciliation report do not present full guarantee of comprehensiveness. According to the lack of reporting templates from 3 District councils and 7 Chiefdom administrations and the significant remaining discrepancies, we understand that all material revenues were not disclosed to the reconciler. Therefore, we consider that this Requirement is unmet." The EITI Board agreed with the Validator's conclusion.

Progress since Validation

The report lists seven government agencies that were required to report:

- National Revenue Authority
- Ministry of Mines and Mineral Resources
- Petroleum directorate
- District councils (5)
- Chiefdoms administration (20)
- Local government and community development

All of these agencies completed their templates.

Secretariat's Assessment

The Secretariat's assessment is that all government agencies comprehensively disclosed all material revenues in accordance with the agreed reporting templates.

The EITI International Secretariat is satisfied that the remedial action requested by the Board has been completed.

4 Conclusion

The Board decision stipulated that four remedial actions should be completed in order for Sierra Leone to achieve Compliance. The International Secretariat is satisfied that the remedial actions have been satisfactorily completed and that the outstanding requirements are met.

Annex A - Board decision on Sierra Leone, 27 February 2013**Annex B – Minutes from the meeting of the MSG, 13 June 2013.**

Available from <http://eiti.org/internal>

Annex C - Letter from the Auditor General providing an explanation on the audit standard used, 8 July 2013

Available from <http://eiti.org/internal>

Annex D - Minutes from the meeting of the MSG, 14 November 2013.

Available from <http://eiti.org/internal>

Annex E – Scoping study for the 2011 EITI Report.

Available from <http://eiti.org/internal>

Annex F – 2011 EITI Report.

Available from <http://eiti.org/files/SLEITI%20Reconciliation%20Report%202011%20-%20Final.pdf>

Annex G– Sierra Leone’s Terms of Reference for the Secretariat Review.

Available from <http://eiti.org/internal>.