

Board decision on the Validation of Nigeria

Decision reference: 2017-2/BC-224

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

The Board agreed that Nigeria has made meaningful progress overall in implementing the 2016 EITI Standard. In taking this decision the EITI Board commended the efforts of the Nigerian National Stakeholders' Working Group (NSWG) to play a proactive role in the national natural resource governance debate and to follow up on recommendations from the EITI reporting process. The EITI Board also noted the NSWG's active engagement with stakeholders such as the Nigerian National Petroleum Corporation (NNPC) to increase the impact of implementation, as well as the efforts to go beyond the EITI's requirements on bringing transparency to in-kind revenues. The EITI Board highlighted that the EITI has provided a positive platform for discussion and debates about oil and gas sector management, involving stakeholders and the wider public. The EITI Board was encouraged by the government's efforts to make government systems more transparent and accountable and urged the NSWG to work towards further mainstreaming EITI disclosures.

The Board's determination of Nigeria's progress with the EITI's requirements is outlined in the assessment card, below. The EITI Board agreed that Nigeria had not made satisfactory progress on requirements 1.3, 1.4, 1.5, 2.2, 2.3, 2.4, 2.6, 3.2, 3.3, 4.1, 4.3, 4.4, 4.6, 4.8, 4.9, 5.2, 6.1, 6.2 and 6.3. The major areas of concern relate to civil society engagement (#1.3), MSG governance (#1.4), workplan (#1.5), license allocations (#2.2), license registers (#2.3), contract disclosure (#2.4), state participation (#2.6), including quasi-fiscal expenditures (#6.2), production data (#3.2), export data (#3.3), comprehensiveness (#4.1), barter and infrastructure agreements (#4.3), transport revenues (#4.4), direct subnational payments (#4.6), data timeliness (#4.8), data quality (#4.9), subnational transfers (#5.2), social expenditures (#6.1) and contribution to the economy (#6.3). The EITI Board disagreed with the validator on the following requirements: company engagement (#1.2), workplan (#1.5) and in-kind revenues (#4.2).

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








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

Assessment card

The EITI Board agreed the following assessment card:

EITI Requirements		Level of progress				
Nigeria 2017 Validation scorecard		No progress	Inadequate	Meaningful	Satisfactory	Beyond
Categories	Requirements					
MSG oversight	Government engagement (#1.1)					
	Industry engagement (#1.2)					
	Civil society engagement (#1.3)					
	MSG governance (#1.4)					
	Work plan (#1.5)					
Licenses and contracts	Legal framework (#2.1)					
	License allocations (#2.2)					
	License register (#2.3)					
	Policy on contract disclosure (#2.4)					
	Beneficial ownership (#2.5)					
	State participation (#2.6)					
Monitoring production	Exploration data (#3.1)					
	Production data (#3.2)					
	Export data (#3.3)					
Revenue collection	Comprehensiveness (#4.1)					
	In-kind revenues (#4.2)					
	Barter agreements (#4.3)					
	Transportation revenues (#4.4)					
	SOE transactions (#4.5)					
	Direct subnational payments (#4.6)					
	Disaggregation (#4.7)					
	Data timeliness (#4.8)					
	Data quality (#4.9)					
Revenue allocation	Distribution of revenues (#5.1)					
	Subnational transfers (#5.2)					
	Revenue management and expenditures (#5.3)					
Socio-economic contribution	Mandatory social expenditures (#6.1.a)					
	Discretionary social expenditures (#6.1.b)					
	SOE quasi-fiscal expenditures (#6.2)					
	Economic contribution (#6.3)					
Outcomes and impact	Public debate (#7.1)					
	Data accessibility (#7.2)					
	Follow up on recommendations (#7.3)					
	Outcomes and impact of implementation (#7.4)					
Overall assessment	Meaningful progress					

Legend to the assessment card

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

Corrective Actions

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

1. In accordance with requirement 1.3a, the NSWG should ensure that civil society is fully, actively and effectively engaged in the EITI process. In accordance with requirement 1.3eii, civil society should ensure that civil society organisations outside the multi-stakeholder group are substantially engaged in the design, implementation, monitoring and evaluation of the EITI process.

In accordance with requirement 8.3.c.i, the civil society constituency is requested to develop and disclose an action plan for addressing the deficiencies in civil society engagement documented in the initial assessment and validator's report within three months of the Board's decision, i.e. by 11 April 2017.

2. In accordance with requirement 1.4.a.ii, the NSWG should ensure that its procedures for nominating and changing multi-stakeholder group representatives are public and confirm the right of each stakeholder group to appoint its own representatives. In accordance with requirement 1.4.b.ii and 1.4.b.iii, the NSWG 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. Members of the NSWG should liaise with their constituency groups. In accordance with requirement 1.4.b.vi, the NSWG should ensure an inclusive decision-making process throughout implementation, particularly as concerns industry.

3. In accordance with requirement 2.2.a, the government should ensure annual disclosure of which mining, oil, and gas licenses were awarded and transferred during the year, including in the Nigeria- São Tomé and Príncipe Joint Development Zone, highlighting the technical and financial requirements and any non-trivial deviations from the applicable legal and regulatory framework governing license awards and transfers. In accordance with requirement 2.3, the government should also ensure that the dates of application and coordinates for all oil, gas and mining licenses are publicly available.
4. In accordance with requirement 2.4, the NSWG should document the government's policy on disclosure of contracts and licenses that govern the exploration and exploitation of oil, gas and minerals. This should include relevant legal provisions, actual disclosure practices and any reforms that are planned or underway. The next EITI Reports should provide an overview of the contracts and licenses that are publicly available, and include a reference or link to the location where these are published.
5. In accordance with requirement 2.6, the NSWG should provide an explanation of the prevailing rules and practices related to SOEs' retained earnings and reinvestment. The government should also ensure annual disclosure of any changes in government ownership in SOEs or their subsidiaries, and provide a comprehensive account of any loans or loan guarantees extended by the state or SOEs to mining, oil, and gas companies. In accordance with requirement 6.2, the NSWG should consider the existence and materiality of any quasi-fiscal expenditures undertaken by SOEs and subsidiaries in the extractive industries and ensure that all material quasi-fiscal expenditures are disclosed.
6. In accordance with requirements 3.2 and 3.3, the NSWG should ensure future EITI Reports provide disaggregated production values as well as export volumes and values for all key minerals produced including crude oil and natural gas.
7. In accordance with requirement 4.1.b, the NSWG should ensure that future EITI Reports clearly include all revenue streams listed under requirement 4.1.b in the scope of reconciliation. In accordance with requirement 4.1.c, the NSWG should also ensure that the Independent Administrator assesses the materiality of non-reporting companies and government entities as well as provide its opinion on the comprehensiveness and reliability of the EITI Report.
8. In accordance with requirement 4.3, the NSWG should assess the existence of infrastructure provisions in oil and gas contracts during the scoping phase to ensure that companies' disclosures are categorised according to strict definitions.
9. In accordance with requirement 4.4, the NSWG should assess the materiality of any transportation revenues and disclose such revenues should they be assessed as material.
10. In accordance with requirement 4.6, the NSWG should assess the materiality of direct subnational payments and ensure that any material direct subnational payments are reconciled.
11. In accordance with requirement 4.8.b, the NSWG should ensure that data in EITI Reports be no

older than the second to last complete accounting period, e.g. an EITI Report published in calendar/financial year 2016 must be based on data no later than calendar/financial year 2014.

12. In accordance with requirement 4.9.b.iii and the standard Terms of Reference for the Independent Administrator agreed by the EITI Board, the NSWG and Independent Administrator should:
 - a) examine the audit and assurance procedures in companies and government entities participating in the EITI reporting process, and based on this examination, agree what information participating companies and government entities are required to provide to the Independent Administrator in order to assure the credibility of the data in accordance with Requirement 4.9. The Independent Administrator should exercise judgement and apply appropriate international professional standards¹ in developing a procedure that provide a sufficient basis for a comprehensive and reliable EITI Report. The Independent Administrator should employ his/her professional judgement to determine the extent to which reliance can be placed on the existing controls and audit frameworks of the companies and governments. The Independent Administrator's inception report should document the options considered and the rationale for the assurances to be provided.
 - b) ensure that the Independent Administrator provides an assessment of comprehensiveness and reliability of the (financial) data presented, including an informative summary of the work performed by the Independent Administrator and the limitations of the assessment provided.
 - c) ensure that the Independent Administrator provides an assessment of whether all companies and government entities within the agreed scope of the EITI reporting process provided the requested information. Any gaps or weaknesses in reporting to the Independent Administrator must be disclosed in the EITI Report, including naming any entities that failed to comply with the agreed procedures, and an assessment of whether this is likely to have had material impact on the comprehensiveness and reliability of the report.
13. In accordance with requirement 5.2.a, the NSWG should assess the materiality of subnational transfers prior to data collection and ensure that the specific formula for calculating transfers to individual states and Local Government Areas be disclosed, to support an assessment of discrepancies between budgeted and executed subnational transfers.
14. In accordance with requirement 6.1.a, the NSWG should agree a clear distinction between mandatory and voluntary social expenditures prior to data collection. Where beneficiaries of mandatory social expenditures are a third party, i.e. not a government agency, the NSWG should

¹ For example, ISA 505 relative to external confirmations; ISA 530 relative to audit sampling; ISA 500 relative to audit evidence; ISRS 4400 relative to the engagement to perform agreed-upon procedures regarding financial information and ISRS 4410 relative to compilation engagements.

ensure that the name and function of the beneficiary be disclosed.

15. In accordance with requirement 6.2, the NSWG should agree on a reporting process on quasi-fiscal expenditures from state owned enterprises with a view to achieving a level of transparency commensurate with other payments and revenue streams, including subsidiaries of state-owned enterprises and joint ventures.
16. In accordance with requirements 6.3, the NSWG should ensure that the size of the oil and gas sector in absolute terms, the solid mineral sector's share of government revenues in relative terms, the value of oil and gas exports in absolute and relative terms and the size of solid minerals employment in absolute terms for the year(s) under review.

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

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

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