

For decision

For discussion

For information

Liberia Validation

Summary

The Validation Committee recommends that the EITI Board agree that Liberia has made meaningful progress in implementing the 2016 EITI Standard. In accordance with requirement 8.3c, Liberia will be considered an EITI candidate and requested to undertake corrective actions until the second Validation on *<date of Board decision + 18 months>*.

LIBERIA VALIDATION

Table of Contents

Recommendation	2
Background	3
Assessment card	5
Corrective Actions	6

Supporting documentation

[Validation Report](#)

[Comments on the Validation Report by the MSG](#)

[Initial assessment by the International Secretariat](#)

[Comments on the Initial Assessment by the MSG](#)

Has the EITI competence for any proposed actions been considered?

The Articles of Association mandate the Board to classify implementing countries as candidate countries or compliant countries (Article 5(2)(i)(a)). The EITI Standard ([Requirement 8.3](#)) addresses [EITI Validation deadlines and the consequences](#) following Validation.

Financial implications of any actions

The recommendation implies a second Validation commencing in mid-2018. The cost of second Validations varies depending on the size of the country and the extractive industries and the scope of the corrective actions. In this case, a second Validation is expected to cost circa 25 000 USD, including staff time, travel and the cost of engaging the Independent Validator.

Document history

Comparison table and supporting documentation with comments from MSG reviewed by the Validation Committee	20 April 2017
Validation Committee agreement on a Board paper	28 April 2017
Submitted to the Board	9 May 2017

Recommendation

Subject to reviewing any comments from the MSG, the Validation Committee will recommend the following recommendation to the EITI Board:

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 <date of Board decision + 18 months>. 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.

Assessment card

The Validation Committee recommends the following assessment:

EITI Requirements		LEVEL OF PROGRESS				
		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 to be undertaken by Liberia. Progress in addressing these corrective actions will be assessed in a second Validation commencing on <date of Board decision + 18 months>:

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 publically 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. 1. 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 < from Board decision date + 3 months >.
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.