

Extractive Industries Transparency Initiative (EITI)

Validation of Liberia

Report on initial data collection and stakeholder consultation by the EITI International Secretariat

15 December 2016

Abbreviations

AfDB	African Development Bank
AFROSAI-E	African Organisation of English-speaking Supreme Audit Institutions
BO	Beneficial Ownership
CBL	Central Bank of Liberia
CIT	Corporate Income Tax
DEL	Development Exploration License
DFID	Department for International Development
ECOWAS	Economic Community of West African States
EITI	Extractive Industries Transparency Initiative
EPA	Environmental Protection Agency
EU	European Union
EVD	Ebola Virus Disease
FDA	Forest Development Authority
FOB	Free on Board
GAC	General Auditing Commission
GDP	Gross Domestic Product
GFS	Government Finance Statistics
GIZ	Gesellschaft für Internationale Zusammenarbeit
GoL	Government of Liberia
IA	Independent Administrator
IMF	International Monetary Fund
INTOSAI	International Organisation of Supreme Audit Institutions
IOC	International Oil Company
LACC	Liberia Anti-Corruption Commission
LEITI	Liberian Extractive Industries Transparency Initiative
LRA	Liberian Revenue Authority
MDAs	Mineral Development Agreements
MFDP	Ministry of Finance and Development Planning
MIA	Ministry of Internal Affairs
MLME	Ministry of Lands Mines and Energy
MOU	Memorandum of Understanding
MSG	Multi-Stakeholder Group
MT	Metric Ton
NBC	National Bureau of Concessions
NIC	National Investment Commission
NOCAL	National Oil Company of Liberia
PEP	Politically Exposed Person
PFM	Public Financial Management
PPCC	Public Procurement and Concession Commission
PSC	Production sharing contract
PWYP	Publish What You Pay
ToR	Terms of Reference
USD	United States Dollar
UNDP	United Nations Development Programme
UNMIL	United Nations Mission in Liberia
USAID	United States Agency for International Development
VAT	Value Added Tax
WHT	Withholding Tax
WONGOSOL	Women NGO Secretariat of Liberia

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Executive Summary

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. The findings of this exercise also show a commendable ambition to overcome the interruption as quickly as possible following the Ebola outbreak that so completely paralysed activity in the country in 2014. A full transition to the EITI Standard should help Liberia translate this potential and ambition into further improvements in the governance of the extractive industries. The recommendations and suggested corrective actions listed below should support this work.

The Government of Liberia committed to implement the EITI in July 2007, when it held an inaugural launch conference. A Multi-Stakeholder Steering Group (MSSG) was formed in April 2007, and the country was accepted as an EITI Candidate in September 2007. Following their first Validation the EITI Board designated Liberia EITI Compliant in October 2009, making it the second country to become compliant with the EITI Rules.

On 2 June 2016, the Board agreed that Liberia's Validation under the 2016 EITI Standard would commence on 1 July 2016. This report presents the findings and initial assessment of the International Secretariat's data gathering and stakeholder consultations. The International Secretariat has followed the Validation Procedures¹ and applied the Validation Guide² in assessing Liberia's progress with the EITI Standard. While the assessment has not yet been reviewed by the MSG or been quality assured, the Secretariat's initial assessment is that requirements 1.4, 1.5, 2.2, 2.3, 2.6, 3.2, 3.3, 4.1, 4.3, 4.7, 4.9, 5.1, 6.1, 6.2, 6.3 and 7.4 are unmet. In most cases, there has been "meaningful progress" toward meeting the EITI requirements. In four instances, the Secretariat finds there has been "limited progress" and in one instance it finds "no progress".

Overall conclusions

From the outset, Liberia extended the scope of EITI implementation in order to address national priorities and build trust in a post-conflict society. Even before the introduction of the EITI Standard, 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. More importantly perhaps, national stakeholders consistently point to LEITI's role in building trust at the local level as one of its greatest achievements. This initial assessment has found that LEITI has made significant efforts towards bringing the EITI closer to the people of Liberia, whether through local representatives in each of Liberia's 15 counties or through the innovative "Extractives learning club" that reaches high school students directly.

At the same time, Liberia presents a challenging case for the EITI, given the country's recent history of extractives-fuelled armed conflict, limited development of the sector, its low per-capita income, considerable capacity constraints in government agencies and pioneering work on EITI Reporting. Liberia was hit by the Ebola Virus Disease (EVD) crisis that disrupted government operations, including EITI activities, from June to November 2014. Returning to normal operations in October 2014, the MSG has

¹ <https://beta.eiti.org/document/validation-procedures>

² <https://beta.eiti.org/document/validation-guide>

sought to make up for lost time by publishing three EITI Reports (covering the period July 2012 – June 2015), a beneficial ownership study and a quarrying scoping study in the September 2015-August 2016 period.

An important constant throughout the last decade has been the strong support for the EITI expressed by President Ellen Johnson Sirleaf. Starting before the country became an EITI candidate in 2007, the government has supported the EITI through public statements, enabling legislation and, since 2009, funding for EITI reporting. Representatives from agencies such as the Ministry of Lands, Mines and Energy (MLME), the Liberian Revenue Authority (LRA), the Ministry of Internal Affairs (MIA) and the National Oil Company of Liberia (NOCAL) have actively contributed to drive the work of the LEITI MSG, provided data for EITI Reports and disseminating information.

Strong political backing has translated into a solid legal mandate for implementation. Liberia's EITI process is governed by the LEITI Act of 2009, which empowers LEITI to do "whatever is necessary or expedient" for the achievement of its objectives. It also requires broader reporting than the EITI Standard, given that all payments from all extractives companies are expected to be disclosed. As a result, the number of reporting companies in LEITI Reports rose from 30 in the 2007-8 EITI Report to 85 in the 2012-13 EITI Report. The MSG has recently reviewed its scoping decisions to reduce reporting to only the largest companies in the four sectors from the 2013-14 EITI Report onwards, even if they are still required by law to report all payments. The number of reporting companies fell to 42 in the 2013-14 EITI Report, covering over 98% of mining, oil and gas revenues.³ Reported government revenues rose fivefold from USD 30 million to USD 149 million between 2007-8 and 2013-14.

The MSG has gradually built trust amongst the three stakeholder groups, but it appears to have increasingly provided more of an oversight function than a driver of implementation in recent years. There are signs that the LEITI Secretariat has had to expand beyond coordinating the work of the MSG, operating as a fledgling government agency.

Looking ahead, there is significant scope for entrenching EITI reporting in government and company systems. The MSG and stakeholders, especially from government, should focus on opportunities to ensure robust quality assurance procedures. There is also scope for industry to consider opportunities to integrate assurance of EITI disclosures in the routine audit and public financial reporting.

Recommendations

While this report includes recommendations for specific reforms the MSG may wish to consider implementing, the following is a list of strategic recommendations that would help Liberia make greater use of the EITI.

- As a matter of priority, industry and civil society should agree constituency guidelines establishing robust mechanisms for consultations of their broader stakeholder groups. Representatives from both constituencies should build on existing structures to ensure a two-way communication with their broader constituencies. The MSG should also review its governance documents in light of current practices to ensure that the statutory rules are followed in practice, particularly in relation to the number of representatives that each constituency should have. To secure real high-level government participation, LEITI may wish to consider lowering the frequency of meetings – for example holding quarterly meetings – and/or lowering the level of government representation on

³ Despite the reduction in number of reporting companies over the 2012-13 EITI Report, the 2013-14 EITI Report provided reconciliation coverage of 98.4% of mining revenues and 99.6% of oil and gas revenues.

the MSG except for the Chair.

- The MSG is strongly encouraged to review its annual workplan and ensure that appropriate consultations are held with all three broader constituencies as a means of ensuring that the workplan objectives are aligned with national priorities. The MSG should also include more specific activities linked to following up on EITI recommendations.
- In light of the significance of off-budget revenues, the MSG should ensure that future EITI Reports clearly identify revenue streams that are not recorded in the national budget and explain the allocation of such off-budget revenues. It is also encouraged to consider using future EITI Reports as a means of tracking implementation of the International Monetary Fund's Government Finance Statistics (GFS) classifications for extractives revenues.
- In preparing its next EITI Report the MSG should base its materiality discussion on the government's full disclosure of all extractives revenues collected, including those off-budget, and specify a clear materiality threshold for selecting revenue streams for reconciliation. The MSG should adhere to clear agreed definitions of payment types. The MSG should also ensure that government's full unilateral disclosure is presented disaggregated by revenue streams and that the assessment of the overall comprehensiveness of the EITI Report by the Independent Administrator (IA) be included.
- The MSG should ensure any deviations from the standard Terms of Reference (ToR) for the IA in future EITI Reports are non-material and should base its discussion of assurance procedures on an assessment of actual practice. The MSG may also wish to use recommendations of the EITI Report as a monitoring and evaluation platform for assessing progress in public and private-sector auditing practices, potentially liaising with INTOSAI and AFROSAI-E on extractives revenue auditing standards.
- The MSG is urged to ensure that future EITI Reports describe the actual practice of license awards and transfers in the period under review. Alternatively, the MSG should ensure that post-award process audit reports are published in a timelier manner. The MSG should ensure that future EITI Reports disclose the technical and financial criteria as well as the overall process for awarding and transferring licenses for any license, lease, title, permit, contract or concession by which the government confers on a company or individual rights to explore or exploit oil, gas and mineral resources. The MSG should also ensure that future EITI Reports disclose any deviations for licenses awarded or transferred in the year under review.
- The MSG should work with the Ministry of Lands Mines and Energy (MLME) and the national oil company, NOCAL, to ensure that future EITI Reports provide information on commodities covered by mining licenses as well as disclose dates of application of oil and gas Production Sharing Contracts (PSCs) held by material companies. Alternatively, the MSG should ensure that future EITI Reports include references to where this information is publicly-available. The MSG could also consider opportunities to harmonise the databases of extractive industry companies across different government entities (MLME, the National Bureau of Concessions (NBC) and NOCAL) to ensure consistent license-holder information.
- In preparing its next EITI Report, the MSG should undertake a more complete scoping of state participation in the mining and oil and gas sectors and describe NOCAL's relations with the state as well as the practice of off-budget expenditures. The MSG should assess the existence and

materiality of quasi-fiscal expenditures and ensure that future EITI Reports comprehensively disclose any material quasi-fiscal expenditures undertaken by NOCAL or in relation to state participation in the mining sector. The MSG may also wish to identify all types of payments made by NOCAL to different government entities to ensure that future EITI Reports disclose any ad hoc transfers by state owned enterprises (SOEs).







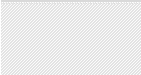
- The MSG should ensure that future EITI Reports disclose the value of production for all commodities produced and the export volumes for all commodities exported.
- The MSG should ensure that future EITI Reports clarify the full scope of mandatory social expenditures in Liberia's mining, oil and gas sectors. Reporting of mandatory social expenditures should be disaggregated by type of payment and beneficiary, clarifying the name and function of any non-government (third-party) beneficiaries of mandatory social expenditures. The MSG may also wish to consider the feasibility of reconciling mandatory social expenditure disclosures and, subject to the three stakeholder groups' agreement, consider establishing a robust framework for reporting voluntary social expenditures.
- In preparing its next EITI Report, the MSG should assess the existence of infrastructure provisions during the scoping phase to ensure that companies' disclosures are categorised according to strict definitions.
- Liaising with relevant government entities, the MSG should ensure that future EITI Reports provide the extractive industries' share of total government revenues and employment data in the oil and gas sector for the period under review. The MSG may also wish to agree a definition of extractive industry employment, considering whether to include non-permanent staff for instance, and consider ways of publishing this information in a timelier manner online.
- The MSG should consider expanding its review of the legal and fiscal environment to include more informative updates on ongoing or planned reforms. It should also expand future EITI Reports' description of informal extractive industry activities.
- The MSG should ensure that reconciled data is presented disaggregated by individual company, revenue stream and receiving government entity either in future EITI Reports or on the LEITI website.
- In preparation for implementation of Requirement 2.5 of the 2016 EITI Standard, the MSG should clarify government policy on beneficial ownership (BO) disclosure, actual disclosure practices and any planned or ongoing reforms. The MSG will also need to agree Liberia's three-year BO roadmap by 1 January 2017.
- To continue improving, LEITI should consider ways to ensure that other stakeholders are encouraged to participate more actively in the development of communications strategies instead of only dissemination activities. Government, parliamentary and industry stakeholders should participate more actively alongside civil society and the secretariat in developing communications strategies that look beyond dissemination and outreach. The MSG may wish to consider establishing more formal mechanisms for subnational consultations to provide input to national EITI discussions in order to ensure discussions at the local level are reflected in MSG discussions.
- The MSG is encouraged to further entrench extractive sector transparency in government systems and take steps towards more frequent publication of EITI information. The MSG could consider undertaking a study to identify what information required to be disclosed under the EITI Standard

is already publicly available and what information is not yet routinely disclosed. Opportunities for providing more EITI data in open data formats should also be explored.

Figure 1 – initial assessment card

EITI Requirements		LEVEL OF PROGRESS				
		No	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)					
	Workplan (#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	Revenue management and expenditures (#5.1)					
	Subnational transfers (#5.2)					
	Distribution of revenues (#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)					

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.

Introduction

Brief recap of the sign-up phase

The Republic of Liberia announced its first commitment to the Extractive Industries Transparency Initiative (EITI) in May 2007.⁴ Following the end of Liberia's civil war in 2003 and democratic elections in 2005, the government pledged to ensure national growth and development through better revenue management. Implementing the EITI and joining the Kimberley Certification Scheme were key to fulfilling aspects of the 2003-2006 transitional government's Governance and Economic Management Assistance Program (GEMAP) aimed at improving the transparency of revenues and expenditures. Liberia was accepted as an EITI Candidate in September 2007.⁵ A Multi-Stakeholder Steering Group (MSSG), chaired by the Minister of Finance, and comprising representatives of government, civil society, multilateral agencies, and companies operating in the oil, mining and forestry sectors was established with the signing of an MoU on 4 April 2008.⁶ President Ellen Johnson Sirleaf issued a proclamation making LEITI official government policy on 10 September 2008.⁷ The LEITI Act⁸ was introduced to parliament in January 2009 and signed into law on 10 July 2009.

Objectives for implementation and overall progress in implementing the workplan

The objectives of EITI implementation are set by the LEITI Act, which sets the general objective of LEITI as ensuring that benefits from the extractive industries are duly and verifiably paid and used for the benefit of all Liberians on the basis of equity and sustainability. The Act also lists nine specific objectives related to EITI reporting, including promoting better public understanding of the extractive industries and contract disclosure. The MSG approved a five-year strategic plan covering 2015-16 to 2019-20 in June 2015⁹, which set five strategic work areas for EITI implementation: reporting, communications, innovation, sustainability and LEITI governance. This new plan replaced the previous two-year strategic plan (from July 2012 to June 2014) and aimed to align the objectives of EITI implementation with the government's Agenda for Transformation and the strategic objectives set out in the LEITI Act.

The MSG had yet to approve a 2016-17 EITI workplan at the start of Validation on 1 July 2016. The 2015-16 workplan¹⁰ set 17 objectives, which were linked to EITI reporting rather than more strategic objectives linked to national priorities. These included production and dissemination of the 6th EITI Report, summary reports, annual activity reports and quarterly newsletters; recruitment of the IA for the 7th and 8th EITI Reports and production of mining scoping study and second post-award process audit; workshops with the Liberian Anti-Corruption Commission (LACC) and the legislature on use of EITI data; initial set up of an EITI Centre of Excellence; production audit; stakeholder feedback; LEITI staff development; capacity building for CSOs and traditional elders; implement MSG's operations manual; expansion of school Extractives Clubs; nomination of subnational focal persons; beneficial ownership disclosure; resolution of discrepancies from 5th and 6th EITI Reports and preparations for EITI Validation.

⁴ See

http://emansion.gov.lr/2photo_details.php?pageNum_rs_pic=8&totalRows_rs_pic=144&pic_detail_id=49&related=7&paddy=llos&pg=sp.

⁵ See https://eiti.org/implementing_country/25#implementation-

⁶ See http://www.resourcegovernance.org/sites/default/files/Liberia_MSG%20TOR.pdf.

⁷ See <http://www.emansion.gov.lr/doc/A%20PROCLAMATION%20-%20EITI.pdf>.

⁸ See <http://www.leiti.org.lr/uploads/2/1/5/6/21569928/act.pdf>.

⁹ LEITI (June 2015), Liberia Extractive Industries Transparency Initiative: Strategic Plan FY2015/16-FY2019/20, http://www.leiti.org.lr/uploads/2/1/5/6/21569928/approved_strategic_plan.pdf

¹⁰ LEITI (2015), LEITI Approved workplan, July 1, 2015 to June 30, 2016,

http://www.leiti.org.lr/uploads/2/1/5/6/21569928/approved_leiti_2015_2016_workplan.pdf

The MSG normally updates its workplan every fall. Due to delays in legislative approval for the national budget during the summer of 2016, the MSG had not formally approved the 2016-17 workplan at the time of this report's writing. The MSG has been operating on an emergency budget since July 2016, with only one-twelfth of the normal annual budget disbursed pending approval of the national budget.

Implementation of the 2014-15 workplan was also severely delayed by the Ebola virus outbreak, which led to the cancellation of all MSG meetings from June to November 2014. Despite these delays, the MSG appeared to have started all activities in the 2015-16 workplan, which included activities from the 2014-15 workplan that had been carried over due to the exceptional circumstances in 2014.

History of EITI Reporting

Liberia was an early adopter of the EITI. The Multi-Stakeholder Steering Group (MSSG) was first convened in April 2007. The LEITI Secretariat undertook a legal review to assess any barriers to EITI implementation in March 2008. The LEITI Act was first submitted to parliament in January 2009 and enacted into law on 10 July 2009, requiring all companies and government entities to participate in EITI reporting. The LEITI produced a scoping study on the forestry sector in June 2008, which led to the extension of EITI reporting to the forestry and agriculture sectors. Liberia's first EITI Report, covering 2007-8, was published on 9 February 2009¹¹ and Liberia received the EITI Chair's award at the 4th EITI Global Conference in Doha on 15 February 2009.¹² The MSSG established a technical sub-committee in March 2009 to address findings of the first EITI Report and produced a report following up on the discrepancies of the first EITI Report in May 2009. Liberia's first Validation started in February 2009 and Liberia became the second EITI Compliant country globally (and first in Africa) on 15 October 2009 at the EITI Board's 10th meeting in Baku.¹³ Following a six-month extension, Liberia published a scoping study on incorporating quarrying into the EITI Report in September 2015, as well as its 2012-13 EITI Report, a pilot beneficial ownership report and a simplified contracts matrix in December 2015. The MSG subsequently published its 2013-14 EITI Report in June 2016, which formed the basis for this Validation. By 1 July 2016 LEITI had published EITI Reports covering seven fiscal years, a post-award process audit covering two fiscal years and a beneficial ownership report. While the LEITI Act requires the MSG to undertake a "what should have been paid" assessment of companies' tax liabilities, funding constraints have meant that the MSG has not yet been able to undertake this additional work, even if it goes beyond requirements of the EITI Standard.

Summary of engagement by government, civil society and industry

The current MSG operates under Terms of Reference (ToR) defined both by the LEITI Act¹⁴, passed on 10 July 2009, and by the MSG's Policy Manual, published in January 2015.¹⁵ While the LEITI Act effectively defines the MSG's general ToR, the MSG's Policy Manual was agreed to clarify the policy framework for EITI implementation and set clear rules, procedures and regulations for the MSG, roles and responsibilities for MSG members, and an extensive code of conduct. The MSG is required to meet once a month, or at a frequency defined by the MSG, in Monrovia. Meeting minutes are regularly published on the LEITI website.¹⁶ A list of current MSG members, last renewed in October 2014, is included in Annex A.

As in every other EITI process, stakeholder relations have at times been difficult and marked by lack of trust

¹¹ See <http://www.leiti.org.lr/news-and-press-releases/archives/02-2009>.

¹² See <https://eiti.org/conference/2009-doha>.

¹³ <https://eiti.org/node/4041>

¹⁴ See <http://www.leiti.org.lr/uploads/2/1/5/6/21569928/act.pdf>.

¹⁵ LEITI (2015), Liberia Extractive Industries Transparency Initiative (LEITI) MSG POLICY MANUAL,

http://www.leiti.org.lr/uploads/2/1/5/6/21569928/final_msg_policy_manual.pdf

¹⁶ <http://www.leiti.org.lr/multi-stakeholder-steering-group-msg.html>

and lack of commitment. While engagement in EITI implementation has been uneven across government line ministries and agencies, high-level political support has been consistent from President Ellen Johnson Sirleaf. Civil society engagement in the EITI has been consistent, particularly in dissemination and outreach, and is particularly evident in the MSG's work on license allocations and beneficial ownership. However, there is little evidence of either civil society or industry consulting with their broader constituencies outside of formal EITI Report dissemination efforts.

Key features of the extractive industry

Liberia is endowed with natural resources including iron ore, diamonds, gold and timber. Early gold mining activities started in the early 19th century, although the first artisanal gold rush only occurred in 1943 in Grand Cape Mount County. While these resources played a central role in Liberia's 1989-2003 civil war, the sectors also contracted sharply during the fighting. Large-scale mining of iron had contributed roughly 60% of exports and around 25% of GDP before slumping to below 1% of GDP by the end of the war.¹⁷ Iron ore production eventually stopped completely, and the United Nations banned timber and diamond exports from Liberia because of their role in fueling the war. As a result of the civil war, and as a result of corruption and mismanagement of the country's natural resources, Liberia stood near the bottom of the UN's Human Development Index with an annual per-capita GDP of USD 135 in 2004, unemployment estimated at 86% and two-thirds of its people below the poverty line.¹⁸ Good governance and transparency were recognised as priorities following the end of the civil war, despite a short-lived transitional government in which parties to the conflict split control of resources.¹⁹ Liberia received a score of 62, ranking 16th of 58 countries in NRGI's 2013 Resource Governance Index, with a high score for institutional and legal setting but much lower on enabling environment.²⁰

Following elections in 2005 and subsequent governance reforms, UN timber sanctions were removed in 2006 and large-scale logging in the timber sector resumed in 2009. The UN's diamond sanctions were lifted in 2007 and diamond exports resumed through the Kimberley Certification Scheme. The resumption of iron ore production at the Nimba hills project by AccelorMittal in 2011 was a watershed for Liberia's mining sector²¹, followed by the start of Aureus Mining's New Liberty goldmine in 2015.²² This drove a tripling of the mining sector's contribution to economic growth from 3.7% in 2011 to 10.4% in 2012 according to the

¹⁷ World Wildlife Fund (June 2012), 'Artisanal and small-scale mining in and around protected areas and critical ecosystems project (ASM-PACE): Liberia case study report', <http://www.estellelevin.com/wp-content/uploads/2013/12/ASM-Liberia-Final.pdf>

¹⁸ World Bank (March 2015), 'A National Biodiversity Offset Scheme: A Road Map for Liberia's Mining Sector', <http://documents.worldbank.org/curated/en/183611467991015452/pdf/95959-WP-PUBLIC-Box391432B-Liberia-1512662-FinalWeb-PUBLIC.pdf>

¹⁹ Alexandra Gillies and Page Dykstra (2011), 'International campaigns for extractive industry transparency in post-conflict settings', <https://books.google.co.th/books?id=L8GoAgAAQBAJ&pg=PA250&lpg=PA250&dq=Liberia+EITI+impact&source=bl&ots=JUKDB87T9g&sig=53sW0qHbYXwjim6xa7mlEuN40fw&hl=en&sa=X&ved=0ahUKEwjAuvz-zr7PAhVft48KHeVdB2gQ6AEIUTAJ#v=onepage&q=Liberia%20EITI%20impact&f=false>

²⁰ NRGI, Liberia country page, <http://www.resourcegovernance.org/our-work/country/liberia>

²¹ World Wildlife Fund (June 2012), 'Artisanal and small-scale mining in and around protected areas and critical ecosystems project (ASM-PACE): Liberia case study report', <http://www.estellelevin.com/wp-content/uploads/2013/12/ASM-Liberia-Final.pdf>

²² Mining Technology, New Liberty Gold Mine Liberia, <http://www.mining-technology.com/projects/new-liberty-gold-mine/>

World Bank.²³ In November 2015, the US lifted remaining economic sanctions against Liberia.²⁴ The post-war resumption in gold mining was equally sharp, albeit driven by artisanal production, with officially-reported gold production increasing dramatically from 27kg in 2005 to 624 in 2008 (including both large and small-scale mining).²⁵

There has also been an increasing interest in commercially exploitable offshore crude oil deposits along Liberia's Atlantic Coast. Liberia has yet to produce any oil or gas but has drawn up 30 oil concessions, including 17 deep-water blocks and 13 "ultra-deep-water" blocks, of which it has allocated six.²⁶ The third block bidding round was held in December 2014, although only one block was awarded in a process over which Global Witness²⁷ and NRG²⁸ among others raised concerns. While the sector initially attracted significant interest from international investors²⁹ following initial offshore oil discoveries in early 2012, Ebola and the impact of lower oil prices on exploration budgets reduced the number of active operators to three by 2016. The largest remaining investor is ExxonMobil, which expects to start drilling on its Block 13 by 2017.³⁰

The extractive industries, including mining and agriculture, remain the main drivers of growth, with rubber surpassing iron ore as the top export earner in 2014.³¹ Liberia has cumulated a total of USD 18 billion in committed foreign direct investment to date, primarily for the oil, mining and agricultural sectors.³² Liberia's section of the Upper Guinean Forest is estimated to only cover a tenth of its original estimated 1,265,000 square kilometres.³³ The World Bank estimated that by 2012, some 50% of Liberia's total land had been awarded for commercial land use.³⁴ Some land concessions are not mutually exclusive and there has been a history of overlapping concession rights.³⁵ While the main concession-awarding government bodies are the Ministry of Lands, Mines and Energy (MLME), the Ministry of Agriculture, and the Forestry Development Authority (FDA), an inter-ministerial concessions committee including representatives from the National Investment Commission (NIC) and the National Bureau of Concessions (NBC) holds an

²³ Benjamin K. Sovacool and Nathan Andrews (14 April 2015), 'Does transparency matter? Evaluating the governance impacts of the Extractive Industries Transparency Initiative (EITI) in Azerbaijan and Liberia', <https://eiti.org/sites/default/files/documents/Sovacool%20%26%20Andrews%20%5B2015%5D%20-%20Does%20transparency%20matter%20-%20%20Evaluating%20the%20governance%20impacts%20of%20the%20Extractive%20Industries%20Transparency%20Initiative%20%28EITI%29%20in%20Azerbaijan%20and%20Liberia.pdf>

²⁴ BBC (12 November 2015), 'US lifts decade of sanctions against Liberia', <http://www.bbc.com/news/world-africa-34805462>

²⁵ World Wildlife Fund (June 2012), 'Artisanal and small-scale mining in and around protected areas and critical ecosystems project (ASM-PACE): Liberia case study report', <http://www.estellelevin.com/wp-content/uploads/2013/12/ASM-Liberia-Final.pdf>

²⁶ NOCAL, Liberian Oil Block Operators and Partners, <http://www.nocal.com.lr/operations/operators>

²⁷ Global Witness (27 February 2015), 'Liberia has burned the furniture to warm the house',

<https://www.globalwitness.org/en/archive/liberia-has-burned-furniture-warm-house/>

²⁸ NRG (18 September 2014), 'Liberia's Oil Block Bid Round

Comments and Questions', http://www.resourcegovernance.org/sites/default/files/documents/nrgi_liberiaoilblockbidround.pdf

²⁹ Including from ExxonMobil, Chevron, Anadarko Petroleum, Repsol, Mitsubishi, European Hydrocarbons/African Petroleum, Canadian Overseas Petroleum Ltd and Compania Espanola de Petroleos (Cepsa).

³⁰ Reuters (13 November 2015), 'Exxon Mobil to drill offshore post-Ebola Liberia', <http://www.reuters.com/article/us-liberia-oil-idUSKCN0T212C20151113>

³¹ <http://www.state.gov/documents/organization/241845.pdf>

³² Aureus Mining, Liberia country page, <http://aureus-mining.com/projects/liberia-2>

³³ World Bank (28 April 2015), 'Coordinating Mining Conservation Efforts in Liberia', <http://www.worldbank.org/en/news/feature/2015/04/28/coordinating-mining-conservation-efforts-in-liberia>

³⁴ World Bank (March 2015), 'A National Biodiversity Offset Scheme: A Road Map for Liberia's Mining Sector', <http://documents.worldbank.org/curated/en/183611467991015452/pdf/95959-WP-PUBLIC-Box391432B-Liberia-1512662-FinalWeb-PUBLIC.pdf>

³⁵ World Wildlife Fund (June 2012), 'Artisanal and small-scale mining in and around protected areas and critical ecosystems project (ASM-PACE): Liberia case study report', <http://www.estellelevin.com/wp-content/uploads/2013/12/ASM-Liberia-Final.pdf>

oversight and coordination role.³⁶

Explanation of the Validation process

The EITI International Board agreed at its 33rd Board meeting in Oslo, Norway that fifteen countries, including Liberia would undergo validations starting 1 July 2016.

1. Validation is an essential feature of the EITI process. It is intended to provide all stakeholders with an impartial assessment of whether EITI implementation in a country is consistent with the provisions of the EITI Standard. The Validation report will, in addition, address the impact of the EITI in the country being validated, the implementation of activities encouraged by the EITI Standard, lessons learnt in EITI implementation, as well as any concerns stakeholders have expressed and recommendations for future implementation of the EITI.

2. Validation procedure. In February 2016 the EITI Board approved a revised Validation system. The new system has three phases:

1. Data collection undertaken by the International Secretariat
2. Independent quality assurance by an independent Validator who reports directly the EITI Board
3. Board review.

In May 2016, the Board agreed the [Validation Guide](#), which provides detailed guidance on assessing EITI Requirements, and more detailed [Validation procedures](#), including a standardised procedure for data collection and stakeholder consultation by the EITI International Secretariat and standardised terms of reference for the Validator. As previously, there are extensive opportunities for stakeholder participation, as set out below.

The Validation Guide includes a provision that: “Where the MSG wishes that validation pays particular attention to assessing certain objectives or activities in accordance with the MSG workplan, these should be outlined upon the request of the MSG”. The LEITI MSG did not request any issues for particular consideration.

3. Data collection by the International Secretariat. The International Secretariat’s work will be conducted in three phases:

1. Desk Review. Prior to visiting the country, the Secretariat will conduct a detailed desk review of the available documentation relating to the country’s compliance with the EITI Standard, including but not limited to:

- The EITI work plan and other planning documents such as budgets and communication plans;
- The multi-stakeholder group’s Terms of Reference, and minutes from multi-stakeholder group meetings;
- EITI Reports, and supplementary information such as summary reports and scoping studies;
- Communication materials;
- Annual progress reports; and
- Any other information of relevance to Validation.

³⁶ World Bank (March 2015), ‘A National Biodiversity Offset Scheme: A Road Map for Liberia’s Mining Sector’, <http://documents.worldbank.org/curated/en/183611467991015452/pdf/95959-WP-PUBLIC-Box391432B-Liberia-1512662-FinalWeb-PUBLIC.pdf>

This work includes initial consultations with stakeholders, who are invited to submit any other documentation they consider relevant. Without prejudice to the ability of the Board to exercise their discretion to consider all available evidence, the Secretariat will not take into account actions undertaken after the commencement of Validation. The desk review was conducted in the period 4-15 July and 15-21 August 2016 and included documents provided by LEITI.

2. Country visit. The country visit took place on 21-26 August 2016. All meetings took place in Monrovia. Liberia was in the midst of a political crisis in its Senate and House of Representatives that delayed approval of the 2016-17 budget³⁷, linked to revelations in a Global Witness report of corruption in the attempted allocation of a Mining Development Agreement.³⁸ The secretariat met with the multi-stakeholder group and its members, the Independent Administrator and other key stakeholders, including stakeholder groups that are represented on, but not directly participating in, the multi-stakeholder group.

In addition to meeting with the MSG as a group, the Secretariat met with its constituent parts (government, companies and civil society) either individually or in constituency groups, with appropriate protocols to ensure that stakeholders are able to freely express their views and that requests for confidentiality are respected.

The list of stakeholders to consult was prepared by LEITI, with inputs and suggestions from the International Secretariat. The International Secretariat attempted to meet with all relevant stakeholders, however it was not possible to extend consultations to rural communities outside Monrovia. Repeated attempts were made by LEITI's secretariat to arrange a meeting with a former civil society representative known to have had diverging opinions in order to gather his views, to no avail. Nevertheless, the International Secretariat's view is that the report covers views of the key stakeholders engaged in the EITI process.

3. Reporting on progress against requirements. Based on these consultations, the International Secretariat will prepare a report making an initial evaluation of progress against requirements in accordance with the Validation Guide. The report will not include an overall assessment of compliance. It is expected that this report will be completed on 15 August 2016. The report was submitted to the Validator on 16 December 2016. The multi-stakeholder group was invited to comment on the draft report on 16 December 2016.

The International Secretariat's team comprised: Pablo Valverde, Ines Schjolberg Marques, Alex Gordy, Eddie Rich and Sam Bartlett.

4. Independent Validation. The EITI Board will appoint a Validator, who will report to the Board via the Validation Committee. The Validator will assess whether the Secretariat's initial validation has been carried out in accordance with the Validation Guide. This will include: a detailed desk review of the relevant documentation for each requirement and the Secretariat's initial evaluation for each requirement, and a risk-based approach for spot checks, and further consultations with stakeholders. The Board may request

³⁷ Frontpage Africa Online (4 September 2016), 'House of Representatives Leadership Crisis Spillover To Liberian Senate', <http://www.frontpageafricaonline.com/index.php/politics/1839-house-of-representatives-leadership-crisis-spillover-to-liberian-senate> and Monrovia Times (1 September 2016), 'Liberian Parliament Speaker Recuse From Presiding Amid Leadership Crisis In The Legislature', <http://www.monroviatimesonline.com/single-post/2016/09/01/Liberian-Parliament-Speaker-Recuse-From-Presiding-Amid-Leadership-Crisis-In-The-Legislature>

³⁸ Global Witness (13 May 2016), 'Global Witness welcomes Liberian pledge to investigate mining bribery scandal', <https://www.globalwitness.org/en/press-releases/global-witness-welcomes-liberian-pledge-investigate-mining-bribery-scandal/>

that the Validator undertake spot checks on specific requirements. The Validator will amend or comment on the Secretariat's report as needed. The Validator then prepares a short summary (the Validation Report) for submission to the Board. This will include the Validator's assessment of compliance with each provision, but not an overall assessment of compliance. The multi-stakeholder group will be invited to comment on the Validation Report.

5. Board Review. The final stage in the process is the review by the EITI Board. The Validation Committee will review the Validator's assessment and any feedback from the multi-stakeholder group. The Validation Committee will then make a recommendation to the EITI Board on the country's compliance with the EITI Requirements. The EITI Board will make the final determination of whether the requirements are met or unmet, and on the country's overall compliance in accordance with provision 8.3.a.ii of the EITI Standard. There is an appeal process, as per requirement 8.8.

Part I – MSG Oversight

1. MSG Oversight

1.1 Overview

This section relates to stakeholder engagement and the environment for implementation of EITI in country, the governance and functioning of the multi-stakeholder group (MSG), and the EITI work plan.

1.2 Assessment

Government engagement in the EITI process (#1.1)

Documentation of progress

Public statement: President Johnson-Sirleaf has repeatedly and enthusiastically endorsed the EITI over the last nine years, both in public fora and through demonstrations of support.

In April 2016, President Johnson-Sirleaf attended a meeting of the multi-stakeholder group (MSG) to show her support for the process ahead of Validation. This followed a number of public statements over the last decade including in the government’s 2013 letter of application to the Open Government Partnership (further details below), at the EITI Global Conference in Qatar in 2009,³⁹ through LEITI newsletters,⁴⁰ in public speeches and through policy notes⁴¹ of the Government of Liberia (GOL). LEITI has been an official government policy of the GOL since 2008.⁴²

Senior lead: The GOL has appointed a senior government official to lead on implementation of the EITI.

The LEITI MSG is chaired by Minister Patrick Sendolo of the Ministry of Lands, Mines and Energy and co-chaired by Minister Boima Kamara of Finance and Development Planning, both of whom are permanent members of the MSG according to Article 6.4a of the LEITI Act.⁴³ The President appoints the Chair of the MSG in accordance with Article 6.5. Chairmanship of the MSG has consistently rotated between the two ministers since 2009.

Active engagement: Although government officials regularly participate in meetings of the MSG, participation by senior government officials is low.

Article 6.4a of the LEITI Act of 2009 states that the government shall have at least 7 members including “the Minister of Finance; the Minister of Lands, Mines, & Energy; the Managing Director of the Forestry Development Authority; and the President/CEO of the National Oil Company of Liberia or its successor as permanent members”. The current LEITI MSG also includes the Minister of the Interior and representatives from the Senate and the Commissioner General of the Liberian Revenue Authority.

Attendance sheets show that the different government agencies are regularly represented at MSG

³⁹ See <https://eiti.org/node/3918>.

⁴⁰ See <http://www.leiti.org.lr/newsletter/first-leiti-newsletter>.

⁴¹ See for instance LEITI (24 September 2014), ‘President Sirleaf Reaffirms Commitment to Liberia's EITI Process’, <http://www.leiti.org.lr/news-and-press-releases/president-sirleaf-reaffirms-commitment-to-liberias-eiti-process>.

⁴² See <http://www.emansion.gov.lr/doc/A%20PROCLAMATION%20-%20EITI.pdf>.

⁴³ Available on <http://www.leiti.org.lr/uploads/2/1/5/6/21569928/act.pdf>.

meetings, but almost always by their deputy or, in his or her absence, by a “proxy”. For example, records show that the Chair has participated in only two meetings during the period February 2013-July 2016 (both times in 2014) and the co-Chair did not attend any meetings during this period. According to LEITI’s scorecard system, where representation by a full member is granted three points, by the deputy 2 points and by a proxy to the deputy one point, government scored lowest among the constituencies during the period with an average participatory score of 1.4.⁴⁴ This was also the average for the sector in 2014 and 2013. Attendance is discussed in further detail in section 1.4 below.

It is clear from the minutes of MSG meetings that government representatives participate actively in discussions and offer suggestions to facilitate EITI implementation. This includes suggestions on improving coordination with other government projects, improving dissemination, recruitment of secretariat personnel and LEITI’s budget. Attendance sheets and programmes show that representatives from government agencies are regularly invited to – and participate in – dissemination activities.

Although government officials at ministerial level have been appointed to the LEITI MSG, representation has often been delegated to less senior representatives. Moreover, there has sometimes been a lack of substantive engagement in the LEITI process by ministerial representatives, particularly from the MFDP. This in turn has had negative effects on other stakeholders’ engagement and willingness to cooperate effectively in the reporting process. Nonetheless, all revenue-collecting government entities including LRA, NOCAL, NPA as well as line agencies like MLME, LRA, FDA, and MoA have participated in EITI reporting, although University of Liberia has never been included in reporting (*see Requirement 4.1*).

Enabling environment: The Government of Liberia has passed legislation to encourage transparency. Implementing the EITI and joining the Kimberley Certification Scheme were key to fulfilling aspects of the 2003-2006 transitional government’s Governance and Economic Management Assistance Program (GEMAP) aimed at improving the transparency of revenues and expenditures.⁴⁵ The Freedom of Information Act was passed in 2010 and recognises the individual’s universal right to information. Among other things the act requires every public authority or body to “establish, maintain, and regularly update a widely accessible and user-friendly publication scheme whereby the public authority or public body automatically provides detailed information regarding its core functions, nature of its activities and operations, and the information it possesses”.⁴⁶ Liberia was the first country in West Africa to publish such a law. The government has been a member of the Open Government Partnership since 2013 and has approved a workplan under the OGP that includes a commitment to the Open Budget Initiative.⁴⁷

Government’s budgetary allocations to LEITI have been reduced from USD 774,000 in 2014-15 to a budgeted USD 718,000 for 2015-16, although this was further cut to USD 664,000 in light of the government’s budgetary constraints. Delays in approval of the national budget for 2016-17 have meant that the LEITI secretariat and MSG have had to operate at reduced capacity since the start of the fiscal year in July 2016. As a stop-gap measure, the government has been funding LEITI since July with emergency appropriations of one-twelfth of LEITI’s proposed annual budget.

Stakeholder views

⁴⁴ MSG scorecard provided to the Secretariat were corrected following conversations with the secretariat. Among other things the representative from the Senate, who was not formally appointed, was removed and the results corresponding to NOCAL were modified to reflect that the deputy was the one who regularly attended.

⁴⁵ See <http://www.gemap-liberia.org/>.

⁴⁶ <http://www.liberianembassyus.org/uploads/documents/Liberia%20Freedom%20of%20Information%20Act%202010x.pdf>

⁴⁷ http://www.opengovpartnership.org/sites/default/files/legacy_files/country_action_plans/OGP%20ACTION%20PLAN-Validated.pdf

Government representatives consistently stressed the strong support from the President and from the GOL for the EITI process as a way to improve transparency in the sector and “change the narrative”, in particular in the timber sector. Stakeholders from civil society and the companies agreed that there was strong support from the President and the Vice President but noted that this did not always translate into effective engagement from ministers and other government agencies. Former MSG and secretariat members qualified this support from the top and added that it was linked to external expectations. All non-governmental stakeholders pointed out that government participation on the MSG is often conducted by proxies or, more usually, proxies of proxies, which made it difficult for commitments at the MSG level to translate into action at the agencies. They also noted that frequent changes in proxies made continuity in government positions difficult. A consultant who has worked closely with the EITI in Liberia over time and who has observed MSG meetings regularly noted that when high-level government representatives were present at meetings, discussions on materiality and other issues suffered as a result of political grandstanding. Some representatives from civil society organisations not on the MSG said that reports were not widely used by government and characterised their role as being more “disclosers” of information rather than users of it. Transparency International has credited President Johnson-Sirleaf with demonstrating “strong leadership” on fighting corruption, not least because of the creation of the Liberia Anti-Corruption Commission (LACC), the General Audit Commission (GAC) and LEITI.⁴⁸

MSG members and secretariat staff noted difficulties in engaging government agencies not represented on the MSG. When asked whether it would be possible for government representatives on the MSG to reach out to for example the National Bureau of Concessions, MSG members responded that the NBC was not represented on the MSG and that it would require support from the President for NBC to “get them to comply”. Present and past members of the secretariat saw this as a potential threat to the sustainability of the process, but noted that the LEITI Act was meant to counterbalance this dependence on the President.

Long-time observers both on and off the MSG, former members of the MSG and former members of the secretariat said that the government’s commitment was primarily linked to securing donor support. When prodded for details, one stakeholder said that for example it had been impossible to secure government participation in the post-license audit process report until the President was made aware that this was a conditionality for budget support from the African Development Bank, after which the data was promptly provided. This lack of real interest was in turn having a negative effect on company engagement, insofar as the company representatives were discouraged from engaging in a more meaningful manner when they knew it would not be reciprocated by the government.

Representatives from the Ministry of Finance and Development Planning (MFDP) and from the national secretariat noted that although the LEITI budget had been cut along with every other government agency following the effects of the Ebola outbreak and the low commodity prices, cuts in LEITI’s budget had not been as large as for other government agencies. A former National Coordinator also pointed out that the wording of Article 6.3(j) of the LEITI Act gives LEITI broad powers to “take any and all other necessary actions for achieving the objectives from LEITI”, which in effect gives the MSG power to resolve any legal barriers to disclosure or procurement issues that should arise. Current and former members of the secretariat highlighted the strongly worded mandate in article 2.3(d) of the LEITI act to take “whatever action is necessary or expedient for the effective discharge of [LEITI’s] functions” as a way to effectively remove any barriers to implementation.

⁴⁸ See for example <http://www.u4.no/publications/overview-of-corruption-and-anti-corruption-in-liberia/downloadasset/2699>.

Initial assessment

The International Secretariat's initial assessment is that Liberia has made satisfactory progress in meeting this requirement. There is clearly very strong presidential support for the EITI process in Liberia, but there are concerns that this support does not translate into effective support or engagement at the level of the line ministries. The government has provided funding to implementation and there is willingness on behalf of the government to resolve bottlenecks to implementation. Stakeholders are taking part in some outreach and efforts to promote public debate.

Industry engagement in the EITI process (#1.2)

Documentation of progress

Active engagement: Under article 6.4C of the LEITI Act, industry is guaranteed at least four seats in the MSG including a minimum of one seat each for companies in the mining, forestry and oil sectors. The current MSG has six representatives from the sector: Golden Veroleum, an oil palm developer, Exxon Mobile, an oil and gas company, the Gold and Diamond Dealers and Brokers Association, the Liberia Timber Association, Western Cluster, an iron ore mining company, and Aureus Gold, a gold mining company.

Attendance sheets for MSG meetings show that industry representatives consistently participate in meetings. The average score of the sector over the period April 2015-July 2016 using LEITI's aforementioned scoring mechanism was 2.4, the highest among the three constituencies, and shows that proxies were only used on one occasion during the 13 meetings held during this period. Attendance sheets for the period February 2013-April 2016 show similar results.

Meeting minutes show that industry participates actively in MSG and MSG committee meetings. The minutes show that companies engage on a number of issues including but not limited to assuring the reliability of the data provided in EITI Reports, funding of the process and the Post Award Process Audits. There are also examples in the minutes of company representatives actively asking to be involved in dissemination activities.⁴⁹ Meeting minutes show also that company representatives occasionally request time or assistance to consult with the broader constituency.⁵⁰

Company reporting has improved considerably in recent reports, with the number of non-reporting companies declining from 18 companies in the 2012-13 EITI Report to two (including one mining company) in the 2013-14 EITI Report (*see Requirement 4.1*). There are examples of companies having been publicly shamed ("public censure") for not having reported data for LEITI Reports following a number of reminders.⁵¹ Although the admonishment includes the threat of a fine, there do not appear to be examples of companies having being fined for not complying with reporting requirements.

Enabling environment: The 2009 LEITI Act provides the legal backing for EITI reporting. Liberia was the second country to pass legislation related to EITI implementation. Under the Act, LEITI is an autonomous self-accounting body reporting directly to the President, the Liberian legislature and the general population (Article 7.1). Article 3.2(b) requires "all companies engaged in the extraction of agriculture, forest and

⁴⁹ For example, in the minutes of the MSG meeting held on January 2016, the representative of the Brokers and Dealers' Association "expressed his dissatisfaction over the manner his organization has been left out of the dissemination exercises of late by the LEITI Secretariat", to which the Secretariat responded that "due to funding constraints only the civil society was invited to participate in the 6th Report dissemination". See http://www.leiti.org.lr/uploads/2/1/5/6/21569928/final_msg_meeting_minutes_january_27_2016.pdf.

⁵⁰ See for example the meeting minutes of January 2015.

⁵¹ See for example http://www.leiti.org.lr/uploads/2/1/5/6/21569928/announcement_on_sanction_companies.pdf.

mineral resources in Liberia to join the LEITI” and the fifth LEITI proclamation requires all extractive companies, especially oil, mining and logging companies, operating in Liberia to disclose payments according to EITI principles. LEITI is furthermore required under article 3.2a to “require and maintain transparency over all material payments due from and/or made by extractive companies to all agencies and levels of the Government of Liberia as well as all revenues collected from the companies by the Government”.

Article 2.3d empowers LEITI to “encourage, facilitate, perform and/or require the doing or performance of whatever is necessary or expedient for the effective discharge of any and all of its functions and the achievement of its objectives”. Section 6.3 further empowers LEITI to “determine the sanctions to be applied against any company and/or agency government failing to submit a report required by the EITI, or otherwise comply with requirements of the LEITI”. LEITI Regulation #001/11/09 defines non-compliance and establishes a process for progressive sanctions to address non-compliance by companies and agencies. The document is annexed to this report. Minutes of MSG meetings show that the MSG, including company representatives, have had discussions on both naming and shaming and imposing fines.

Stakeholder views

None of the stakeholders highlighted any legal barriers to companies reporting, given provisions of the EITI act. A former National Coordinator noted the wide powers invested in the MSG under article 2.3d of the LEITI Act, which in his opinion would empower the MSG to address any legal barriers that could arise. None of the stakeholders consulted noted any administrative rules or actual practice affecting company participation in the EITI process. During the MSG meeting that we observed, the representative of the agriculture sector complained that his sector was being ostracised as he had not received notice of the meeting, but this was generally understood as a logistical mistake.

Industry representatives consulted were enthusiastic about the work of the EITI and expressed strong support for the process. Civil society representatives in the MSG were equally supportive of the role of industry, although not all civil society representatives outside the MSG shared this positive opinion. The representative of the forestry companies on the MSG noted the strong support of the sector from the very beginning of the process. He said they had a strong interest in the success of the EITI because it allowed them to better communicate to local communities their contributions to the economy. This in turn was important because it helped reduce conflict. The representative of the mining sector echoed this view and added that it helped put the focus on the government’s responsibility and away from the industry. Both the forestry representative and the representative from the agricultural sector expressed pride in the participation of their non-extractive sectors in the LEITI process.

Industry representatives on the MSG considered that companies’ primary role in the EITI was to provide information as requested by the EITI. They did not believe that companies had a role in disseminating EITI information to their constituency because they did not understand how this would be useful to them. However, companies did take part in dissemination activities organised by LEITI for local communities as and when requested to do so by the secretariat.

Initial assessment

The International Secretariat’s initial assessment is that Liberia has made satisfactory progress in meeting this requirement. Companies are actively and effectively engaged in the EITI process but see their role primarily as providers of information. MSG minutes show that company representatives participate actively in MSG discussions. The LEITI Act of 2009 provides an enabling legal environment for EITI reporting and

there do not appear to be legal barriers to company disclosure. On the contrary, companies can be prosecuted under the LEITI Act for not reporting information as required. Stakeholders have not expressed concerns about companies being unable to report to, or engage with, the MSG. The industry constituency is encouraged to formalise mechanism for consultations and coordination of its stakeholders, with a view to improving companies' engagement in EITI-related outreach and dissemination.

Civil society engagement in the EITI process (#1.3)

Documentation of progress

Expression: There do not appear to be any indications of limitations to civil society's expression. Civil society representatives are able to engage actively in public debate on EITI and on issues concerning the sector.

Freedom of expression and the right of the public to be informed are guaranteed by article 15 of Liberia's Constitution of 1986. Article 17 guarantees the freedom to peaceful assembly and association. The Freedom of Information Act of 2010⁵² recognises access to information as a fundamental right and establishes the obligation of the government to provide access to information described in its Article 2 but is not, according to Freedom House, generally used. Liberia is considered "partly free" by Freedom House in their 2015 Freedom in the World Report.⁵³ According to Freedom House Liberia's criminal and civil libel laws are used to harass and intimidate journalists, but it appears that recent examples of this are limited to allegations of mismanagement of funds for the Ebola outbreak. According to the US Department of State, NGOs are able to operate without government restrictions and are able to investigate and publish their findings, including on human rights issues unrelated to EITI.⁵⁴ There are a large number of newspapers and radio stations in Liberia.⁵⁵

There are examples of civil society reports publicly levelling serious allegations related to the extractive industries. Liberian NGOs regularly publish analysis that is critical of government's management of the extractive industries. For instance in 2014, the NGO Sustainable Development Institute published a study that found that Liberia was earning too little from its iron ore output.⁵⁶ In April 2015, Liberian NGO Forest People's Programme accused two palm oil plantation companies of illegal land seizures that were compounding poverty.⁵⁷ The Center for Transparency and Accountability in Liberia (CENTAL), which is the national chapter of Transparency International, operates a relatively active website with publications aimed at building contract-monitoring capacities.⁵⁸ Minutes from MSG meetings, press releases and participation in events show that civil society is clearly able to speak freely about the EITI process without restraint or coercion.

⁵² <http://www.liberianembassyus.org/uploads/documents/Liberia%20Freedom%20of%20Information%20Act%202010x.pdf>

⁵³ <https://freedomhouse.org/report/freedom-world/2015/liberia>

⁵⁴ US Department of State (2015), Liberia 2015 human rights report, <http://www.state.gov/documents/organization/252909.pdf>

⁵⁵ Newspapers include the Analyst, the Daily Observer, the Daily Talk, FrongPage Africa, the Inquirer, the Naitonal Chronicle, the New Dawn, the new Democrat and the New Republic. Radio stations include the Voice of Firestone, Radio Liberia, UNMIL Radio, Truth FM and Lux 106.6 FM, run by the University of Liberia.

⁵⁶ Sustainable Development Institute (2014), Liberia: Poverty in the midst of plenty,

<http://www.sdiliberia.org/sites/default/files/publications/Poverty%20in%20the%20midst%20of%20plenty.pdf>

⁵⁷ Business and Human Rights Resource Centre (April 2015), 'NGO report alleges harmful social and environmental impacts by Golden Veroleum Liberia; includes company statement', <https://business-humanrights.org/en/ngo-report-alleges-harmful-social-and-environmental-impacts-by-golden-veroleum-liberia-includes-company-statement>

⁵⁸ CENTAL/TI Liberia website, Publications page, http://www.tiliberia.org/?page_id=72

Operation: Liberia's civil society re-emerged in the post-2003 conflict era, and the government adopted a broadly supportive stance for civil society's role in the political transition.⁵⁹ There is evidence that civil society played a significant role in peace-building⁶⁰, although capacity in other areas such as extractive industries remains stretched. There are no suggestions of legal, regulatory, administrative and actual barriers to civil society operation preventing participation in EITI, nor any restrictions of fundamental rights. The Freedom House and US Department of State reports note that freedoms of assembly and association are observed in law and in practice and that NGOs operate without government interference. The MFDP (formerly the Ministry of Planning and Economic Affairs) is the government entity responsible for providing accreditation to Liberian NGOs, while the Ministry of Foreign Affairs provides formal registration of NGOs. All NGOs are required to report financial statements annually to justify their tax-exempt status.⁶¹ Consultations with civil society representatives in Liberia confirmed that there were no threats to fundamental human rights and that Liberia had a robust tradition of public demonstrations and protest.

Association: Civil society groups engaged in the EITI process are freely collaborating with each other as well as with other local NGOs not directly represented on the MSG as well as with international groups. There is a national terms of reference guiding the relationship between civil society and the Government of Liberia. These ToRs concern all countries participating in the EITI and are not specific to the EITI. The relationship between civil society and the MSG is governed by the MSG policy manual.

There is a vibrant and active network of NGOs working on mining, oil and gas issues in Liberia, including:

- Publish What You Pay⁶², a coalition of 19 NGOs focused on extractive industry governance established in August 2006;
- Rights and Rice Foundation⁶³, established in 2007 to focus on social justice and economic empowerment;
- Center for Transparency and Accountability in Liberia (CENTAL)⁶⁴, the Liberian chapter of Transparency International established in May 2004;
- Institute for Research and Democratic Development (IREDD)⁶⁵, a grassroots research and policy advocacy organization focusing on government accountability;
- Trust Africa⁶⁶, a regional NGO focused on democracy and development;
- Women NGO Secretariat of Liberia (WONGOSOL)⁶⁷, a NGO established in 1998 to coordinate activities of women's NGOs;
- Extractive Media Watch (EMW)⁶⁸, established in 2013 by journalists focused on transparency and

⁵⁹ National Democratic Institute for International Affairs (January 2004), Liberia: civil society's role in the political transition, https://www.ndi.org/files/1710_Ir_civilsociety_010104.pdf

⁶⁰ Kofi Annan International Peacekeeping Training Centre (November 2010), State-Civil Society Interface in Liberia's Post-Conflict Peacebuilding, <http://www.kaipctc.org/Publications/Occasional-Papers/Documents/Occasional-Paper-30-Atuobi.aspx>

⁶¹ Republic of Liberia (June 2008), National policy on non-governmental organisations in Liberia, <http://www.emansion.gov.lr/doc/NGOPolicguidelines.pdf>

⁶² <http://www.publishwhatyoupay.org/members/liberia/>

⁶³ https://www.facebook.com/Rights-Rice-Foundation-151996924840313/?hc_ref=PAGES_TIMELINE&fref=nf

⁶⁴ <http://www.tiliberia.org/>

⁶⁵ <https://www.facebook.com/Institute-for-Research-and-Democratic-Development-207567522722780/>

⁶⁶ <http://www.trustafrica.org/en/>

⁶⁷ <http://wongosol.com/>

⁶⁸ <https://www.facebook.com/groups/extramedia/>

accountability in the extractive industries;

- National Civil Society Council of Liberia⁶⁹, set up in 2004 to coordinate and support civil society organisations in Liberia;
- Sustainable Development Institute⁷⁰, established in 2004 as the Liberian partner of Friends of the Earth focused on local participation in natural resources governance.

PWYP provides capacity building to its members at the subnational level and, together with other NGOs like Rights and Rice and CENTAL, have actively participated in outreach in all of Liberia's 15 counties and supported the maintenance of focal points in each. Civil society has particularly emphasized counties hosting mining, plantations and forestry activities.

Engagement: Civil society is involved in the design, implementation, monitoring and evaluation of the EITI through participation in MSG meetings, CSO forums, dissemination events etc. The minutes from MSG meetings point to active engagement over the years.⁷¹ Article 2.3.2 in the MSG policy manual states that "in the event where both [the Chair and the co-Chair] or their proxies are absent, a representative of the civil society or private sector shall preside". This happened during the MSG's 30 June 2016 meeting, when Cecelia Danuweli of the PWYP civil society coalition chaired the meeting.⁷² The civil society forum has several thematic working groups that work on areas related to EITI, including the working groups on natural resource management, decentralisation and governance as well as land rights.

Access to public decision-making: Civil society representatives are able to speak freely on transparency and extractive industry governance issues. There is evidence that LEITI Reports play a significant role in contributing to civil society's advocacy and outreach at the subnational level, although the direct input to policy-making is more tenuous. Nonetheless it appears that civil society is able to influence public decision-making despite capacity constraints. A 2016 report by the UK-based NGO Global Witness alleging corruption in the allocation of mining rights prompted the government to start an investigation into the concerns in May 2016.⁷³ In July 2016, a group of 18 NGOs called for the enactment of the draft Land Rights Act recognising rural communities' rights to customary land.⁷⁴ In January 2014, a coalition of NGOs led by the Sustainable Development Institute issued a statement calling for reform and renegotiation of contracts for oil palm plantations.⁷⁵

Stakeholder views

Civil society representatives on the MSG said that they saw their role primarily in terms of avoiding conflict between the government and industry constituencies. When prodded further on whether they should not

⁶⁹ <https://www.facebook.com/National-Civil-Society-Council-of-Liberia-345952238868191/>

⁷⁰ <http://www.sdiliberia.org/>

⁷¹ See for instance the role of CSOs in selecting the new Deputy Head of Secretariat in April 2015, LEITI (April 2015), MSG meeting minutes 29 April 2015, http://www.leiti.org.lr/uploads/2/1/5/6/21569928/minutes_of_april_29_meeting.pdf, and their role in reviewing and approving the workplan budget, LEITI (January 2015), MSG meeting minutes 28 January 2015, http://www.leiti.org.lr/uploads/2/1/5/6/21569928/draft_msg_meeting_minutes_-_january_2015.pdf

⁷² LEITI (June 2016), MSG meeting minutes 30 June 2016,

http://www.leiti.org.lr/uploads/2/1/5/6/21569928/draft_msg_meeting_minutes_june_30_2016.pdf

⁷³ Global Witness (13 May 2016), 'Global Witness welcomes Liberian pledge to investigate mining bribery scandal',

<https://www.globalwitness.org/en/press-releases/global-witness-welcomes-liberian-pledge-investigate-mining-bribery-scandal/>

⁷⁴ CSO Working Group (14 July 2016), Liberian Civil Society Leaders Warn That Failure to Pass Historic Land Rights Bill by Aug. 10 Puts at Risk a Potential Beacon of Peace in War-Torn West Africa, <http://allafrica.com/stories/201607140003.html> and Reuters (14 July 2016), Failure to pass land law could plunge Liberia back into conflict – activists, <http://uk.reuters.com/article/uk-liberia-landrights-idUKKCN0ZU27N>

⁷⁵ Sustainable Development Institute (January 2014), Civil Society Coalition Statement on Oil Palm Concessions in Liberia, http://rightsandresources.org/wp-content/uploads/2014/01/doc_5720.pdf

be critical, they explained that they wished to avoid creating conflict. Observations of a meeting of the MSG that we were invited to attend confirmed that this was the role adopted by the CSO representatives.

The national PWYP coalition said that they did feel able to influence decision-making and that their focus was particularly on the key areas of contract monitoring, beneficial ownership and license allocations. Several CSOs considered that LEITI's study on beneficial ownership in 2015 was a result of civil society pressure on government to undertake this work. They also noted that civil society's role in EITI, which they considered to be disseminating EITI information to local communities, ensured effective oversight of the extractive industries given that citizens would hold companies operating in their areas accountable using EITI information, thereby influencing public decision-making. However, it is clear that capacity remains weak amongst wider civil society to engage in questions related to the extractive sector, given the lack of specialisation of NGOs as well as staffing and funding constraints. While CSOs represented on the MSG highlighted their outreach efforts to stakeholders and NGOs not members of their respective coalitions, other CSOs not directly represented on the MSG stated that the only contact with EITI was during dissemination campaigns for EITI Reports, not to canvass them for their opinions.

All CSOs consulted confirmed they considered they had full freedom of expression and organisation on issues related to natural resource governance. While incidents were cited of murders of key witnesses in corruption cases, all CSOs confirmed this did not appear to be systematic and did not hinder CSOs' ability to freely express themselves on matters related to EITI implementation. While certain CSOs noted instances of certain NGOs receiving funding from companies for specific activities, this was not highlighted as a concern or constraint on NGOs' ability to remain critical of government and industry. Most industry stakeholders consulted considered there to be a vibrant civil society debate, particularly about issues in the mining, plantations and forestry sectors. Representatives from civil society were broadly satisfied with the provisions of the 2008 National Policy on NGOs but expressed concern over past (unsuccessful) attempts to curb the freedom of NGOs by the legislature. CSOs consulted confirmed that receiving international funding was not a problem.

Several company representatives noted significant capacity constraints faced by CSOs, due to their lack of formal specialisation and the perception that they changed their focus to follow donor grants. CSO members of the MSG noted that they consulted each other informally outside of MSG meetings, but did not generally solicit the views of broader their constituency ahead of MSG meetings, outside of annual general assemblies. Representatives of CSOs not on the MSG confirmed they did not tend to be canvassed for their opinions as input for MSG discussions, despite the fact these NGOs worked on related issues. When asked why they did not try to engage with the MSG themselves, given their interest in the subject matter, these CSOs said that they did not see the MSG as a place where one could engage on issues of substance. The IA for the past three EITI Reports noted that CSOs did not tend to make substantive input on the scoping of EITI Reports. All CSOs consulted confirmed that low capacity was a problem for the use of EITI reports.

Secretariat staff considered that CSOs were effectively and fully engaged in EITI implementation, citing evidence from MSG meeting minutes on CSOs' consistent input in shaping draft EITI Reports, developing the workplan and participating in secretariat staff hiring decisions. Staff also highlighted that civil society was the key driver of outreach and dissemination efforts alongside the LEITI Secretariat.

Civil society representatives not on the MSG said that they were often involved in dissemination activities, but expressed disappointment that they were neither consulted nor otherwise engaged in the development of reports. They also expressed disappointment that they were not able to put into the

report the information that they would have liked to see there because they were not given a chance to do so. A number of stakeholders and supporters, both in-country and outside the country, said that there had been personality problems in the civil society constituency. Whereas these seemed to be solved, questions were raised about the suitability of the current civil society representation in the MSG in terms of their understanding of their role and ability or willingness to engage the broader constituency. Stakeholders noted that although there were no problems in terms of providing an enabling environment for civil society engagement, there was a clear lack of capacity in the current representatives who, as a result, exerted very limited influence in the EITI process as a whole.

Initial assessment

The International Secretariat's initial assessment is that Liberia has made satisfactory progress in meeting this requirement. Civil society are able to be fully, actively and effectively engaged in the design, implementation, monitoring and evaluation of the EITI process, but there are important capacity constraints linked to staffing and funding. Stakeholders are taking part in outreach and efforts to promote public debate especially at the level of counties. There is an enabling environment for civil society participation in the EITI. The CSOs actively engaged in EITI implementation will wish to consider means of strengthening their outreach on EITI issues beyond dissemination of EITI Reports, to enhance the inclusiveness of the EITI process and ensure local demands for information are taken into account in national MSG discussions.

MSG governance and functioning (#1.4)

Documentation of progress

MSG composition and membership: The current LEITI MSG was established on 14 October 2014.⁷⁶ It includes seven government members excluding its Chair, Patrick Sendolo, Minister of Lands, Mines and Energy.⁷⁷ Industry has six representatives on the MSG⁷⁸, while civil society has four.⁷⁹

The LEITI Act of 2009 sets the overall framework for the work of LEITI. It was signed into law on 10 July 2009 and printed into handbill by the Ministry on Foreign Affairs on 13 July 2009. The LEITI Act institutionalised the Presidential proclamation of 2008 making EITI official government policy and the memorandums of understanding in 2007 that had regulated relations between the government and the stakeholder groups. The LEITI Act created an autonomous multi-stakeholder agency and authorised the creation of a secretariat to implement the policies of the MSG. This framework is further developed in a number of documents including Regulation #001/11/09, which the MSG adopted on 12 November 2009 and which sets out the regulations for the enforcement of compliance with LEITI's disclosure and reporting requirements under article 6.3(h) of the LEITI Act. The MSG has adopted a policy manual to "provide the policy framework for how the MSG will guide the implementation of the EITI principles in Liberia through

⁷⁶ LEITI (14 October 2014), LEITI Gets New Board, <http://www.leiti.org.lr/news-and-press-releases/leiti-gets-new-board1>

⁷⁷ The seven government representatives are Amara Konneh, Minister of Finance and Development Planning, Harrison Karnwea, Forestry Development Authority, Adolph Lawrence, member of the House of Representatives, Florence Chenoweth, Minister of Agriculture, Morris Dukuly, Minister of Internal Affairs, Elfrieda Tamba, Liberia Revenue Authority and Randolph McClain, National Oil Company of Liberia.

⁷⁸ The six industry representatives are Henri Harmon, Golden Veroleum, Keith Conrad, ExxonMobil, Esiaka Konneh, Gold & Diamond Dealers & Brokers Association, John Deah, Liberia Timber Association, Atul Mittal, Western Cluster and Debar Allen, Aureus Gold.

⁷⁹ The four civil society representatives are Barbington Coleman, Liberia Labor Congress, Ezekiel Johnson, WONGOSOL, James Yarsiah, Rights and Rice Foundation and Cecelia Danuweli, PWYP Coalition.

the Secretariat”. The secretariat also has an internal operation manual, a 120-page manual for secretariat operations produced in 2014.

The structure of the MSG is defined by Article 6.4.c of the LEITI Act. It allocates only four MSG representatives from industry and does not specify whether MSG members should have alternates. Section 2.3.1 of the MSG’s Policy Manual confirms this structure.⁸⁰ Article 6.6 of the LEITI Act limits MSG members’ terms to renewable three-year terms, while Article 6.6 states that any member may be removed from office for reason of conflict of interest or proved misconduct. Sections 2.3.1.3-2.3.1.7 of the MSG’s Policy Manual cover membership and observers’ rights, orientation, removal, resignation and replacement of MSG members.⁸¹ Article 6.5 of the LEITI Act states that the President of Liberia is responsible for appointing MSG members from all constituencies, with “appropriate consultations” with members of all three stakeholder groups, but does not provide additional guidance on constituency nominations procedures. This process is confirmed, but not explained, in Section 2.3.1.2 of the MSG’s Policy Manual.⁸² Consultations and selection processes are facilitated by LEITI, which sent a letter to President Ellen Johnson Sirleaf with a list of proposed members for the new MSG in June 2014 on the basis of constituency decisions. Due to the Ebola outbreak, the decision on appointing these MSG members was deferred to October.⁸³ There is no evidence that the President changed the list of MSG members submitted by the LEITI Secretariat before approving it.

Civil society representation: Civil society appoints four members of the MSG, including seats statutorily reserved for PWYP Liberia or its successor (1) and the union of extractive industry workers (1). Article 1.2.b of the LEITI Act defines civil society as “the entire segment of the Liberian population that is not in government.” Liberian CSOs, led by the Natural Resources Research Initiative, Rights and Rice and CENTAL, organised a series of public consultations on 28 January, 4 February and 10 February 2014 to select new CSO representatives on the MSG. There is evidence of outreach prior to the consultations, which appear to have been open to the general public. A final set of six CSO MSG members was sent to the LEITI Secretariat in March 2016. The LEITI Secretariat has kept records of the CSO nominations process to the MSG, although these are not available online and can only be requested from the LEITI Secretariat.

Industry representation: The private sector holds four seats on the MSG, including one each from the mining, forestry and oil and gas sectors. As with civil society, there are no provisions in the LEITI Act or implementing regulations related to the nominations process for industry MSG members. While Article 6.5 of the LEITI Act requires that the President consult with industry stakeholders prior to appointing MSG members and to ensure diversity in commodities represented, there is no specific provision for industry MSG members to represent a particular association or trade body.

Government representation: The LEITI Act specifically requires the appointment of senior government officials to the MSG. Government is responsible for appointing seven MSG members from specific ministries and agencies listed in the LEITI Act’s Article 6.4.a (including Ministry of Lands, Mines and Energy; Forestry Development Authority; NOCAL). As noted above, senior government officials are currently

⁸⁰ LEITI (2015), Liberia Extractive Industries Transparency Initiative (LEITI) MSG POLICY MANUAL, http://www.leiti.org.lr/uploads/2/1/5/6/21569928/final_msg_policy_manual.pdf

⁸¹ LEITI (2015), Liberia Extractive Industries Transparency Initiative (LEITI) MSG POLICY MANUAL, http://www.leiti.org.lr/uploads/2/1/5/6/21569928/final_msg_policy_manual.pdf

⁸² LEITI (2015), Liberia Extractive Industries Transparency Initiative (LEITI) MSG POLICY MANUAL, http://www.leiti.org.lr/uploads/2/1/5/6/21569928/final_msg_policy_manual.pdf

⁸³ See LEITI (July 2014), Secretariat update May 28 to July 30, 2014, unpublished, provided by the LEITI Secretariat.

represented on the MSG, in addition to an eighth representative, the MSG Chair Minister Patrick Sendolo. Government representatives on the MSG change automatically in line with new political appointments to the designated positions, as they do to a certain extent with industry.

Terms of reference: As noted, two documents form the basis for the Terms of Reference (ToR) for the LEITI MSG. The 14-page LEITI Act, passed in July 2009⁸⁴, establishes LEITI as an autonomous self-accounting body that reports to the President and the Liberian Legislature (Articles 2.1 and 4.1.i), with powers to “sue and be sued; enter into contracts or acquire, hold or alienate movable or immovable property by whatever lawful means; provided same is done for and in the discharge of its statutory functions.” The MSG’s 17-page policy manual, published in January 2015⁸⁵, provides more guidance on the MSG’s internal governance, including MSG composition and nominations, meeting conduct and decision-making. It also includes extensive clauses on discrimination, confidentiality, conflict of interest, gifts and professional conduct. The MSG also approved a 120-page LEITI integrated operations manual in July 2013⁸⁶, covering the secretariat’s organisational systems. Regulation 001/11/09 sets non-compliance procedures and actions to be taken by the MSG to enforce rules. Article 6.3(2) of the LEITI Act states that the MSG is empowered to adopt any and all rules necessary for internal governance.

Representation: As noted above, appointments to the MSG are the responsibility of the President of Liberia (Article 6.5 of the LEITI Act) and are made for a renewable three-year term (Article 6.6 of the Act). While the President is responsible for appointing all MSG members, appointments are supposed to reflect consultations with each of the three stakeholder groups.

Articles 6.1-6.3 of the LEITI Act define the MSG’s roles and responsibilities, including for workplans, appointment of the IA and annual activity reports. Section 2.1 of the MSG’s manual confirms the MSG’s responsibilities for workplans, communication plans, thematic working sub-groups, agreeing materiality and scope, appointing the IA and annual activity reports. Articles 6.2 and 6.3(1) of the LEITI Act and the LEITI Operations Manual (pp.103-112) define the LEITI’s monitoring and evaluation mechanism, which includes assessments of capacities. Articles 6.2 and 6.3(1) of the LEITI Act delegate outreach activities to the secretariat’s Communications and Outreach Department, while Chapters 3, 4.4 and 4.5 of the 2013-15 LEITI Communications Strategy provided for reaching out to civil society and extractive company stakeholders. Articles 4.1.e, 4.1.j and 7.1 of the LEITI Act specifically require the MSG to widely disseminate the information in EITI Reports. However, there are no clauses in the LEITI Act or LEITI Manuals requiring MSG members to liaise with their constituencies.

The MSG has three committees, which meet as and when the need arises, with the head of the LEITI Secretariat acting as secretary for each. Membership in the committees is reserved to MSG members, but stakeholders are invited to participate as needed. The Governance, Membership and Ethics Committee is an ad hoc committee constituted through voluntary participation whenever the MSG determines that there is a need for it. It met only once in 2015-16. The Finance and Administration Committee met three times in 2014-16, while the Reporting and Communication Committee met four times in 2014-16. The terms of reference and membership for each of the committees are provided in Section 3 of the MSG’s

⁸⁴ Ministry of Foreign Affairs (10 July 2009), The Liberia EITI Act - <http://www.leiti.org.lr/uploads/2/1/5/6/21569928/act.pdf>

⁸⁵ LEITI (2015), Liberia Extractive Industries Transparency Initiative (LEITI) MSG POLICY MANUAL, http://www.leiti.org.lr/uploads/2/1/5/6/21569928/final_msg_policy_manual.pdf

⁸⁶ LEITI (July 2013), Integrated Operations Manual: Organization, HRM, Financial Management, & M&E System, http://www.leiti.org.lr/uploads/2/1/5/6/21569928/leiti_operation_manual_revised_july_2013.pdf

Policy Manual⁸⁷ and as a standalone document on the LEITI website.⁸⁸

Internal governance and procedures: The MSG's Policy Manual "covers rules, procedures and regulations guiding the operations and decision making of the MSG, prescribes members' responsibilities and obligations relative to their participation in the activities of the MSG, defines regular meeting dates and quorum for meetings." Sections 2.2.1-2.2.12 provide an extensive code of ethics, including provisions on values, respect, professionalism, discrimination, confidentiality, use of LEITI resources, conflict of interest and abuse of power, gifts, reporting and compliance requirements.

Sections 2.3.2-2.3.2.6 of the MSG's Policy Manual define MSG meeting conduct. Meetings are to be chaired by the Chair, or Co-Chair, or proxies. In the absence of these members, MSG meetings may be chaired by a representative from industry or civil society. Proxies are allowed with advance notice and alternates enjoy the same rights as full members. Meeting attendance is tracked through scorecards published on the LEITI website. All meetings take place at the LEITI Secretariat and a quorum is reached with two thirds of each constituency present. MSG meeting agendas and minutes are to be circulated at least one week prior to meetings. The LEITI Act does not explicitly guarantee any member's right to table an issue for discussion, but this is implied in Section 2.3.2.3 of the MSG's Policy Manual on circulating draft agendas ahead of meetings.

Decision-making: While the LEITI Act does not contain any specific provisions on the decision-making process, Section 2.3.6.2 of the MSG's Policy Manual sets rules for decision-making, including consensus, modified consensus and simple (and minuted) majority voting. Minutes of MSG meetings show that decisions are almost always taken by consensus, with only a few recorded exceptions of voting.⁸⁹

Record-keeping: The LEITI Operations Manual (p.12) states that the secretariat's administrative department is responsible for taking minutes of meetings. Minutes of MSG meetings are available on the LEITI website⁹⁰, although minutes of committee meetings are only available upon request at the LEITI Secretariat.

Capacity of the MSG: The MSG's Policy Manual includes provisions for ensuring MSG members have adequate capacity to fulfil their responsibilities. Section 2.3.1.5 of the MSG's Policy Manual requires at least one training workshop a year for MSG members to be conducted by the EITI International Secretariat to ensure a seamless transition between MSGs and preservation of institutional memory. Annual EITI workplans have also included activities related to capacity building for specific stakeholder groups and the NSWG. The LEITI governance documents also provide for funding of EITI implementation. Articles 8.3 and 8.4 of the LEITI Act describe the establishment and management of a pooled fund for LEITI, while Section 4 (p.73) of the Operations Manual describes LEITI's financial management system.

Per diems: Section 2.2.9 of the MSG's Policy Manual states that "any per diems set, paid or obtained should be based on reasonable actual costs and good international practice". The annual budgets included in LEITI's annual workplans include a budget post for per diems and specify that these should be paid at a rate of USD 100 per MSG members per meeting. Attendance sheets show that all participants in dissemination

⁸⁷ LEITI (2015), Liberia Extractive Industries Transparency Initiative (LEITI) MSG POLICY MANUAL, http://www.leiti.org.lr/uploads/2/1/5/6/21569928/final_msg_policy_manual.pdf

⁸⁸ LEITI, Terms of Reference for Standing Committees, http://www.leiti.org.lr/uploads/2/1/5/6/21569928/msg_standing_committees_tor.pdf

⁸⁹ The only exceptions seem to be the approval of the 5th report and decisions concerning beneficial ownership.

⁹⁰ <http://www.leiti.org.lr/multi-stakeholder-steering-group-msg.html>

activities in local communities are paid USD 5 for cost of transportation and lunch. These payments are budgeted for in the requests for funding from donors and noted in the subsequent reports.

Attendance: The MSG met seven times in 2014 due to the Ebola outbreak, 15 times in 2015 and, as of 1 July, five times in 2016. As the first of a growing number of countries, Liberia introduced attendance scorecards for its MSG in 2014 and publishes these on its website.⁹¹ Section 2.3.2 of the MSG's Policy Manual calls for monthly MSG meetings, or "at any other interval as may be decided by the MSG." Given the high-level membership of the MSG amongst government entities, delegation to alternates and proxies has happened repeatedly. CSO members on the MSG have raised concerns over the delegation of attendance at MSG meetings to proxies, most recently at the MSG's 30 November 2015 meeting,⁹² when PWYP's representative asked for delegation to proxies to stop, and at its 28 October 2015 meeting when she called for proxies to be properly briefed before attending meetings.⁹³ Analysis of the attendance scorecards since March 2013 shows that attendance by government was by far the least consistent.

National secretariat: The LEITI Act, in Article 6.3, creates a secretariat "to be responsible to carry out and/or co-ordinate the day-to-day operations of the LEITI". The same article grants the secretariat the powers to "adopt any and all rules necessary for the internal governance of the LEITI and (...) to adopt measures and take actions necessary for achieving the mandate and objectives of the LEITI".⁹⁴ The LEITI Operations Manual includes an extensive code of conduct for secretariat staff, covering issues of discrimination, sexual harassment and conflict of interest. The LEITI Operations Manual (p.13) also directs the technical department of the LEITI Secretariat to oversee all aspects of technical competences of all stakeholders.

Stakeholder views

Members of the MSG said that the agenda, meeting documents and the minutes from the previous meeting were generally received with sufficient time for discussions, usually approximately one week.

Secretariat staff highlighted the double nature of the secretariat as both a government agency in charge of implementing the LEITI Act and the secretariat to the MSG. When prodded further they said that they considered themselves first and foremost accountable to the MSG because their mandate under the LEITI Act allowed them a high level of autonomy and independence.

Stakeholders from all constituencies and secretariat staff stressed that the government had never attempted to undermine or limit the work of the MSG through LEITI's statutory budget. At the same time, stakeholders stressed that the process was dependent on the President's support. Secretariat staff said it would be important to make implementation irreversible, for example by earmarking a certain percentage of extractive revenues for LEITI.

Several industry representatives expressed concerns over perceived breaches in decision-making rules, for instance in relation to the beneficial ownership reporting templates that companies considered ill-designed and thrust upon them. Government and civil society MSG members did not raise concerns over the MSG's decision-making process. Civil society's representatives on the MSG stressed that decision-making by

⁹¹ <http://www.leiti.org.lr/multi-stakeholder-steering-group-msg.html>

⁹² LEITI (November 2015), MSG meeting minutes 30 November 2015, http://www.leiti.org.lr/uploads/2/1/5/6/21569928/msg_meeting_november_30.pdf

⁹³ LEITI (October 2015), MSG meeting minutes 28 October 2015, http://www.leiti.org.lr/uploads/2/1/5/6/21569928/msg_meeting_minutes_of_28_october_2015_revised.pdf

⁹⁴ This includes preparing and/or approving the workplan and the budget, soliciting external assistance, recruiting and dismissing the head of

consensus was an explicit aim of their constituency.

Secretariat staff said that draft reports, workplans and other documents were distributed to all the sectors for comments, and both industry and civil society representatives on the MSG said they reached out to their constituencies periodically. However, stakeholders outside the MSG consulted said that they only ever received finalised LEITI Reports and were not consulted in the development of workplans or other MSG decision-making documents. Civil society representatives not on the MSG added that whatever input they provided to the EITI process was due to personal relationships with the secretariat, who they felt they could easily approach.

Civil society representatives on the MSG were unable to explain the nominations process except by explaining the way through which PWYP selected its chair (and therefore its representative), and saying that the previous MSG had played a role in conducting a preliminary selection of candidates. Some representatives not on the MSG explained that the 1000-member Civil Society Council (CSC) had played a coordinating role in the nomination and voting process, but they said that there had not been a clear process. Rather, the relevant thematic groups (Transparency and Natural Resource Governance) conducted a preliminary selection of candidates down to 6 candidates, of which the CSC leadership proceeded to elect 2. There was some confusion among other civil society representatives not on the MSG about whether the Civil Society Council sat on the MSG or not. Nevertheless, most of the stakeholders consulted thought that the selection process followed was in accordance with the established procedures. Some civil society representatives not on the MSG said that there was a need to revisit the representation of the constituency as the current representatives were not engaging on the issues.

Industry representatives explained that the guarantee of one position per sector made selection relatively easy in their case, as the number of actors in each of their sectors was limited. They considered that consultation within the constituency was thus relatively straight-forward and informal. When asked about the selection procedures they responded that the different sector representatives rotated regularly and stressed the role of industry associations in managing the process.

Initial assessment

The MSG has been formed and includes self-appointed representatives from each stakeholder group. While President Johnson Sirleaf is statutorily responsible for appointing all MSG members, there is evidence the selection was made by each constituency with no suggestion of interference or coercion by the government. There appears to have been public outreach ahead of selection of CSO members of the MSG, although there is no evidence of consultations in the selection of industry MSG representatives. The ToR for the MSG, consisting of the LEITI Act and the MSG's Policy Manual, address the requirements of the EITI Standard but there appear to be certain deviations in practice, particularly related to industry representation on the MSG. This does not appear to have adversely affected the principle of equal participation in decision-making however, with the few decisions not taken by consensus clearly highlighted in meeting minutes. Attendance of MSG members is also inconsistent, with delegation of attendance to different representatives being common particularly for government and industry. The ToR does not include provisions for MSG members to consult with their constituencies and there do not appear to be consultations with the broader CSO and industry stakeholder groups. The MSG formally approves workplans, ToRs for the IA and annual progress reports. Although there is evidence that these are shared with MSG representatives for comments, stakeholder consultations show that they are not in turn shared with the broader constituency. Although all MSG members are statutorily accountable to their constituency, the lack of consultations outside MSG meetings means that MSG representatives only

appear to represent their own organisation's views rather than those of their stakeholders, as highlighted by stakeholders consulted from various constituencies. In the International Secretariat's view, these weaknesses have affected EITI implementation and contributed to inconsistent multi-stakeholder oversight of both strategic objectives of EITI implementation and the technical aspects of EITI reporting, in particular with respect to scoping of EITI Reports. Therefore, the International Secretariat's initial assessment is that Liberia has made meaningful progress towards meeting this requirement.

As a matter of priority, industry and civil society should agree constituency guidelines establishing robust mechanisms for consultations with and accountability to their broader stakeholder groups. Representatives from both constituencies should build on existing structures to ensure a two-way communication with their broader constituencies. The MSG should also review its governance documents in light of current practices to ensure that the statutory rules are followed in practice, particularly in relation to the number of representatives for each constituency. To secure real high-level government participation, LEITI may wish to consider lowering the frequency of meetings – for example quarterly – and/or lowering the level of government representation on the MSG except for the Chair.

Workplan (#1.5)

Documentation of progress

The LEITI Secretariat typically produces a draft work plan, which is then discussed by the MSG's Finance and Administration Committee and approved by the full MSG following proposed revisions by email from MSG members. The MSG had yet to approve a 2016-17 workplan as of the start of Validation on 1 July 2016. While the Finance and Administration Committee discussed the draft 2016-17 workplan at its 28 June 2016 meeting⁹⁵, the MSG's approval of the draft workplan was delayed until the Liberian Government's 2016-17 budget would be passed, as noted at the MSG's 30 June 2016⁹⁶ and 28 July 2016 meetings.⁹⁷ Liberia's 2016-17 national budget was only approved by the legislature on 23 September 2016.⁹⁸ The 2015-16 EITI workplan, available on the LEITI website⁹⁹, was discussed by the MSG at its meetings on 28 October 2015¹⁰⁰ and by the Finance and Administration Committee at its 17 November 2015 meeting¹⁰¹ before being approved by circular in November 2015. Such delays in the MSG's approval of the workplan appear to be frequent and are linked to delays in the approval of the national budget.¹⁰²

Objectives for implementation: The objectives of EITI implementation are set by the MSG's five-year

⁹⁵ LEITI (June 2016), MSG Finance and Administration Committee Meeting, 28 June 2016, unpublished, provided by the LEITI Secretariat.

⁹⁶ LEITI (June 2016), MSG meeting minutes 30 June 2016, http://www.leiti.org.lr/uploads/2/1/5/6/21569928/draft_msg_meeting_minutes_june_30_2016.pdf

⁹⁷ LEITI (July 2016), MSG meeting minutes 28 July 2016, http://www.leiti.org.lr/uploads/2/1/5/6/21569928/msg_meeting_minutes_of_28_july_2016_final.pdf

⁹⁸ The New Dawn (23 September 2016), Senate approves budget, <http://www.thenewdawnliberia.com/news/11642-senate-approves-budget>

⁹⁹ LEITI (2015), LEITI Approved workplan, July 1, 2015 to June 30, 2016, http://www.leiti.org.lr/uploads/2/1/5/6/21569928/approved_leiti_2015_2016_workplan.pdf

¹⁰⁰ LEITI (October 2015), MSG meeting minutes 28 October 2015, http://www.leiti.org.lr/uploads/2/1/5/6/21569928/msg_meeting_minutes_of_28_october_2015_revised.pdf

¹⁰¹ LEITI (November 2015), MSG Finance and Administration Committee Meeting, 17 November 2015, unpublished, provided by the LEITI Secretariat.

¹⁰² LEITI (2014), LEITI Approved workplan, July 1, 2014 to June 30, 2015, http://www.leiti.org.lr/uploads/2/1/5/6/21569928/leiti_work_plan_2014-15_.pdf

strategic plan covering 2015-16 to 2019-20, approved by the MSG in June 2015.¹⁰³ This new plan replaced the previous two-year strategic plan (from July 2012 to June 2014) and aimed to align the objectives of EITI implementation with the government's Agenda for Transformation and the strategic objectives set out in the LEITI Act. The LEITI Act sets the general objective of LEITI as ensuring that benefits from the extractive industries are duly and verifiably paid and used for the benefit of all Liberians on the basis of equity and sustainability. The Act also lists nine specific objectives related to EITI reporting but also including promoting better public understanding of the extractive industries and contract disclosure. The strategic plan sets five strategic work areas for EITI implementation: reporting, communications, innovation, sustainability and LEITI governance.

There is evidence from MSG meeting minutes of stakeholder input to the 2015-16 workplan¹⁰⁴, although there is no evidence of broader constituency consultations related to developing the workplan. The 2015-16 workplan sets 17 objectives, which are all linked to EITI reporting rather than more strategic objectives linked to national priorities. These include production and dissemination of the 6th EITI Report, summary reports, annual activity reports and quarterly newsletters; recruitment of the IA for the 7th and 8th EITI Reports and production of mining scoping study and second post-award process audit; workshops with the Liberian Anti-Corruption Commission (LACC) and the legislature on use of EITI data; initial set up of an EITI Centre of Excellence; production audit; stakeholder feedback; LEITI staff development; capacity building for CSOs and traditional elders; implement MSG's operations manual; expansion of school Extractives Clubs; nomination of subnational focal persons; beneficial ownership disclosure; resolution of discrepancies from 5th and 6th EITI Reports and preparations for EITI Validation.

Measurable and time-bound activities: Both the 2013-14 and 2014-15 LEITI workplans include both measurable and time-bound activities. Each activity listed includes the following information: objective, constraints, implementing partners, secretariat support, cost, funding source, timeline and expected outcomes.

Activities aimed at addressing any capacity constraints: Four of the 17 objectives of the 2015-16 workplan relate to capacity building of various stakeholders. The LEITI Secretariat was responsible for holding workshops for LACC and the legislature on the LEITI process and use of EITI information and establishing an EITI Centre of Excellence as a knowledge bank for all stakeholders, both by December 2015. Between October 2015 and March 2016, the LEITI Secretariat also planned to contract external trainers for trainings of secretariat staff on the extractive sectors. Finally, from October 2015 to May 2016, the secretariat together with CSOs planned capacity building workshops for CSOs and traditional leaders to improve their engagement in EITI implementation. Together these budget lines account for approximately 6.6% of the total budget for 2015-16.

Activities related to the scope of EITI reporting: The 2015-16 workplan plans for the development of seven reports: the 7th and 8th EITI Reports, covering 2013-14 and 2014-15, a scoping study on the mining sector, a second post-award process audit for 2012-13, a study on establishing an EITI Centre of Excellence, a production audit and a beneficial ownership report. It is evident that the MSG has considered extending the scope of EITI reporting to quarrying, through the mining sector scoping study, to beneficial ownership with production of a first BO report and to production figures with a first production audit. However, there

¹⁰³ LEITI (June 2015), Liberia Extractive Industries Transparency Initiative: Strategic Plan FY2015/16-FY2019/20, http://www.leiti.org.lr/uploads/2/1/5/6/21569928/approved_strategic_plan.pdf

¹⁰⁴ See for instance LEITI (June 2016), MSG Finance and Administration Committee Meeting, 28 June 2016, unpublished, provided by the LEITI Secretariat, and LEITI (June 2016), MSG meeting minutes 30 June 2016, http://www.leiti.org.lr/uploads/2/1/5/6/21569928/draft_msg_meeting_minutes_june_30_2016.pdf

is no evidence in the workplan that the MSG has considered extending the detail of EITI reporting to address issues such as transportation payments and discretionary social expenditures when reviewing the workplan.

Activities aimed at addressing any legal or regulatory obstacles identified: The 2015-16 workplan includes activities specifically aimed at addressing legal or regulatory obstacles. This includes developing and implementing the MSG's Operations Manual to establish clear rules of engagement and workshops with LACC and the legislature to raise their awareness and expand their use of EITI information. This could be useful for including provisions related to EITI in any new sector legislation.

Plans for follow-up on EITI recommendations: The 2015-16 workplan includes activities specifically aimed at implementing the recommendations from earlier EITI Reports. It includes separate activities related to investigating discrepancies in the 5th and 6th EITI Reports, undertaking an audit of production figures as well as preparations for Validation, which implies following up on past EITI recommendations even if this is not explicitly stated. However, the workplan does not include specific activities related to individual EITI recommendations, aside from the investigation of past discrepancies and of production figures.

Costings and funding sources: Both the publicly available 2014-15 and 2015-16 LEITI workplans are fully costed, including specific costs for individual activities, and the sources of funding are clearly identified, whether from the Government of Liberia or donors including the World Bank, African Development Bank, USAID, UNDP or GiZ. They also include a breakdown of secretariat staff compensation, operational costs, costs for consultancy, communications and outreach, travel and capacity building as well as an overview of the evolution of funding from the different sources in the past two years.

The MSG has had to face consistent shortfalls in government funding relative to activities planned in the annual workplan. Government's budgetary allocation to LEITI has declined from USD 774,000 in 2014-15 to a budgeted USD 718,000 for 2015-16, although this was further cut to USD 664,000 in light of the government's budgetary constraints. Support from donors including the World Bank, GiZ, AfDB and USAID reached USD 756,000 in 2015-16. However, delays in approval of the national budget for 2016-17 means the LEITI secretariat and MSG have been operating at a reduced capacity since the start of the fiscal year in July 2016. As a stop-gap measure, the government has been funding LEITI since July with emergency appropriations of one-twelfth of LEITI's proposed annual budget. The Ebola crisis in 2014 also had a significant impact on the MSG's ability to fulfil activities in the 2014-15 workplan and thus delayed many activities to the 2015-16 workplan, as highlighted in the 2015 annual activity report (pp.10-11). This included delays in producing the second post-award process audit and the beneficial ownership report. Nonetheless, it appears that the MSG was able to at least start all of the main activities planned in the 2015-16 workplan, with any delays considered reasonable in light of the Ebola outbreak and associated funding constraints. However, the lack of sufficient government funding in the July-October 2016 period and consistent delays in approving the annual workplan are a concern.

Stakeholder views

The representatives of civil society and industry on the MSG said that they had reviewed the 2015-2016 workplan and found that it aligned with the five-year strategic plan. None of the stakeholders consulted outside the MSG had seen past or present workplans or drafts, but neither did they express an interest in seeing it. Civil society representatives outside the MSG said that the workplan was not relevant to their work because they considered it to be a purely managerial tool that LEITI used to implement the LEITI Act and to respond to donor funding procedures. More than one stakeholder from each constituency said to

us that the workplan was by necessity aligned with national priorities because it was aligned with the LEITI Act, which itself was an expression of national priorities. When asked whether they felt constrained in the MSG's ability to react to events in the national debate by their rather limited workplan, stakeholders from all constituencies responded that they didn't because LEITI Act gives LEITI broad authority. Stakeholders from all constituencies said that the financial constraints that the country was undergoing were a direct threat to the execution of the workplan.

Initial assessment

The International Secretariat's initial assessment is that Liberia has made meaningful progress towards meeting this requirement.

Although workplans are generally costed and readily available on LEITI's website, the MSG had not approved a new workplan for 2016-17 as of the start of Liberia's Validation. Consistent delays in approving the annual workplan are a concern but appear unavoidable given the LEITI workplan's link to the budget of the Office of the President. The current workplan covering 2015-16, like its predecessors, does not update the objectives of EITI implementation and while the objectives of the five-year strategic plan appear aligned with national priorities, the current workplan's objectives are mostly related to EITI reporting. There is no evidence of MSG members' consultations on the workplan with their broader constituencies. At the same time, it is clear that the MSG uses the annual progress report, the communications strategy and other mechanisms to link its activities to national priorities throughout the year. While the workplan aligns with reporting and Validation deadlines, it does not include disaggregated follow up on individual EITI recommendations.

To address these challenges, the MSG is strongly encouraged to review its annual workplan and ensure that appropriate consultations are held with all three broader constituencies as a means of ensuring that the workplan objectives are aligned with national priorities. The MSG should also include more specific activities linked to following up on EITI recommendations.

Table 1 – Summary initial assessment table: MSG oversight

EITI provisions	Summary of main findings	International Secretariat's initial assessment of progress with the EITI provisions (to be completed for 'required' provisions)
Government oversight of the EITI process (#1.1)	There is strong presidential support for the EITI process in Liberia. The government has provided funding to implementation and there is willingness on behalf of the government to resolve bottlenecks to implementation. Stakeholders are taking part in some outreach and efforts to promote public debate. However, concerns from stakeholders of various constituencies that high-level political support did not translate into effective support or engagement at the level of the line	Satisfactory progress.

	ministries is a concern.	
Industry engagement in the EITI process (#1.2)	Companies are actively and effectively engaged in the EITI process but see their role primarily as providers of information. MSG minutes show that company representatives participate actively in MSG discussions. The LEITI Act of 2009 provides an enabling legal environment for EITI reporting and there do not appear to be legal barriers to company disclosure. Stakeholders have not expressed concerns about companies being unable to report to, or engage with, the MSG.	Satisfactory progress.
Civil society engagement in the EITI process (#1.3)	Civil society are able to fully, actively and effectively engage in the design, implementation, monitoring and evaluation of the EITI process, but there are important capacity constraints linked to staffing and funding. Stakeholders are taking part in outreach and efforts to promote public debate especially at the level of counties. There is an enabling environment for civil society participation in the EITI.	Satisfactory progress.
MSG governance and functioning (#1.4)	The MSG has been formed and includes self-appointed representatives from each stakeholder group. While the President is responsible for appointing all MSG members, the selection was made by each constituency. There appears to have been public outreach ahead of selection of CSO members of the MSG, although there is no evidence of consultations in the selection of industry MSG representatives. The ToR for the MSG address the requirements of the EITI Standard but there appear to be certain deviations in practice, particularly related to industry representation on the MSG. This does not appear to have adversely affected the principle of equal participation in decision-making however. Attendance of MSG members is also inconsistent, with delegation of attendance to different representatives being common particularly for	Meaningful progress.

	<p>government and industry. The ToR does not include provisions for MSG members to consult with their constituencies and there appears to be only infrequent consultations with the broader CSO and industry stakeholder groups. Although there is evidence that key documents are shared with MSG representatives for comments, these do not appear to be in turn shared with the broader constituency. In the International Secretariat's view, these weaknesses have affected EITI implementation and contributed to inconsistent multi-stakeholder oversight of both strategic objectives of EITI implementation and the technical aspects of EITI reporting, in particular with respect to scoping of EITI Reports.</p>	
Work plan (#1.5)	<p>Although workplans are generally costed and readily available on LEITI's website, the MSG had not approved a new workplan for 2016-17 as of the start of Liberia's Validation. Consistent delays in approving the annual workplan are a concern but appear unavoidable given the LEITI workplan's link to the budget of the Office of the President. The current workplan covering 2015-16, like its predecessors, does not update the objectives of EITI implementation and while the objectives of the five-year strategic plan appear aligned with national priorities, the current workplan's objectives are mostly related to EITI reporting. There is no evidence of MSG members' consultations on the workplan with their broader constituencies. While the workplan aligns with reporting and Validation deadlines, it does not include disaggregated follow up on individual EITI recommendations.</p>	Meaningful progress.
<p>International Secretariat's conclusions and recommendations:</p> <ol style="list-style-type: none"> 1. As a matter of priority, industry and civil society should agree constituency guidelines establishing robust mechanisms for consultations of their broader stakeholder groups. Representatives from both constituencies should build on existing structures to ensure a two-way communication with their 		

broader constituencies. The MSG should also review its governance documents in light of current practices to ensure that the statutory rules are followed in practice, particularly in relation to the number of representatives for each constituency. To secure real high-level government participation, LEITI may wish to consider lowering the frequency of meetings – for example quarterly – and/or lowering the level of government representation on the MSG except for the Chair.

2. The MSG is strongly encouraged to review its annual workplan and ensure that appropriate consultations are held with all three broader constituencies as a means of ensuring that the workplan objectives are aligned with national priorities. The MSG should also include more specific activities linked to following up on EITI recommendations.

3. The government is encouraged to ensure that its high-level political commitment to engaging in EITI implementation is matched by operational engagement by line ministries in oversight, outreach and dissemination.

4. The CSOs actively engaged in EITI implementation may wish to consider means of strengthening their outreach on EITI issues beyond dissemination of EITI Reports, to enhance the inclusiveness of the EITI process and ensure local demands for information are taken into account in national MSG discussions.

5. The industry constituency is encouraged to formalise mechanism for consultations and coordination of its stakeholders, with a view to improving companies engagement in EITI-related outreach and dissemination.

Part II – EITI Disclosures

2. Award of contracts and licenses

1.3 Overview

This section provides details on the implementation of the EITI requirements related to the legal framework for the extractive sector, licensing activities, contracts, beneficial ownership and state-participation.

1.4 Assessment

Legal framework (#2.1)

Documentation of progress

Legal framework and government agencies' roles: Section 3.1 (p.19) of the 2013-14 EITI Report described the legal framework for the mining sector, including a cursory overview of the 2000 Mining and Minerals Law and the complementary March 2010 Minerals Policy of Liberia. The statutory responsibilities of the Ministry of Lands, Mines and Energy (MLME), Government Diamond Office (GDO), Bureau of Customs and the Chamber of Mines established in November 2013 were also briefly described. Section 3.2 (pp.22-23) briefly described the legal framework for the oil and gas sector, including the 2000 National Oil Company of Liberia (NOCAL) Act, the 2002 New Oil & Gas Law (Petroleum Law) and the 2012 National Petroleum Policy. The statutory responsibilities of the MLME, the inter-ministerial Hydrocarbon Technical Committee (HTC) and the Environmental Protection Agency (EPA) were also summarily described. Section 3.3 (pp.25-26) provided a cursory overview of the legal framework for the agricultural sector and Section 3.4 (pp.27-28) provided a similar overview of the forestry sector's legal framework.

Fiscal regime: Section 3.1 (pp.20-21) described the mining sector's fiscal regime, including provisions of sections 701 to 739 of the Liberia Revenue Code (LRC), the three types of taxes and levies (tax on taxable income, royalties and surface rent) and applicable rates. Section 3.1 (p.21) also describes requirements for calculation of tax liabilities on the basis of individual mining production projects and the prohibition of consolidation of profits or losses across several projects. Section 3.2 (pp.23-24) described the fiscal regime for oil and gas, including provisions from sections 740 to 799 of the Liberian Revenue Code (LRC), the four types of taxes and levies (tax on taxable income, royalty, surface rent and signature fees/signing bonuses) and applicable rates. It also referred to sections 806 and 905 of the LRC covering withholding taxes. Section 3.2 (p.23) described the same provisions for project-level calculations of tax liabilities as in the mining sector. Section 3.3 (p.26) provided a brief overview of the fiscal regime in the agricultural sector, including applicable rates, and Section 3.4 (p.28) provided the same for the forestry sector.

Degree of fiscal devolution: Section 4.1.3 (p.36) stated that there were no provisions for sub-national transfers in Liberia with all taxes consolidated at the national level and appropriated for central government expenditures.

Reforms: Section 3.1 (p.19) made passing reference to the on-going review of the 2000 Mining and Minerals Law but provided no additional details. While Section 3.2 (p.23) stated that the 2002 New Oil & Gas Law had only partially been enforced, with local content provisions not enforced for the first two bidding rounds due to the lack of implementing guidelines, it did not refer to any on-going or planned

reforms to address these challenges and only stated that enforcement of the local content provisions for the on-going third bidding round depended on the legislature's issuance of guidelines. However, Section 3.2 (p.27) of LEITI's December 2015 beneficial ownership pilot report referred to the "new" NOCAL Act and the draft Petroleum (Exploration and Production) Bill of 2014, recommending swift signing and printing of the two acts. The section referred to provisions of the 2014 Petroleum Bill that would split NOCAL's regulatory functions and allocate them to a dedicated government authority.

The 2012-13 EITI Report provided a similar overview of the legal framework for the mining sector (pp.17-18), oil and gas (pp.20-21), the fiscal regime for agriculture (pp.24-25) and forestry (pp.26-27). Similarly, ongoing reforms were alluded to but not described (p.17).

Stakeholder views

Stakeholders consulted generally considered the EITI Report's overview of the legal framework and fiscal regime to be accurate, albeit brief. The IA noted that it had discussed legal and fiscal reforms with the national secretariat and the MSG during the scoping phase for the 2013-14 EITI Report, but that no stakeholder had highlighted any reforms during this period. While there had been significant discussion of the financial relations between NOCAL and the government, stakeholders had told the IA there had been no movement on the draft NOCAL bill in parliament. Several CSOs outside the MSG noted that there had been significant discussion of the draft NOCAL bill until 2014 but that there had been no new information on progress since then. These CSOs considered that the EITI Reports could be a useful means of tracking progress in legal reforms affecting the extractive industries.

A former member of the secretariat regretted that LEITI Reports did not provide more clarity on the current status of the Act or help move the debate on its future forward. A former Senator explained that the revised NOCAL Act was currently stalled at the level of the embattled speaker of the house and that it was unclear when the bill would be ratified by the legislature. A development partner noted that the bill for a revised Minerals Act had been drafted by the MLME in 2016 and was ready to be submitted to the legislature in July 2016. This was seen as particularly pressing in order to bring Liberia's mining legislation up to international standards, given that the current Minerals Act had been enacted during the Taylor Presidency and left significant room for discretion by individual officials.

Representatives from LRA, NIC and development partners explained that MDAs and PSCs superseded the Revenue Code given that they were ratified by the legislature. In a June 2016 report, Global Witness raised concerns over revisions to the PPC Act on 16 September 2010 that allowed for the Minister of LME to declare an asset non-biddable under Section 75.¹⁰⁵ The Government of Liberia launched an investigation into the allegations, welcomed by LEITI in public statements, which prompted a political crisis over the summer of 2016.¹⁰⁶

Initial assessment

The International Secretariat's initial assessment is that Liberia has made satisfactory progress in meeting this requirement. The 2013-14 EITI Report provided brief descriptions of the relevant laws and statutory responsibilities of relevant government entities as well as an overview of the fiscal regime.

Notwithstanding, we note the existence of additional publicly-available information on the 2000 Mining

¹⁰⁵ Global Witness (June 2016), The deceivers, <https://www.globalwitness.org/thedeceivers/>

¹⁰⁶ <https://www.globalwitness.org/en/press-releases/global-witness-welcomes-liberian-pledge-investigate-mining-bribery-scandal/>

and Minerals Law¹⁰⁷ and on the March 2010 Minerals Policy of Liberia¹⁰⁸, which the MSG may wish to provide links to in the next EITI Report. On-going or planned reforms were only referred to briefly in the EITI Report and the MSG should consider expanding descriptions of relevant reforms, using future EITI Reports as a means of tracking regulatory reforms and their impact. We note that the draft 2013 NOCAL bill is available online¹⁰⁹ and that other information on planned reforms in the petroleum industry are also publicly available.¹¹⁰

License allocations (#2.2)

Documentation of progress

In the mining sector, companies can apply for two types of exploration licenses (Mineral Exploration Licenses and Development Exploration Licenses) and three types of production licenses (Classes A, B and C). Companies can also conclude Mineral Development Agreements (MDAs) ratified by the legislature to cover production activities as well as exploration activities in some cases. In oil and gas, companies conclude Production-Sharing Contracts, also ratified by the legislature.

Awards/transfers: Section 3.1 (p.20) provided a list of seven mining licenses awarded during the period under review (1 July 2013 – 31 June 2014), although the list of active mining licenses provided in Annex 4 (pp.71-72) detailed eight mining licenses awarded in this period. The eighth license listed in Annex 4 was allocated to Kpo Iron Ore Ltd on 9 April 2014 for Mining Exploration License n. 2474/14 in Gbarpolu. The EITI Report did not refer to the transfer of any mining licenses in 2013-14.

While Section 3.2 (p.22) referred to the award of four oil and gas blocks to three companies in Liberia's first bidding round concluded in August 2003 and Section 3.2 (p.24) referred to four oil and gas companies undertaking exploration in Liberia in 2013-14, the EITI Report did not clearly state whether any new petroleum blocks were awarded in the year under review. However, based on information provided in Annex 5 (pp.73-74) on leased petroleum blocks, no new block was signed or amended in this period. Nevertheless, it appears that ExxonMobil's Block 13 was ratified in 2013 (although the month was not specified). The 2012-13 EITI Report noted that the transfer of 80% of COP's equity in Block 13 was sold to ExxonMobil in April 2013 (p.51). The 2013-14 EITI Report did not refer to the transfer of any petroleum block in the year under review. Section 3.2 (p.22) referred to an on-going third bidding round.

The 2013-14 EITI Report made no reference to any license allocations or transfers in the agricultural sector. Section 3.4 (pp.27-28) stated that a total of 1,007,266ha of forestry concessions had been issued since the resumption of logging in 2009 and that an additional 2,270,097ha were to be "potentially issued", although it did not specify whether any concessions were awarded or transferred in the period under review.

Award/transfer process and technical/financial criteria: Section 3.1 (pp.19-20) describe the process for allocating mining licenses, in line with the 2000 Minerals and Mining Law.¹¹¹ The section (p.20) described

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[http://www.resourcegovernance.org/sites/default/files/Liberia%20Minerals%20and%20Mining%20Law%20\(Approved%20April%203%202000\).pdf](http://www.resourcegovernance.org/sites/default/files/Liberia%20Minerals%20and%20Mining%20Law%20(Approved%20April%203%202000).pdf)

¹⁰⁸ <http://www.eisourcebook.org/cms/June%202013/Liberia%20Mineral%20Policy.pdf>

¹⁰⁹ http://www.resourcegovernance.org/sites/default/files/nrgi_Bill_NOCAL_Act2013_draft.pdf

¹¹⁰ See for instance <https://www.imf.org/external/np/seminars/eng/2013/liberia/PDF/Shafaie.pdf>

¹¹¹ The law established the Minerals Technical Committee, which includes as its members the Minister of Lands, Mines and Energy as its chairman, the Ministers of Justice, Finance, Planning and Economic Affairs, and Labour, the Council of Economic Advisors to the President and the Governor of the Central Bank. The MTC reviews applications and the Minister of Lands, Mines

the different types of licenses and the general allocation process, as well as a cursory overview of the documentation required for applications. However, it did not describe the technical and financial criteria used for assessing mining license applications, nor the process for transferring mining licenses.

Section 3.2 (pp.22-23) described the general procedures for negotiating and concluding agreements for hydrocarbons developing and exploitation rights, referring only to the powers of the Hydrocarbon Technical Committee (HTC) under the chairmanship and guidance of the NOCAL CEO/Chairman to conclude such agreements, once signed by the relevant parties.¹¹² However the EITI Report did not describe the technical and financial criteria used during bidding rounds nor the process for transferring blocks, although we understand that there were no such bidding rounds in the period under review. We note the reference in Section 3.2 (p.24) to block transfer fees, which would seem to indicate that block transfers were possible.

Section 1.2.2 (p.3) of the December 2015 BO pilot report referred to a requirement to disclose the beneficial owners of applicants during the process for awarding licenses, although it did not specify further requirements.

Section 3.3 (pp.25-26) provided a general overview of the process for awarding agricultural concessions, but not for transferring them, while Section 3.4 (pp.27-28) described only the different types of forestry concessions, but not the process for awarding or transferring them. The EITI Report did not refer to technical or financial criteria for awarding or transferring agricultural or forestry concessions.

License awardee information: While the EITI Report did not explicitly state whether any mining or petroleum licenses were transferred in the year under review, nor whether any petroleum blocks were awarded, it provided some information on the identity companies who were awarded licenses, but not of companies that received potential transferred license. In mining, Section 3.1 (p.20) provided a list of seven mining licenses awarded, although the detail of active mining licenses provided in Annex 4 (pp.71-72) listed eight mining licenses awarded in this period. In oil and gas, information provided in Annex 5 (pp.73-74) revealed that no new petroleum block was signed or amended, although it appears that ExxonMobil's Block 13 was ratified in 2013 (month not specified).

Non-trivial deviations: The EITI Report did not refer to any deviations from statutory license allocation or transfer procedures in practice. Section 3.2 (p.23) only stated that the 2002 New Oil & Gas Law had only partially been enforced. Section 1.2.2 (p.3) of the December 2015 BO pilot report noted that government entities including MLME, FDA and MOA had "issues" with the records they held on beneficial owners of companies despite the fact such disclosures were a requirement during the license award process, which would seem to indicate non-trivial deviations from the statutory license allocation procedures. In 2013, LEITI published a first post-award process audit covering 13 July 2009 to 31 December 2011 assessing the process for awarding licenses and contracts in mining, agriculture, forestry and oil and gas.

The LEITI's May 2013 post-award process audit covered concessions, contracts, licenses and permits in the mining, oil and gas, forestry and agricultural sectors for the period 13 July 2009 – 31 December 2011.¹¹³ It

and Energy "shall grant a prospecting license to all eligible applicants for an area to be specified in the application, if the application is compliant with the requirements set forth in the law or regulations."

¹¹² The agreements must be signed by the applicants, NOCAL, the Minister of Finance, the Minister of Lands, Mines and Energy, the Chairman of the National Investment Commission, attested by the Minister of Justice and approved by the President of Liberia.

¹¹³ LEITI Post Award Process Audit Report (Moore Stephens, May 2013)

<http://www.leiti.org.lr/uploads/2/1/5/6/21569928/151344593-leiti-post-award-process-audit-process-report.pdf>

found that 35 of the 68 contracts examined were non-compliant to PPCC standards, 25 were partially compliant, six were compliant and two had limitation of scope, while it highlighted six recommendations to improve Liberia's concession award process. However the MSG's April 2015 LEITI gap analysis, produced by the Overseas Development Institute, found that progress in implementing recommendations from the first post-award process audit had been "remarkably slow overall."¹¹⁴ A contract for a second post-award process audit was awarded to PricewaterhouseCoopers Advisory Liberia LLC in 2015, with work due for completion in Q3-2016.

Comprehensiveness: The EITI Report did not refer to the allocation of mining licenses prior to the period under review. Section 3.2 (p.22) referred to allocations of petroleum blocks during the first bidding round concluded in August 2003, with three companies receiving four blocks, but did not provide any further details.

Bidding process: While there were no statutory procedures for mining license bidding rounds, the EITI Report only referred to previous petroleum bidding rounds but did not refer to the process for the third block bidding round initiated (but not concluded) in the period under review. Section 3.2 (p.22) referred to the on-going bidding round but did not provide any additional information, nor a link to the relevant sections of the NOCAL website.

Commentary on efficiency: The EITI Report did not provide commentary on the efficiency of the process for awarding or transferring licenses in mining or oil and gas, although Section 3.2 (p.23) stated that the 2002 New Oil & Gas Law had only partially been enforced, with local content provisions not enforced for the first two bidding rounds due to the lack of implementing guidelines.

The 2012-13 EITI Report provided basic information on the license award process in the mining sector (pp.17-18), although this did not include the technical and financial criteria, information on the recipients of new licenses nor any significant deviations from the legal and regulatory framework governing license awards and transfers. While the Block 13 PSC was ratified in March 2013¹¹⁵ and a transfer of equity in the PSC to ExxonMobil was finalised in April 2013¹¹⁶, the 2012-13 EITI Report did not provide information on these transactions. The EITI Report did not include information on the licensing processes in the petroleum, agriculture, or forestry sectors and it remained unclear whether any new licenses were awarded during the period under review. There was no reference to bidding processes nor any comments on the efficiency and effectiveness of the license allocation system.

Stakeholder views

Secretariat staff expressed surprise at the discrepancy in number of new mining license awards in the EITI Report and considered this may have been an oversight by the IA. The IA confirmed that eight mining licenses had been awarded in 2013-14 and explained that the IA had only received the MLME's disclosures of the number of new mining licenses and had not double-checked the reliability of this information. A NIC representative stated that Aureus Mining (UK) had originally concluded a MDA in 2001 but had subsequently changed name to Bea Mountain and amended the MDA on 24 September 2013. In oil and

¹¹⁴ LEITI (April 2015), Applying the 2013 EITI Standard in Liberia: Gap analysis and recommendations - http://www.leiti.org.lr/uploads/2/1/5/6/21569928/gap_analysis_report.pdf

¹¹⁵ The New Dawn (26 March 2013), Liberia: House Ratifies Oil Block 13 March 26, <http://allafrica.com/stories/201303260605.html> and Edison Group (7 November 2013), Canadian Overseas Petroleum, <http://www.edisoninvestmentresearch.com/?ACT=18&ID=10693>

¹¹⁶ ExxonMobil (5 April 2013), ExxonMobil to Explore Offshore Liberia Block 13, <http://news.exxonmobil.com/press-release/exxonmobil-explore-offshore-liberia-block-13>

gas, NOCAL representatives confirmed that no PSC had been awarded or transferred in fiscal 2013-14, but that Anadarko had relinquished one PSC in June 2014. Secretariat staff noted that the March 2013 ratification of the Block 13 PSC represented a new license award since a PSC was only effective following ratification by the legislature. A representative from NIC confirmed that a PSC was considered awarded and effective only when it was ratified by the legislature. We note that ExxonMobil acquired Peppercoast Petroleum stake in Block 13 on 5 April 2013¹¹⁷ after the PSC was ratified by the legislature on 26 March 2015¹¹⁸, although COP's stake was subsequently diluted from 20% to 17% (with ExxonMobil holding 83%) when COP decided not to make the final USD 7.2 million payment for the last 3% remaining equity stake.¹¹⁹ The Secretariat explained that the USD 70 million in ExxonMobil payment to Peppercoast Petroleum, the original PSC holder, had been channelled through NOCAL in April 2013 but that it had been excluded from the scope of reconciliation in the 6th EITI Report given that it represented a payment to Peppercoast and not a payment to government. The MSG discussed this issue at length at its 28 October 2015 meeting, where it agreed that the payment from ExxonMobil to Peppercoast through NOCAL should not be considered as government revenue subject to NOCAL's producing evidence of its transfer of these funds to Peppercoast.¹²⁰

Following the period under review, NOCAL representatives noted that Anadarko had relinquished its last PSC in 2015 and that a new PSC (on Block 16) had been signed with Liberty Petroleum but had never subsequently been printed into handbill by the Ministry of Foreign Affairs given the failure of the bidder's compliance with certain terms. A development partner noted the lack of clarity between different types of mining licenses and agreements: while MDAs typically only covered Class A mining production licenses, in some cases such as Western Cluster a company's MDA covered both MELs and Class A licenses. Industry representatives and a former MSG Co-Chair noted the existence of technical and financial criteria for exploration license applications in the mining sector but did not recall the specific requirements. All stakeholders consulted stated that there were technical and financial criteria for transfer of mining exploration licenses, although they did not know the specific requirements. Several CSO MSG members consulted explained that while there used to be significant corruption in the allocation of mining exploration licenses, this had been resolved and current allocations followed the statutory system. However other CSOs not on the MSG and several development partners noted that there were significant deviations from the statutory license allocation procedures in practice, in addition to the deviations from the contract requirements once they were being implemented. They cited the findings of the 2013 post-contract award audit that only two of the 68 contracts reviewed had followed the terms of the contracts. Secretariat staff noted that a second post-contract award audit was to be published by the end of 2016 and that it would be referenced as part of the 9th EITI Report, covering 2012-2015.

Stakeholders consulted from all three constituencies agreed that while the process for awarding mining exploration licenses was clear, the EITI Report did not describe the statutory process for concluding mining development agreements. All stakeholders on the MSG and the IA confirmed that a full description of the license allocation and transfer processes and deviations in practice had not been included in the scope of

¹¹⁷ <http://news.exxonmobil.com/press-release/exxonmobil-explore-offshore-liberia-block-13>

¹¹⁸ http://www.nocal.com.lr/pdf/Press_Releases/NOCAL%20Release%20April%205%20-%20Exxon-Mobile.pdf

¹¹⁹ Canadian Overseas Petroleum Limited (27 November 2014), Liberia Update, <http://www.canoverseas.com/wp-content/uploads/nr/copl---november-27-2014-liberia-update-press-release.pdf> and https://www.proactiveinvestors.com/upload/SponsorFile/File/2016_06/Canadian-Overseas-Petroleum---Initiation-of-coverage.pdf

¹²⁰ LEITI (October 2015), MSG meeting minutes 28 October 2015, http://www.leiti.org.lr/uploads/2/1/5/6/21569928/msg_meeting_minutes_of_28_october_2015_revised.pdf

work for the 2013-14 EITI Reports given that LEITI undertook a separate reporting process for the LEITI post-award process audits. The IA confirmed that this had been agreed with the MSG and national secretariat prior during the inception phase, given that the second post-award audit covering the 2013-14 period was due for completion by end-2015, although there were no written records of this agreement. A representative from the National Investment Commission explained that while the PPCC established a clear process for concluding mining concessions, this was very seldom followed in practice. In addition, while the MLME was required to establish an Inter-Ministerial Concessions Committee to assess exploration license application, this was not done in practice. There were thus significant deviations in practice from the statutory exploration license and MDA award processes according to the NIC representative. Stakeholders from all constituencies often referred to “the blessing” in the assignation of licenses, which was consistently explained to us in terms of proximity to the President. A former industry MSG member noted that the process for concluding a MDA was opaque and challenging for companies: once a company concluded an MDA with the executive branch of government, the draft agreement was subsequently sent to the legislature for ratification before printing by the Ministry of Foreign Affairs. This allowed for significant revisions in the final agreement, which the company would not have any oversight of. Companies typically had to chase down the Ministry of Foreign Affairs for a copy of the final agreement, which they only received in hard copy and then had to scan to keep in their corporate records. There was no standard template for contracts, although there had been three separate initiatives to develop a standard template. The International Senior Lawyers’ Association had developed a template that had been used by BHP Billiton and Putu Iron Ore in a project initiated in 2006¹²¹, while UNDP¹²², the AfDB’s Legal Support Facility¹²³ and GiZ through the Overseas Development Institute had also undertaken capacity building work on contract negotiation. Reports from UNDP have highlighted challenges in the process of mining concessions negotiations given the existence of several laws governing the fiscal terms of natural resource contracts (the New Minerals and Mining Law, the Liberian Revenue Code and the 1973 Investment Incentive Code) and the numerous government entities (such as the PPCC and the Inter-Ministerial Coordinating Committee) involved in the process.¹²⁴ A former senator explained that license allocations was a contentious political issue at the moment, which demonstrated the importance of EITI implementation in improving transparency and the public’s understanding of license allocation procedures. While the former Senator explained that mining MDAs and petroleum PSCs could change substantially between the time a company negotiated the agreement with government and when it was ratified by the legislature, a NIC representative did not recall a MDA having been substantially revised by the legislature (either the House or Senate Committees on Investment) during the process of ratification. The NIC representative noted that any substantial change to a draft MDA by the legislature would require the MDA to be sent back to the President and the NIC for approval.

The 2015 LEITI gap analysis, several CSOs not on the MSG and several development partners noted that MLME had drafted a new Minerals Act with support from GiZ that was ready for submission to the legislature. The bill, replacing the current Minerals Act enacted under the Taylor administration, would clarify license allocation procedures. One development partner noted that under the new Minerals Act the core aspects of the license application process would become a mostly technical-administrative process following clear procedures and rules, and not a politicized negotiation process, but that the window of

¹²¹ <http://islp.org/sites/default/files/2009AR.pdf>

¹²² <http://www.undp.org/content/dam/undp/library/Poverty%20Reduction/Extractive%20Industries/Extractive-Industries-Brochure.pdf>

¹²³ <http://www.afdb.org/en/topics-and-sectors/initiatives-partnerships/african-legal-support-facility/>

¹²⁴ <http://www.undp.org/content/dam/liberia/docs/Private%20Sector%20Development%20Project%20Document.pdf>

opportunity to adopt the draft law was closing with the October 2017 elections.

Oil and gas industry representatives said that the criteria for petroleum block bidding rounds were published on the NOCAL website. Secretariat staff noted that ratification from the legislature was not necessary for transfer of equity in PSCs. NOCAL representatives noted that the technical and financial bid criteria were included in the bid documents that were shared with potential bidders. Thus for the third bidding round NOCAL had established a special website that included a draft PSC and bid criteria. The NOCAL representatives noted that there had been deviations from the statutory bid criteria in the first two bidding rounds given that the government had waved the requirement for national participation in PSCs, since NOCAL had realised that enforcing a requirement for a 20% free carry could prove a disincentive to investors in a frontier exploration area like Liberia. NOCAL representatives noted the first post-award audit's findings that the PPCC and the Petroleum Law were not in sync with regards to the process for concluding PSCs, but noted that NOCAL had followed the Petroleum Law in the past. Global Witness has raised concerns over deviations from the technical and financial criteria in the award of Block 16 on 18 December 2014 to a consortium of companies without the proven financial capacity to fulfil requirements of their work programme¹²⁵ while NRGi has raised concerns over the conduct of the third block bidding round given the lack of a "solid legislative framework" in a September 2014 report.¹²⁶

Industry representatives consulted did not know the standard procedure for concluding PSCs in Liberia and was unsure whether a uniform process was applied for all bids. Representatives from NOCAL noted that the bid criteria for the third petroleum block bidding round initiated in 2014 were publicly available on the dedicated bidding round webpage¹²⁷ as well as a description of the general bid process¹²⁸ and a model PSC.¹²⁹

Initial assessment

The International Secretariat's initial assessment is that Liberia has made inadequate progress towards meeting this requirement. The EITI Report provided general information on the process for awarding mining licenses and petroleum blocks, on the identity of companies who were awarded licenses in 2013-14 and limited information on non-trivial deviations from the statutory procedures for awarding petroleum blocks. However, there were inconsistencies in the EITI Report's description of the number of mining licenses were awarded in the period under review, and no information on statutory allocation procedures for mineral production licenses. While it appears that the Public Procurement Concessions Commission (PPCC) plays a role in regulating mining and petroleum concessions under Section 122, Part VI, of the PPC Act¹³⁰, this role is not described in the EITI Report. Reforms of the PPCA and the introduction of Sub-section 3 of Section 75 (p.72) of the PPCA, allowing the mining minister to declare a concession a non-biddable item, has been the subject of significant political controversy following the publication of a report by Global Witness in June 2016.¹³¹ The EITI Report did not provide information on the transfer process or on

¹²⁵ Global Witness (February 2015), Liberia has burned the furniture to warm the house -

<https://www.globalwitness.org/en/archive/liberia-has-burned-furniture-warm-house/>

¹²⁶ NRGi (18 September 2014), Liberia's Oil Block Bid Round Comments and Questions,

http://www.resourcegovernance.org/sites/default/files/documents/nrgi_liberiaoilblockbidround.pdf

¹²⁷ <http://www.nocal.com.lr/operations/liberian-basin/open-block-bidding>

¹²⁸ <http://www.nocal.com.lr/news-and-media/NOCAL%20BID%20ROUND%20EXPLAINEDFinal.pdf>

¹²⁹ <http://cdn2.hubspot.net/hub/245320/file-1473869583->

http://images/Product_Line/NOCAL/Preliminary_PSC_2014.pdf?&_hssc=&_hstc=112058779.b97a554e0f8a076f8fd89654a15abf51.1407330823619.1408112851205.1408311125633.8&hsCtaTracking=a74ed99e-c8e5-4e66-b238-04b00dbbcee7%7C25b995a0-6830-4566-abda-be53fe6d5dbb

¹³⁰ <http://ppcc.gov.lr/doc/PPCA%20Sept%2013%202010%20FINAL.pdf>

¹³¹ Global Witness (June 2016), The deceivers, <https://www.globalwitness.org/thedeceivers/>

technical and financial criteria for license allocations and transfers. There was no reference to non-trivial deviations in the award of new mining licenses or in the transfer of mining and petroleum licenses. Finally, while we understand that no new bidding round was concluded during 2013-14, the EITI Report did not provide information or a link to publicly-available descriptions of the bidding process for the third petroleum block bidding round launched in April 2014. While the ratification of the Block 13 PSC in March 2013 and its transfer to ExxonMobil in April 2013 fall outside the scope of the 2013-14 EITI Report, the lack of information on this oil and gas PSC allocation and transfer in the 2012-13 EITI Report is a concern. Production of a second post-award process audit report covering 2012 was in preparation by end-2016 and is expected to address the gaps in information on the actual procedures for license awards and transfers. It will not address the period under review by this initial assessment.

The MSG is urged to ensure that either future EITI Reports describe the actual practice of license awards and transfers in the period under review or ensure that post-award process audit reports are published in a timelier manner. The MSG should ensure that future EITI Reports disclose the technical and financial criteria as well as the overall process for awarding and transferring licenses for any license, lease, title, permit, contract or concession by which the government confers on a company or individual rights to explore or exploit oil, gas and mineral resources – and any deviations for licenses awarded or transferred in the year under review.

License registers (#2.3)

Documentation of progress

Liberia has two online portals to visualise license registers. The first, hosted by MLME and based on Revenue Development Foundation's MCAST system, provides information only on mining licenses.¹³² The second, hosted by the National Bureau of Concessions (NBC) and based on Spatial Dimension's Flexicadastre system, provides information on mineral development agreements, oil and gas PSCs and mining exploration licenses awarded since January 2016.¹³³ While the MLME website has been offline since at least April 2016, the MLME cadastre is available online hosted on RDF and the NBC cadastre is available on the Spatial Dimension website. While registration is required for the MLME cadastre, it is free and only requires full name and email address, with no additional approval required.

Licenses held by material companies: Annex 4 (pp.71-72) of the 2013-14 EITI Report provided details of 30 mining licenses active in 2013-14, sourced from MLME. Based on the list of material mining companies however, it appears that license information was not provided for nine of the 19 material mining companies.¹³⁴ Information provided in Annex 4 included license-holder name, general location (name), dates of application, award and expiry, license type and number as well as total area (in sq. km). However, dates of application were only provided for 15 of the 30 licenses, commodity covered were not listed and no license coordinates were included (nor reference on how to access these).

Annex 5 (pp.73-74) provided details of the eight leased petroleum blocks in 2013-14, sourced from NOCAL's website.¹³⁵ Information provided included block number, block contractor(s) name(s), operator

¹³² <http://liberia.revenuesystems.org/>

¹³³ <http://portals.flexicadastre.com/liberia/>

¹³⁴ The nine material mining companies for which no license information was provided in the EITI Report were Boart Longyear Corp. Liberia, Amlib United Minerals Inc/Kle Kle, Steinbock Minerals, Earthsource Mineral International, Anglo American Kumba Exploration, West Africa Gold and Diamond, West Africa Diamonds Inc., Afric Diam Company Inc. and Golden Mass Trading.

¹³⁵ The following link was also provided: <http://www.nocal.com.lr/operations/block-status>

name, general location (cursory description), block status, initial contract dates of signature, amendment and ratification by legislature as well as production sharing splits based on production levels. While Section 3.2 (p.24) provided a low-definition map of the petroleum blocks, the EITI Report did not provide block coordinates or guidance on how to access them. While the information on petroleum blocks did not explicitly refer to the commodity covered by the blocks, Section 3.2 (p.22) clearly states that petroleum blocks cover both oil and gas.

Annex 6 (p.75) provided details of the 11 agricultural concessions active in 2013-14, sourced from the Ministry of Agriculture. Information provided included concession-holder name, general physical and operating locations (names), type of license/contract, license/permit dates of issue and expiry and license area (in acres). However, date of application, license coordinates and commodity covered were not provided. In addition, issue dates were provided for only seven of the 11 licenses, expiry dates for only four of the 11 licenses and there was no information on the location of the license held by one company (Cavalla Rubber Corp.).

Annex 7 (p.76) provided details of the eight forestry licenses active in 2013-14, sourced from the FDA. Information provided included concession-holder name, operating location (name), license contract type, license/permit dates of issue and expiry and total operating area (in ha). However, date of application, license coordinates and commodity covered were not included. In addition, dates of issue and expiry were provided for only six of the eight concessions.

Licenses held by non-material companies: The information on mining and petroleum licenses provided in Annexes 4 and 5 include information on all licenses active in 2013-14, irrespective of the materiality of companies holding the licenses.

Public cadastre/register: The EITI Report did not refer to cadastres for either mining or petroleum licenses, although information on petroleum blocks in Annex 5 (pp.73-74) was sourced from the NOCAL webpage¹³⁶ that provides information on leased blocks in the Liberian basin.

The 2012-13 EITI Report provided information on licenses held by all companies operating in Liberia in Annexes 4-7, including license-holder name and code, physical location but not coordinates, date of issue and duration of the license, license type but not commodity covered, and license size (in hectare). Annex 2 included information about company sector and core businesses. There was no reference to the MLME's cadastre.

Stakeholder views

Secretariat staff and several representatives from government, CSOs and industry expressed surprise that the list of mining licenses provided in the 2013-14 EITI Report did not cover all material companies, noting that the information had been sourced from MLME. A representative from a material mining company expressed concern that his company's two mining licenses were not included in the EITI Report. The IA explained that MLME submitted cadastral information to the IA, but that the IA had only verified the comprehensiveness of information submitted for the 2012-13 EITI Report, not for the 2013-14 EITI Report.

A former industry MSG member and several development partners noted the existence of two different license cadastres, one established with GiZ support within the MLME and one established with USAID support within the National Bureau of Concessions, adding that there was no automatic exchange of information between the two systems. Secretariat staff noted that the MLME cadastre had been launched in 2015 and that information on oil and gas PSCs was available from NOCAL's website. The 2015 LEITI gap

¹³⁶ The following link was also provided: <http://www.nocal.com.lr/operations/block-status>

analysis stated that the MLME cadastre was updated quarterly, which was confirmed by MLME representatives. A development partner explained that the mandates of the two cadastres differed: the MLME cadastre was an operational instrument to manage mining licenses while the NBC's system was an effort to establish an integrated land-use map. While the development partner noted that cooperation between the NBC and MLME was lacking, negotiations had started to establish an automated exchange of information between the two systems. The development partner noted that, while the technical MLME cadastre was already established to a large extent, the applied processes were still in need of reform.

Representatives from MLME's cadastral department noted that the MLME cadastre available online provided information on all exploration licenses but only on the five of the seven MDAs active in 2013-14 for which they had original contracts. A NIC representative confirmed that seven MDAs were in force in the period under review.

Initial assessment

The International Secretariat's initial assessment is that Liberia has made meaningful progress towards meeting this requirement. While the EITI Report did not provide information on all mining licenses and petroleum blocks held by material companies, some of the information required under 2.3 was available on the two cadastres available online and through the NOCAL website for petroleum blocks.

In mining, the EITI Report provided license-holder name, dates of award and expiry, but only dates of application for 15 of the 30 active licenses and no information on commodity covered or license coordinates (nor guidance on how to access them). The MLME cadastre provided license-holder name, dates of application and expiry and GPS coordinates but no information on commodity covered or dates of award. However, given the information on duration of licenses provided in Section 3.1 (p.20), it is possible to calculate the date of award for all licenses on the MLME cadastre. The MLME cadastre appears to cover all licenses covered by material companies in the 2013-14 EITI Report.

The EITI Report and the NOCAL website provide information on the eight oil and gas PSCs including contractor and operator names, dates of contract signature, amendment and ratification by legislature as well as commodities covered, but not license coordinates (or guidance on how to access them). However, while both the EITI Report and NOCAL website list an 80:20 split between ExxonMobil and COPL on Block 13, we note that the actual split was diluted to 83:17 in April 2013.¹³⁷ The inaccuracy of information in NOCAL's PSC register is a concern. However, the NBC cadastre provides information on oil and gas PSCs including company names, equity split, dates of award and expiry and commodities covered. While license coordinates are not explicitly provided in the NBC cadastre, it is possible to zoom in to within 60m on the map user interface. It is a concern that the EITI Report did not refer to a public cadastre of mining licenses, providing only a link (but no description) to the NOCAL webpage providing information on active blocks.

In preparing its next EITI Report, the MSG should work with MLME and NOCAL to ensure that commodities covered by mining licenses and dates of application of oil and gas PSCs held by material companies are disclosed. The MSG could also consider opportunities to harmonise databases of extractive industry companies across different government entities (MLME, NBC and NOCAL) and ensure the accuracy of license information disclosed by government entities.

¹³⁷ See p.3 of Shard Capital Research (1 June 2016), Canadian Overseas Petroleum Ltd, https://www.proactiveinvestors.com/upload/SponsorFile/File/2016_06/Canadian-Overseas-Petroleum---Initiation-of-coverage.pdf

Contract disclosures (#2.4)

Documentation of progress

The 2012-13 and 2013-14 EITI Reports did not refer to the government's policy on contract disclosure, information on actual contract disclosure practice nor guidance on how to access any contracts that had previously been published. However LEITI's 2014 annual activity report and 2015 annual progress report clarified legal government policy in their reviews of progress against EITI Requirements, noting that the Freedom of Information Act required all information of public interest to be in the public domain, including extractives contracts and concessions.¹³⁸ It also refers to relevant clauses of the LEITI Act clarifying the government's policy on contract disclosure:¹³⁹ Section 3.2.f defines one of the objectives of LEITI "to promote the public disclosure of contracts and concessions bearing relationship with the extraction of forest and mineral resources" while Section 4.1.f requires LEITI "To serve as one of the national depositories of all concessions, contracts, and licenses and similar agreements and rights granted by the Government of Liberia to individuals and companies in respect of the logging, mining, oil, forestry, agriculture and other designated sectors; and to grant members of the public access to such concessions and agreements in keeping with their status as public documents."

The LEITI website¹⁴⁰ provides many licenses and contracts in the mining, oil and gas sectors, and while LEITI annual activity reports claim all contracts are published¹⁴¹, it appears that the final versions of all contracts are not publicly available. For instance, the website provides only some of the PSCs, including at times initial PSCs that had subsequently been amended (e.g. Block 13), ratified PSCs or PSC amendments without the original. Ten petroleum contracts are publicly available on the OpenOil contract database¹⁴² including five original PSCs, two PSC ratification agreements, one amended PSC, one asset-purchase agreement and one purchase-sale agreement. The LEITI website also provides copies of some MDAs, but does not consistently provide the ratified amended MDAs in all cases. While not mentioned in the 2013-14 EITI Report, LEITI published a simplified matrix of 30 mining, oil and gas, forestry and agriculture contracts in December 2015, with support from GiZ, summarising the fiscal terms, contract dates, community benefits and other key provisions of the agreements.¹⁴³

Stakeholder views

All CSO and government stakeholders consulted stated that they considered the provisions of the LEITI Act on contract disclosure to constitute official government policy, although industry representatives claimed not to know of the government's policy on contract disclosure. The IA confirmed that the MSG had discussed contract transparency in preparation for the 2013-14 EITI Report but that it had not clarified the government's policy on contract disclosure.

CSOs consulted noted that many, but not all, contracts were published on the LEITI website. A former industry MSG member stated that while some version of all mining contracts were available on the LEITI

¹³⁸ p.18, LEITI (2015), Liberia EITI annual activity report 2014,

https://eiti.org/sites/default/files/documents/2014_liberia_annual_activity_report.pdf and p.18 of LEITI (2016), Liberia EITI annual activity report 2015 - https://eiti.org/sites/default/files/documents/liberia_eiti_2015_annual_progress_report_0.pdf

¹³⁹ Ministry of Foreign Affairs (10 July 2009), The Liberia EITI Act - <http://www.leiti.org.lr/uploads/2/1/5/6/21569928/act.pdf>

¹⁴⁰ <http://www.leiti.org.lr/contracts-and-concessions.html>

¹⁴¹ p.18, LEITI (2015), Liberia EITI annual activity report 2014,

https://eiti.org/sites/default/files/documents/2014_liberia_annual_activity_report.pdf

¹⁴² <http://repository.openoil.net/wiki/Liberia>

¹⁴³ LEITI (December 2015), Abridged simplified contract matrix designed for multi-stakeholder reference, Liberia extractive industries, http://www.leiti.org.lr/uploads/2/1/5/6/21569928/contract_matrix_final_version.pdf

website, only some of the oil and gas PSCs had been disclosed. Secretariat staff and development partners noted that no comprehensive review had been undertaken of contracts disclosed on the LEITI website and that it was unclear which contracts were missing, although there was consensus that some contracts remained undisclosed. The IA explained that while versions of all of the signed MDAs were available on the LEITI website, it was unclear whether the final ratified versions of all MDAs were available online. While the IA had reviewed the contracts published on the LEITI website in the past, it had not reviewed the available contracts in preparation for the 2013-14 EITI Report and considered that the national secretariat and MSG did not review the LEITI's contract webpage on a regular basis.

Secretariat staff explained that the reason some contracts had not yet been disclosed was likely that there were challenges in locating the contract, rather than a decision not to publish it. While staff considered that MLME would have copies of all mining contracts and NOCAL all oil and gas PSCs, they highlighted challenges in government record-keeping and incidents when both government entities and companies claimed they did not have a copy of their operating contract. Industry representatives consulted expressed surprise at learning that the full text of certain contracts were published on the LEITI website. They noted their understanding that under the Freedom of Information Act, the government could disclose the full text of contracts subject to approval by the company involved. Several development partners noted the importance of the simplified contract matrix, which helped CSOs such as Rights and Rice to run roadshows in concessions areas to help local populations gain a better understanding of the terms of the contracts.

Initial assessment

The International Secretariat's initial assessment is that Liberia has made satisfactory progress towards meeting this requirement. While Liberia's EITI Reports did not refer to contract disclosure policy or practice, nor any commentary on planned reforms, LEITI annual activity reports described the government's policy and referred to specific legal provisions requiring contracts to be published. While the LEITI Act appears to define government policy on contract disclosure, the lack of consensus amongst stakeholders on this issue is a concern. The LEITI website provides some mining, oil and gas contracts, although the list of contracts that have been disclosed does not appear to be comprehensive. In preparing its next EITI Report, the MSG should clarify the government's policy on contract disclosure and assess the actual practice of contract disclosure (including amendments and annexes) in Liberia.

Beneficial ownership disclosure (#2.5)

Documentation of progress

Section 3.5 (p.31) of the 2013-14 EITI Report referred to the BO report prepared by Hart Nurse UK & Baker Tilly Liberia Ltd. published on 14 December 2015, covering data up to 30 June 2015.¹⁴⁴ The 2012-13 EITI Report provided a similar reference to the BO report (p.29), without additional information. A total of 49 of the 90 material companies covered in the BO report reported details of their beneficial owners, including four oil and gas companies and 29 mining companies (the oil and gas SOE and 27 mining companies did not report). However only 26 of the mining companies provided details of their beneficial owners.

The BO report defined beneficial owners as a natural person (never a company) "who ultimately owns or controls a legal entity through direct or indirect ownership or control over a sufficient percentage of the shares or voting rights in that legal entity." It further defined that a beneficial owner was never "a minor child (under 18), a person acting as a nominee, intermediary, custodian or agent on behalf of another

¹⁴⁴ http://www.leiti.org.lr/uploads/2/1/5/6/21569928/leiti_beneficial_ownership_final_report_december_2015.pdf

person, or a person acting solely as an employee of a corporation or limited liability company and whose control over or economic benefits from the corporation or limited liability company derives solely from the employment status of that person.” Extractive entities were required to disclose natural persons with at least 5% of shares in each company covered under the scope of the LEITI for agriculture, mining (only for those with Mineral Development Agreements (MDAs)) and petroleum, and 10% for the forestry sector and other rights in the mining sector without MDAs. In cases where no shareholder owned more than 5% of shares, the company was required to report its top five beneficial owners. Companies required to report changes in their BO were those that received concessions, contracts, permits or licences after enactment of the LEITI Act. The report found that there was limited publicly available information on companies operating in the sector and that government records on beneficial owners were not up to date, as well as recommendations on how to facilitate disclosure in the future. The report highlighted several challenges to BO disclosures including the lack of available information on entities, little cooperation from NOCAL, the lack of complete reporting in sectors other than petroleum and the disruption caused by the Ebola outbreak.

Government policy: Neither the 2013-14 EITI Report nor the BO report clarify the Liberian Government’s policy on BO disclosure. Section 3.2.f of the LEITI Act states that LEITI is responsible for promoting “the public disclosure of contracts and concessions bearing relationship with the extraction of forest and mineral resources” and Section 4.1.f notes that LEITI is to serve as “one of the national depositories of all concessions, contracts, and licenses and similar agreements and rights granted by the Government of Liberia to individuals and companies in respect of the logging, mining, oil, forestry, agriculture and other designated sectors; and to grant members of the public access to such concessions and agreements in keeping with their status as public documents.” However, the LEITI Act stops short of requiring the beneficial ownership of license-holders to be publicly disclosed.

Actual practice: The BO report disclosed the BO of a total of 49 companies that reported, while 40 material companies did not participate. In total four petroleum companies reported but NOCAL did not, 29 mining companies reported but 27 did not, seven forestry companies reported but 11 did not and nine agriculture companies reported while two did not.

Legal owners of material companies: While the 2013-14 EITI Report did not disclose the legal owners of material companies, the BO report listed the legal owners of the 49 reporting companies alongside their BO information. However, the BO report provided information on legal owners of nine of the 19 material mining companies (in the 2013-14 EITI Report) and four of the five material oil and gas companies.

Stakeholder views

Stakeholders who expressed an opinion on LEITI’s BO work confirmed they did not know of a consistent government policy on BO disclosure. Secretariat staff stated that the Freedom of Information Act covered all sectors aside from those deemed sensitive to national security considerations and that they had never heard of any objections related to national security during the preparation of the 2015 BO report. Given that the LEITI Act empowered LEITI to do anything necessary to meeting the objectives of the EITI, secretariat staff considered they had a mandate to undertake work on BO given that BO was considered by the MSG to be part of the EITI objectives. All stakeholders on the MSG and the IA highlighted the MSG’s December 2015 BO report, noting that the MSG had undertaken significant initial work on BO disclosure, even if the response rate from companies had initially been poor. These representatives confirmed that the legal information of material companies had not been included in the 2013-14 EITI Report. Industry representatives noted that disclosure of all shareholders was a requirement of the company

incorporation process in Liberia, although this did not extend to disclosing beneficial owners. An IOC representative noted that the work on BO in 2015 had presented significant challenges to them given that the reporting templates required disclosure of the BO of contractors and subcontractors, which the company was not in a position to provide. Several industry representatives also expressed concern over the requirement to disclose the address of beneficial owners. Secretariat staff explained that the MSG had requested that reporting companies disclose the beneficial ownership of their sub-contractors given that these companies paid 10% withholding tax on behalf of their sub-contractors. Secretariat staff noted that certain companies had not participated in BO reporting in 2015 not for lack of will but rather because there had been insufficient sensitisation and training for reporting companies. A former Senator noted the laws that barred top government officials from owning shares in companies operating in the mining and forestry sectors. He also noted that the 5% threshold adopted for BO disclosure should be lowered, although this was a good first attempt. The former Senator explained that companies should be required to disclose the BO of their sub-contractors since they were paying withholding tax on their behalf.

A former industry MSG member noted that politically-exposed persons were required to make asset declarations to the Liberian Anti-Corruption Commission (LACC) but questioned the value of such disclosures given that they were not made public. An LACC representative explained that while an executive decree had required officials in the executive branch to disclose assets upon appointment, reappointment and exit, they typically only disclosed assets upon appointment and even this was only irregularly followed. The new Code of Conduct expanded such requirements to officials in the legislative and judicial branches although this had yet to be implemented. The representative highlighted the lack of sanctions for non-disclosure. While the asset declarations were currently considered confidential, the government had recently pledged to make these public as part of its Partnership for Illicit Finance with the US. The LACC representative noted the ratification of Liberia's National Action Plan in its Partnership for Illicit Finance with the US Government, which clearly stated the government's commitment to disclosing the beneficial ownership of all companies operating in its jurisdiction.

Secretariat staff noted that the MSG had yet to undertake any work on the three-year BO roadmap due by 1 January 2017.

Initial assessment: Implementing countries are not yet required to address beneficial ownership. Nonetheless the MSG has undertaken some work on BO, including publishing a BO report covering companies operating in the mining, petroleum, agriculture and forestry sectors in December 2015. While disclosure of BO information has been incomplete, with only around half of material companies reporting, the MSG has clearly considered the issue of BO and undertaken work to disclose such information in a phased approach. In preparation for enforcement of Requirement 2.5 of the 2016 EITI Standard, the MSG may wish to consider clarifying government policy on BO disclosure, actual disclosure practices and any planned or ongoing reforms. The MSG will also need to agree Liberia's three-year BO roadmap by 1 January 2017.

State participation (#2.6)

Documentation of progress

Materiality: Section 3.6 (p.32) of the 2013-14 EITI Report stated that given that there was no oil and gas production in 2013-14, NOCAL only collected payments from oil and gas companies such as surface rent, signature fees and taxes on transactional income, which it then transferred to the government. However, it noted that while oil and gas companies' payments to NOCAL fell within contractual periods, NOCAL's

transfers to the government were sometimes made “on emergency basis”, which meant that companies’ payments to NOCAL were not necessarily inducing payments to government. While the EITI Report did not explicitly state that these NOCAL payments to government were material, NOCAL was required to report all three payment streams, thereby implying confirmation of their materiality. The EITI Report did not refer to any state participation in the mining sector.

Financial relationship with government: Section 3.2 (p.22) described NOCAL’s general statutory roles as both regulator and commercial operator. Section 3.2 (p.24) also stated that NOCAL was subject to taxes on its share of profit oil after deducting operating costs. Section 3.6 (pp.31-32) described the general rules and practices related to the financial relationship between NOCAL and government, including transfers of the three payment streams being determined by the government’s needs, albeit with few details. The statutory and actual rules governing reinvestment and third-party financing were not described. Annex 8 (p.77) provided details of NOCAL’s budget for 2012-13 and 2013-14 as well as a link to the relevant NOCAL webpage.¹⁴⁵

Government ownership: While Section 3.2 (p.22) stated that NOCAL is an SOE, it did not clarify the level of government ownership in NOCAL. Section 3.2 (p.23) also clarified that NOCAL was entitled to 20% equity stake in petroleum contractors, while information in Annex 5 (pp.73-74) reveals the eight blocks active. The EITI Report provides some information on the rights associated with NOCAL’s equity stakes: Annex 5 (pp.73-74) provides the production sharing split between the contractors and NOCAL for each of the eight leased petroleum blocks, based on production levels.

Ownership changes: The EITI Report did not provide information on any changes in government ownership in 2013-14.

Loans and guarantees: The EITI Report did not refer to any loans or loan guarantees extended by either the government or SOEs to companies operating in the mining or petroleum sectors. We note that the information on budgeted expenditures in NOCAL’s annual budgets in Annex 8 (p.77) did not list provisions for repayments of loans.

The 2012-13 EITI Report provided a similar level of disclosure as the 2013-14 EITI Report.

Stakeholder views

All stakeholders consulted confirmed that there was no SOE in the mining sector, although there was state participation in certain mining projects such as ArcelorMittal’s. The government’s initial 30% equity stake in the ArcelorMittal project was diluted to its statutory minimum of 15% when the government did not meet its share of the cash calls, according to an NIC representative. The MDA gives the government board representation equivalent to its share in the project¹⁴⁶, with three seats according to the NIC representative. The IA was not aware of this equity stake and stated that stakeholders had not raised this issue during the inception or reporting phases. A former Senator did not consider that the government should hold shares in mining ventures like ArcelorMittal’s, given that the government could not meet its share of capital expenditure and that it would not receive revenues from its stake for some years. None of the stakeholders consulted knew the exact government entity that held the equity in the ArcelorMittal project. A NIC representative noted that while the NIC Act provided for the NIC to hold all government

¹⁴⁵ http://www.nocal.com.lr/about-nocal/budgets-annual-reports/2013_2014_Budget

¹⁴⁶ Article XVI (Capital and Corporate Structure of the Concessionaire), Unofficial Restated ArcelorMittal Mineral Development Agreement as Amended with Appendices dated December 28, 2006, as cited in Columbia Centre on Sustainable Investment (March 2014), A Framework to Approach Shared Use of Mining-Related Infrastructure Case Study: Liberia, http://ccsi.columbia.edu/files/2014/05/Case-Study_Liberia-March-2014.pdf

equity in concessions (including MDAs), this was not the case in practice and the government held the stakes through another entity. The representative confirmed that it did not hold the government equity in NOCAL since it was more of a government agency than a state-owned enterprise with equity. However, the government was eligible for a 10% free carry stake in Hummingbird's MDA, although this was not yet effective pending the MDA's ratification.

The IA confirmed that the MSG had not set a materiality threshold specifically for NOCAL-collected revenues and included all revenues collected by NOCAL and paid to the Consolidated Fund in the scope of reconciliation, in line with the general materiality threshold for selecting revenue streams. Stakeholders on the MSG related NOCAL's current financial difficulties, which had forced it to lay off three quarters of its staff in a single year.¹⁴⁷ There was disagreement between stakeholders consulted on the financial relations between NOCAL and the state. Several MFDP representatives noted that NOCAL did not have the right to retain earnings nor to seek third-party financing. Under the MFDP's debt management process any government entity that wished to secure third-party financing was required to seek MFDP approval. This was because a significant portion of debt relief in the past had been to clear debt contracted by SOEs and the MFDP was now vigilant to not allow government entities to contract contingent liabilities. NOCAL representatives confirmed that NOCAL was allowed to contract loans from third parties but that under the PFM law an SOE could not contract debt without a sovereign guarantee, recorded in the national budget. The NIC representative confirmed that there were no sovereign guarantees on any concessions or for loans to any company in the extractive industries given the restrictions placed by the IMF on Liberia extending sovereign guarantees. While some investors and bankers had complained about the lack of sovereign guarantees on large projects, the fact that concessions were ratified by the legislature offered reassurance and comfort to investors. The IA explained that no update had been provided regarding progress with the draft NOCAL bill and they had understood that there was no change in the financial relations between NOCAL and the government during the period under review.

A former industry MSG member and a development partner noted the contradictions between the PFM Act, which required all revenues to flow to the Consolidated Fund, and the NOCAL Act, which allowed for NOCAL to retain certain revenues. Several CSOs not on the MSG noted that NOCAL presented a special case as the way it was established gave it significant leeway to retain revenues from the Consolidated Fund. Several CSOs outside the MSG noted that if the political leadership blessed an institution such as NOCAL, the institution could deviate from statutory rules without reprisal, for instance establishing accounts at commercial banks.

NOCAL representatives explained that NOCAL should be audited by GAC but that the last published GAC audit report dated from 2010-11. They explained that NOCAL was now being audited for four years (2011-2015) in an audit expected to be finalised by end-2016. A new SOE department was established in the MFDP in 2014 to collect annual financial statements from all SOEs, according to MFDP representatives. A former Senator argued that the GAC should be given full powers to audit NOCAL annually, particularly given rumours of misappropriation of funds. NOCAL representatives explained that Section 14 of the 2002 Petroleum Law made provision that the excess revenue over expenses incurred by NOCAL were required to be transferred to government annually. The representatives explained that NOCAL prepared financial statements at the end of the fiscal year, which were typically un-audited, and transferred the net income to the government. The draft new NOCAL law proposed reforms to this structure by allowing NOCAL to retain

¹⁴⁷ Front Page Africa (25 August 2015), Liberia: Nocal Layoff Endorsed - President Wants No More Than 50, <http://allafrica.com/stories/201508260923.html>

certain funds for reinvestment, although the draft had yet to be enacted. Up until 2012-13, NOCAL retained some of its earnings but the MFDP has ensured that past retained earnings were transferred to government.

Initial assessment

The International Secretariat's initial assessment is that Liberia has made inadequate progress towards meeting this requirement. While the EITI Report described the SOE in the oil and gas sector, NOCAL, as well as the general rules related to its financial relations with the government, it did not clarify the level of state ownership in either NOCAL or in mining projects like ArcelorMittal's. The EITI Report did not cover changes in government ownership in the period under review, the rules and practices related to reinvestment and third-party financing, nor the existence of any loans or loan guarantees from the government or NOCAL to any extractives companies. In preparing its next EITI Report, the MSG should undertake a more complete scoping of state participation in the mining and oil and gas sectors, describing the practice of NOCAL's relations with the state and off-budget expenditures.

Table 2 - Summary initial assessment table: Award of contracts and licenses

EITI provisions	Summary of main findings	Initial assessment of compliance with the EITI provisions
Legal framework (#2.1)	The EITI Report provided brief descriptions of the relevant laws and taxes, statutory responsibilities of relevant government entities, and brief references to ongoing reforms.	Satisfactory progress

License allocations (#2.2)	While the EITI Reports provided useful information on the process for awarding mining exploration licenses and petroleum blocks, on the identity of companies who were awarded licenses in 2013-14 and limited information on non-trivial deviations from the statutory procedures for awarding petroleum blocks, there were inconsistencies in the EITI Report's description of the number of mining licenses were awarded in the period under review, and no information on statutory allocation procedures for mineral production licenses. The second post-award process audit covering the period under review will be published by end-2016.	Inadequate progress
License registers (#2.3)	While the EITI Report did not provide license information for all material companies, information on mining, oil and gas licenses from government entities (MLME, NBC and NOCAL) is available online, including all details required under 2.3 aside from commodities covered by mining licenses and dates of application for oil and gas PSCs.	Meaningful progress
Contract disclosures (#2.4)	While Liberia's EITI Reports did not refer to contract disclosure policy or practice, nor any commentary on planned reforms, LEITI annual activity reports described the government's policy and referred to specific legal provisions requiring contracts to be published. While the LEITI Act appears to define government policy on contract disclosure, the lack of consensus amongst stakeholders on this issue is a concern.	Satisfactory progress
Beneficial ownership disclosure (#2.5)	The MSG has considered beneficial ownership disclosure in detail at several MSG meetings and has conducted initial work on disclosure of BO information in the 2015 BO report.	
State-participation (#2.6)	While the EITI Report described the SOE in the oil and gas sector, NOCAL, as well as the general rules related to its financial relations with the government, it did not clarify the level of state ownership in either NOCAL or in mining projects like ArcelorMittal's. The EITI Report did not cover changes in government ownership in the period under review, the rules and practices related to reinvestment and third-	Inadequate progress

	party financing, nor the existence of any loans or loan guarantees from the government or NOCAL to any extractives companies.	
<p>International Secretariat's conclusions and recommendations:</p> <ol style="list-style-type: none"> 1. The MSG is urged to ensure that either future EITI Reports describe the actual practice of license awards and transfers in the period under review or ensure that post-award process audit reports are published in a timelier manner. The MSG should ensure that future EITI Reports disclose the technical and financial criteria as well as the overall process for awarding and transferring licenses for any license, lease, title, permit, contract or concession by which the government confers on a company or individual rights to explore or exploit oil, gas and mineral resources – and any deviations for licenses awarded or transferred in the year under review. 2. The MSG should work with MLME and NOCAL to ensure that future EITI Reports provide information on commodities covered by mining licenses and dates of application of oil and gas PSCs held by material companies are disclosed, or include reference to where this information is publicly-available. The MSG could also consider opportunities to harmonise databases of extractive industry companies across different government entities (MLME, NBC and NOCAL) and ensure the accuracy of license information disclosed by government entities. 3. In preparing its next EITI Report, the MSG should undertake a more complete scoping of state participation in the mining and oil and gas sectors, describing the practice of NOCAL's relations with the state and off-budget expenditures. 4. In preparing its next EITI Report, the MSG should clarify the government's policy on contract disclosure and assess the actual practice of contract disclosure (including amendments and annexes) in Liberia. 5. In preparation for enforcement of Requirement 2.5 of the 2016 EITI Standard, the MSG should clarify government policy on BO disclosure, actual disclosure practices and any planned or ongoing reforms. The MSG will also need to agree Liberia's three-year BO roadmap by 1 January 2017. 6. The MSG should consider expanding its review of the legal and fiscal environment to include more informative updates on ongoing or planned reforms. 		

3. Exploration and production

3.1 Overview

This section provides details on the implementation of the EITI requirements related to exploration, production and exports.

3.2 Assessment

Overview of the extractive sector, including exploration activities (#3.1)

Documentation of progress

Section 3.1 (pp.18-19) of the 2013-14 EITI Report described the mining sector, including an overview of the sector, types of mineral deposits (but no reserves estimates), exploration and prospecting activities for

gold and iron ore and key mineral output production. With the exception of West Africa Diamonds, the EITI Report provided little mention of diamonds. While Section 2.2.3 (p.10) referred to artisanal and small-scale miners, the EITI Report did not provide any description of informal activities. Section 3.2 (p.22 and p.24) provided an overview of the oil and gas sector, including a brief history of the sector, and past exploration efforts. Information on the eight leased petroleum blocks in Annex 5 (pp.73-74) provided brief updates on the current status of exploration work programmes for each of the blocks. The 2012-13 EITI Report provided a similar overview of the four sectors (pp.16-17, 19-20, 22-23 and 25) as well as petroleum exploration activities (p.22).

Stakeholder views

Several industry representatives and secretariat staff noted that all gold mining and the majority of diamond mining in Liberia was informal or undertaken by small-scale miners. All stakeholders consulted noted the sharp slow-down and in most cases complete halt to exploration activities in mining, oil and gas with the advent of the Ebola crisis in 2014. Mining industry representatives noted that the pace of exploration had not returned to pre-crisis levels, while a former MSG co-chair noted that several dozen Australian exploration companies had ceased operations since 2014 and had not returned to Liberia since. An IOC representative stated that while oil and gas exploration activity had not ceased completely during the crisis, the pace of activity had not recovered to pre-crisis levels given the significant slump in oil prices and the impact on companies' capital expenditures.

Initial assessment

The International Secretariat's initial assessment is that Liberia has made satisfactory progress in meeting this requirement. The 2013-14 EITI Report provided an overview of the mining and petroleum sectors, including significant exploration activities. However, the lack of a description of informal activities is a concern given the prevalence of artisanal and small-scale mining for gold and diamonds. In preparing its next EITI Report, the MSG should expand its description of informal extractive industry activities.

Production data (#3.2)

Documentation of progress

Production volumes: Section 1.3 (p.11) provided production volumes for iron ore, gold, diamonds, rubber and round logs, sourced from the 2014 Annual Economic Review. Annex 9 (pp.78-79) provided some information on companies' disclosures of their production volumes, although only two mining companies reported such figures. Section 3.2 (p.24) stated that there had been no oil and gas production in the Liberian Basin during the period under review.

Production value: The EITI Report did not disclose the value of production for each commodity, nor any information on average prices for the period under review.

The location of production was not disclosed in the EITI Report, beyond the general locations provided for all mining licenses in Annex 4 (pp.71-72) and for leased petroleum blocks in Annex 5 (pp.73-74).

The 2012-13 EITI Report provided production for key commodities in volumes (pp.9 and 17) and in value (pp.17 and 23), while Annex 9 provided incomplete company disclosures (pp.83-86).

Stakeholder views

Mining industry representatives consulted noted that the absence of companies' disclosures of

production data in the EITI Report was partly due to the fact that most mining companies were only at the exploration stage, although all stakeholders confirmed that companies' disclosures of their production in the EITI Reports was incomplete. Several MFDP representatives stated that their ministry released GDP figures including for value of the mining sector on a semi-annual basis, although this did not include the value of total mining production. CSOs consulted did not express any particular views on the accuracy or comprehensiveness of production data in the EITI Report. A former National Coordinator regretted that LEITI Reports did not to a greater extent shed light on the process through which production data was collected and verified. In his opinion, under the current regime companies had the freedom to dictate how much they were said to produce and, by extension, how much royalties to pay. The IA did not express concerns over the reliability and comprehensiveness of production data disclosed in the 2013-14 EITI Report and explained that the production data included was sourced from government disclosures without additional verification by the IA.

Initial assessment

The International Secretariat's initial assessment is that Liberia has made meaningful progress towards meeting this requirement. While the EITI Report disclosed production volumes for each commodity, it did not provide values of production or average prices for the period under review. The MSG should ensure that future EITI Reports provide the value of production for all commodities produced or an average price for commodities produced.

Export data (#3.3)

Documentation of progress

Export volumes: The EITI Report did not provide total export volumes for each commodity. Section 1.3 (p.11) provided export values for each commodity, but not volumes. Annex 9 (pp.78-79) provided certain reporting companies' disclosures of the volumes and values of their commodity exports, although the commodity exported was not provided. In addition, only two mining companies disclosed the volumes of their commodity exports and only three disclosed the value of exports.

Export value: Section 1.3 (p.11) provided the 2012, 2013 and 2014 values of exports of iron ore, gold, diamonds, rubber and round logs, sourced from the 2014 Annual Economic Review. The location of exports was not disclosed in the EITI Report.

The 2012-13 EITI Report provided exports of key commodities in value (pp.9-10, 19 and 26) but only volumes for forestry exports, while Annex 9 provided incomplete company disclosures of their export volumes and values.

Stakeholder views

Several MFDP representatives noted that their ministry released GDP figures including for mining on a semi-annual basis, although this did not include the value of production or exports. CSO and industry representatives consulted did not express any particular views on the accuracy or comprehensiveness of export data in the EITI Report. A former National Coordinator regretted that LEITI Reports did not to a greater extent shed light on the process through which export data was collected and verified. In his opinion, under the current regime companies had the freedom to dictate how much they were said to export and, by extension, how much duties to pay. The IA did not express any reservations about the reliability and comprehensiveness of export data included in the 2013-14 EITI Report, explaining that only the values of exports were comprehensively disclosed in the EITI Report given that this had been sourced

from government disclosures without verification by the IA.

Initial assessment

The International Secretariat's initial assessment is that Liberia has made meaningful progress towards meeting this requirement. While the EITI Report disclosed export values for each commodity, it did not provide export volumes for the period under review. In preparing its EITI Report, the MSG should ensure that the export volumes for all commodities exported be disclosed.

Table 3 – Summary initial assessment table: Monitoring and production

EITI provisions	Summary of main findings	Initial assessment of compliance with the EITI provisions
Overview of the extractive sector, including exploration activities (#3.1)	The EITI Report provided an overview of the mining and petroleum sectors, including significant exploration activities. However, the lack of a description of informal activities is a concern given the prevalence of artisanal and small-scale mining for gold and diamonds.	Satisfactory progress
Production data (#3.2)	While the EITI Report disclosed production volumes for each commodity, it did not provide values of production or average prices for the period under review.	Meaningful progress
Export data (#3.3)	While the EITI Report disclosed export values for each commodity, it did not provide export volumes for the period under review.	Meaningful progress
International Secretariat's conclusions and recommendations: <ol style="list-style-type: none"> 1. The MSG should ensure that future EITI Reports disclose the value of production for all commodities produced and the export volumes for all commodities exported. 2. In preparing its next EITI Report, the MSG should expand its description of informal extractive industry activities. 		

2 Revenue collection

2.1 Overview

This section provides details on the implementation of the EITI requirements related to revenue transparency, including the comprehensiveness, quality and level of detail disclosed. It also considers compliance with the EITI Requirements related to procedures for producing EITI Reports.

2.2 Assessment

Materiality (#4.1)

Documentation of progress

Materiality threshold for revenue streams: Section 3.2.a of the LEITI Act¹⁴⁸ sets one of LEITI's objectives "to require and maintain transparency over all material payments due from and/or made by extractive companies to all agencies and levels of the Government of Liberia as well as all revenues collected from the companies by the Government." Section 4.1.a required LEITI "To develop and update reporting templates to be used by all concerned agencies/levels of government and extractive companies for the regular disclosure and reporting, on a disaggregated basis, of all taxes, royalties and other fees paid to all agencies and levels of the Government and the revenues received by the Government from the Companies." Section 4.1.b also mandates LEITI "to require all extractive companies and covered agencies and levels of government to disclose, at least once every year, the data of all payments made and revenues received in respect of the extraction of Liberia's forest and mineral resources."

The 7th and 8th EITI Report inception report provided a list of 95 revenue streams collected by government entities from the mining, petroleum, agriculture and forestry sectors in Section 3.1.1 (pp.11-13) and recommended that all 95 revenue streams be included in the scope of reconciliation, implying a materiality threshold of 0. Section 4.1.1 (pp.34-36) of the EITI Report listed the 95 extractives revenue streams collected by government entities and included the IA's recommendation that all 95 streams be included in the scope of reconciliation. This implied that the materiality threshold was set at 0, although this was not explicitly stated in the EITI Report. However, the reconciliation results presented by revenue stream in Section 5.1.2 (pp.51-52) revealed that 61 revenue streams were disclosed and only 44 were reconciled (given the lack of disclosures for 17 revenue streams by either companies or government).

Descriptions of material revenue streams: Section 4.3.3 (pp.42-48) listed the 95 revenue streams included in the scope of reconciliation but only provided descriptions for 47 of the 95 revenue flows.

Materiality threshold for companies: Section 3.2.b of the LEITI Act¹⁴⁹ sets one of LEITI's objectives as requiring "all companies engaged in the extraction of agriculture, forest and mineral resources in Liberia to join the LEITI." While all extractives companies were included in the scope of reporting in early EITI Reports, the MSG selected the largest contributors to government revenues in the 2013-14 EITI Report.

For mining, Section 4.2.1 (p.38) of the 2013-14 EITI Report provided the five different options considered for the materiality threshold for selecting companies in the scope of reconciliation. A materiality threshold of USD 100,000 in total payments to government was agreed for selecting the 15 material mining companies, providing a reconciliation coverage of 98.39% of total government mining revenues in 2013-14. However, Section 4.3.1 (pp.41-42) noted that the number of material mining companies was adjusted to 19 during the reconciliation phase given that the IA discovered that four additional mining companies¹⁵⁰ had made payments to government above the materiality threshold.

For oil and gas, Section 4.2.3 (pp.39-40) provided the four different options considered for selecting companies in the scope of reconciliation. A materiality threshold of USD 200,000 in total payments to

¹⁴⁸ Ministry of Foreign Affairs (10 July 2009), The Liberia EITI Act - <http://www.leiti.org.lr/uploads/2/1/5/6/21569928/act.pdf>

¹⁴⁹ Ministry of Foreign Affairs (10 July 2009), The Liberia EITI Act - <http://www.leiti.org.lr/uploads/2/1/5/6/21569928/act.pdf>

¹⁵⁰ These four additional companies were West Africa Diamonds Inc, Afric Diam Company Inc, Bao Chico Resources Liberia Ltd and Golden Mass Trading.

government was agreed for selecting the four material oil and gas companies, providing a reconciliation coverage of 99.61% of total government mining revenues in 2013-14.

Section 4.2.2 (pp.38-39) described the approach to materiality in the agricultural sector, with 11 material companies selected, and Section 4.2.4 (pp.40-41) described the same for the forestry sector, with eight material companies selected.

Material companies: In mining, Section 4.2.1 (p.37) listed the 15 material companies originally included in the scope of reconciliation, although Section 4.3.1 (p.41) listed the four additional mining companies identified as material during the reconciliation phase. In oil and gas, Section 4.2.3 (p.39) listed the four material companies. Section 4.2.2 (p.39) listed the 11 material agricultural companies and Section 4.2.4 (p.40) listed the eight material forestry companies. Annex 2 (pp.68-69) provided a comprehensive list of all material companies in the scope of reconciliation.

Material company reporting: Section 5.3 (p.56) listed and named one mining company and one forestry company¹⁵¹ as non-reporting and provided their combined share of government extractives revenues in the scope of reconciliation as USD 1,569,207, or 1.18% of revenue, as well as their individual shares. This was confirmed in the detail of reconciliation by company in Section 5.1.1 (pp.49-50). Section 1.5 (p.12) confirmed that 18 of the 19 material mining companies had reported, accounting for 98.34% of total mining revenues, while all five material oil and gas companies reported. Given that one of the eight forestry companies did not report, the 42 of the 44 material companies that reported accounted for 98.82% of total revenue in scope of reconciliation. Annex 10 (pp.80-81) provided the detail of reporting by material entities.

There is evidence of the MSG's naming and shaming companies for not reporting, for instance in preparation for the 2012-13 EITI Report in March 2015¹⁵² and for the 2011-12 EITI Report in February 2014.¹⁵³

Material government entities: Section 4.3.2 (p.42) listed and named the six material government entities¹⁵⁴ included in the scope of reporting. An additional three entities (MLME, FDA and MoA) were not required to report for the purposes of reconciliation but were asked to disclose contextual information. However, while University of Liberia received direct contributions from NOCAL in the period under review, it was not required to report.

Government reporting: Section 1.5 (p.12) stated that all government entities included in the scope of reporting had submitted their reporting templates. The results of reconciliation by company in Section 5.1.1 (pp.49-50) show that government entities reported revenues from all reporting companies, while the results by revenue stream in Section 5.1.2 (pp.51-52) show that government entities reported revenues for 49 of the 61 revenue streams.

Discrepancies: Section 5.3 (pp.55-56) provided the value of net unreconciled discrepancies at USD 1,328,121, or 1.00% of total payments reported by government entities, as well as the positive unreconciled discrepancies of USD 1,970,192 and negative discrepancies of USD 3,298,313. The general

¹⁵¹ Amlib United Minerals Inc/ Kle Klel (mining) and Magna Diversified Corporation (forestry).

¹⁵² LEITI (24 March 2015), 'LEITI sanctions non-compliant companies', <http://www.leiti.org.lr/news-and-press-releases/leiti-sanctions-non-complaint-companies>

¹⁵³ LEITI (7 February 2014), 'LEITI Sanctions Companies for Non-Compliance with 5th Reporting', <http://www.leiti.org.lr/news-and-press-releases/leiti-sanctions-companies-for-non-compliance-with-5th-reporting>

¹⁵⁴ Environmental Protection Agency (EPA), Liberia Civil Aviation Authority (LCAA), Liberia Maritime Authority (LMA), Liberia Revenue Authority (LRA), National Oil Company of Liberia (NOCAL) and National Port Authority (NPA).

reasons for the unreconciled discrepancies were also provided, alongside the detail per affected company. Section 2.3 (pp.16-17) described the approach undertaken to reconcile discrepancies. The EITI Report did not appear to include the IA's overall assessment of the comprehensiveness of the EITI Report.

Full government disclosure: Section 4.2.5 (p.41) confirmed that government entities were required to unilaterally disclose combined benefit streams from non-material companies, including small-scale miners, dealers and brokers. Section 5.4 (p.59) stated that full government unilateral disclosure totalled USD 1,973,120, equivalent to 1.46% of total extractive sector revenues. Annex 3 (p.70) provided government's unilateral disclosure of revenues from non-material companies although these were only disaggregated by company and not by revenue stream.

The 2012-13 EITI Report described the rationale for the company materiality threshold (pp.33 and 35-39) and listed all material companies (pp.34-40). Eighteen of the material companies failed to submit their reporting templates, representing a total of USD 3.61 million, or 1.95% of total government revenue in scope. While the amount of each company's omissions was reported, the materiality of these omissions was not specifically assessed. All government entities were listed (p.40) reported. Companies reported payments totalling to USD 4.45 million that were not reported by government entities (p.53), although while the amount of each omission was reported (disaggregated by company and revenue stream) their materiality was not assessed.

Stakeholder views

When discussing the 2015 mining scoping study, secretariat staff explained that the purpose of the study had been to assess the feasibility of extending EITI reporting to quarrying and ASM. Based on that study the MSG had considered that revenues from these two sectors accounted for only around USD 600,000 a year, which was considered immaterial. Staff confirmed that the MSG had not undertaken a scoping study on the oil and gas sector since the transition to the EITI Standard in 2013.

Several LRA representatives explained that the discussions of materiality were based on the LRA's full unilateral disclosure during the inception phase. The IA confirmed that it had requested full disclosure from LRA and other revenue collecting entities like NOCAL and NPA as the basis for materiality discussions, but highlighted that additional revenues had been disclosed by government during the subsequent data collection, which meant that materiality decisions had not been based on full unilateral government disclosures. The IA recommended that IAs in future EITI Reports be allowed to collect full unilateral government disclosure directly from the LRA database, rather than rely on the LRA to extract this information themselves, which would ensure that all revenues were disclosed during the inception phase. All industry and government stakeholders consulted confirmed that all 95 revenue streams had been included in the scope of reconciliation. Several CSOs were not aware of the materiality threshold for selecting revenue streams, noting their impression that such decisions were the prerogative of the LEITI Secretariat in overseeing the day-to-day implementation of EITI. The CSOs noted that the IA may have asked for disclosure of 95 revenue streams and only received answers for 61, which would explain the discrepancy in material revenues in the EITI Report. The IA confirmed that material companies were asked to report all 95 material flows given that companies reported all payment flows regardless of the materiality threshold. The IA explained that companies would add payment flows to the templates if the appropriate payment stream was not already included in the template and noted that a materiality threshold had not been set for revenue streams to avoid classification problems at reconciliation and to comply with the LEITI Act, which required all payment streams to be reported.

A former member of the secretariat said that the LEITI Act had led LEITI to “bite off more than they could chew”, insofar as it required that all payments be reported. At the same time, because the Act also gave the MSG almost absolute discretionary power in its implementation, he said it could also be argued that the MSG had the power to determine its own materiality threshold. Secretariat staff, the IA and some development partners highlighted the improvement in the approach to selecting material companies between the 6th and 7th EITI Reports. Given that the IA had spent so much time chasing small payments in the past, the MSG had agreed to a materiality threshold that still provided reconciliation coverage of more than 98%. Several CSOs noted that the materiality threshold for selecting companies ensured a sufficiently comprehensive coverage of reconciliation. Secretariat staff explained that the MSG had always approached the materiality of companies by examining companies’ disclosures of their areas of activities in their articles of incorporation during their business registration and selected those companies who declared their area of activity as being natural resource extraction, rather than looking at whether companies held mining licenses. While certain companies like Cepsa (of Spain) had complained about being required to report, the MSG had left it to the judgement of the IA to decide on whether such companies should report. All stakeholders confirmed that certain contract drillers that did not hold licenses had been included in the scope of reconciliation for the 2013-14 EITI Report. LRA representatives confirmed that contractors like Boart Longyear that did not hold mining licenses were included in the scope of reconciliation given that the LEITI Act required disclosures of payments from all companies with extractive industry activities. The LRA set a threshold of 50% of a company’s activities being in extractive industries and all stakeholders consulted considered that the selection of material companies ensured a comprehensive coverage of reconciliation.

Secretariat staff explained that there were clear procedures for naming and shaming of non-reporting companies during the reconciliation phase as well as fines of USD 1,000 for non-reporting applied by the relevant regulators (MLME for mining and NOCAL for oil and gas). All stakeholders consulted agreed that company reporting had improved over the past few EITI Reports. The IA did not express significant concerns about the comprehensiveness of the government’s full unilateral disclosure, explaining that the additional revenues identified during the data collection phase ensured that government’s disclosure was comprehensive, even if it had not been presented disaggregated by revenue stream. A former member of the secretariat added that the LEITI Act gives the MSG the power to recommend to the President the removal of a Minister responsible for a government agency that does not comply but said that this was purely symbolic.

Initial assessment

The International Secretariat’s initial assessment is that Liberia has made meaningful progress towards meeting this requirement. While the EITI Report justifies a materiality threshold for selecting companies, the MSG did not clearly define material revenue streams selected for reconciliation. It listed all material companies and government entities, but did not describe all material revenue streams. While the government appears to have provided full unilateral disclosure for revenues received by LRA, these were disaggregated by company rather than revenue stream and off-budget revenues (for instance those collected by the University of Liberia) were not disclosed. In preparing its next EITI Report the MSG should base its materiality discussion on the government’s full disclosure of all extractives revenues collected, including those off-budget, and specify a clear materiality threshold for selecting revenue streams for reconciliation. The MSG should also ensure that government’s full unilateral disclosure is presented disaggregated by revenue streams rather than by non-material company and that the IA’s assessment of the overall comprehensiveness of the EITI Report be included.

In-kind revenues (#4.2)

Documentation of progress

While Section 3.2 (p.24) noted that NOCAL would be entitled to collect in-kind revenues from any oil and gas production, the absence of production in the Liberian Basin meant that NOCAL did not collect in-kind revenues during the period under review, although this was not explicitly stated in the EITI Report. The 2012-13 EITI Report provided the same description of in-kind revenues.

Stakeholder views

All stakeholders consulted confirmed that NOCAL did not receive in-kind revenues given the absence of oil and gas production.

Initial assessment

The International Secretariat's initial assessment is that this requirement was not applicable to Liberia in 2013-14.

Barter and infrastructure transactions (#4.3)

Documentation of progress

The 2012-13 and 2013-14 EITI Reports did not refer to barter or infrastructure transactions.

Stakeholder views

While all stakeholders consulted aside from CSOs confirmed the absence of barter agreements in Liberia's extractive industries, they confirmed that five MDAs included provisions for the development of infrastructure (port and rail) for third-party use. These MDAs cover iron ore deposits¹⁵⁵ and the infrastructure provisions of these contracts are publicly available as part of the MDAs on the LEITI website and analysed in secondary sources such as a Columbia Centre on Sustainable Development March 2014 report.¹⁵⁶ While the detail of infrastructure provisions in each MDA was limited, the contracts allowed for future third-party access to the infrastructure built as noted by several government stakeholders. A NIC representative noted that such infrastructure provisions were part of the negotiation process for MDAs. However, the IA was not aware of these infrastructure provisions and explained that no stakeholder on the MSG or within government had raised the existence of such provisions, despite explicit questions on the topic from the IA. The only MDA to have developed such associated infrastructure as of 2013-14 was ArcelorMittal's refurbishment of a 243km railway from Tokadeh to Buchanan¹⁵⁷ and the Buchanan mineral port. The MDA was originally signed in 2005 and amended in December 2006¹⁵⁸ and September 2013¹⁵⁹, with the infrastructure developed as a build-operate-maintain concession¹⁶⁰ where ownership remained

¹⁵⁵ The five companies holding MDAs with infrastructure provisions in 2013-14 were ArcelorMittal, China Union, Western Cluster, Putu Iron Ore Mining and BHP Billiton.

¹⁵⁶ Columbia Centre on Sustainable Investment (March 2014), A Framework to Approach Shared Use of Mining-Related Infrastructure Case Study: Liberia, http://ccsi.columbia.edu/files/2014/05/Case-Study_Liberia-March-2014.pdf

¹⁵⁷ <http://liberia.arcelormittal.com/what-we-do/rail.aspx>

¹⁵⁸ Article V (Work Program) of the Unofficial Restated ArcelorMittal Mineral Development Agreement as Amended with Appendices dated December 28, 2006 as cited in http://ccsi.columbia.edu/files/2014/05/Case-Study_Liberia-March-2014.pdf

¹⁵⁹ ArcelorMittal (2015), US SEC Form 20-F, <http://corporate.arcelormittal.com/~media/Files/A/ArcelorMittal/sdr-2015/ArcelorMittal-20F-2014.pdf>

¹⁶⁰ ArcelorMittal (2015), 2014 Annual Report, <http://corporate.arcelormittal.com/~media/Files/A/ArcelorMittal/investors/annual-reports/2014/Annual-Report-2014.pdf>

with the government.¹⁶¹ The agreement has been characterised as “problematic”¹⁶² by some analysts given ArcelorMittal’s alleged efforts to resist negotiations for third-party access to the rail and port. All stakeholders consulted confirmed that the government had held talks with various mining companies for third-party access to the railway. In a written response to a Global Witness report on 11 May 2016, Minister of Information, Cultural Affairs and Tourism Eugene Lenn Nagbe noting that the Presidents of Liberia and Guinea signed a joint communiqué in 2013 to begin negotiations towards an agreement to grant third party access of the Tokadeh-Buchanan rail for an iron ore project in Guinea.¹⁶³ The terms of the ArcelorMittal MDA require that third-party access be granted to the railway and port “provided that the company confirms that excess capacity exists and third party use of such excess capacity does not interfere with operations.”¹⁶⁴ Revenues from third-party use of the infrastructure was to be shared between the government and ArcelorMittal.¹⁶⁵ A former MSG co-chair noted that ArcelorMittal was amortizing the investment in the railway over time and thus was not yet making payments to government related to the transportation of iron ore. A former Senator noted that a bill had been introduced to the legislature in 2011 to create a national rail authority to hold all rail assets in Liberia, although this had never been passed. According to representatives from NIC and MFDP, a MoU between the government and ArcelorMittal required the company to develop a USD 40 million road for public use, although it had not completed the road due to the impact of lower iron ore prices on its operations. The 70km paved road from Ganta to Yekepa, as part of ArcelorMittal’s phase 2 investment, was to be a public road for third-party use.¹⁶⁶

All stakeholders consulted that oil and gas PSCs did not include infrastructure provisions.

Initial assessment

The International Secretariat’s initial assessment is that Liberia has made no progress towards meeting this requirement. The EITI Reports did not refer to any contractual provisions for the development of infrastructure for third-party use, despite widespread knowledge of such provisions in five MDAs. In preparing its next EITI Report, the MSG should assess the existence of infrastructure provisions during the scoping phase to ensure that companies’ disclosures are categorised according to strict definitions.

Transport revenues (#4.4)

Documentation of progress

The list of revenue streams in Section 4.3.3 (p.46) included revenue flow n.33, Waybill fee, which related to the fee for transportation of forest products within the FDA’s chain of custody, which were of USD 150 per block of ten waybills. This was included in the scope of reconciliation. However, the EITI Report did not refer to transportation revenues associated with mining products. The 2012-13 EITI Report provided a

¹⁶¹ Global Witness (August 2007), Update on the Renegotiation of the Mineral Development Agreement between Mittal Steel and the Government of Liberia, https://www.globalwitness.org/.../mittal_steel_update_en_aug_07.pdf

¹⁶² InfraShare Partners (24 February 2016), Mining Infrastructure in the Republic of Guinea: Expansion Opportunities, Greenfield Challenges, <http://www.developingmarkets.com/sites/default/files/09%20-%20Karim%20Karjian%20Glen%20Ireland.pdf>

¹⁶³ https://www.globalwitness.org/documents/18422/Government_of_Liberia_Response_-_11_May_2016.pdf

¹⁶⁴ Columbia Centre on Sustainable Investment (March 2014), A Framework to Approach Shared Use of Mining-Related Infrastructure Case Study: Liberia, http://ccsi.columbia.edu/files/2014/05/Case-Study_Liberia-March-2014.pdf

¹⁶⁵ Columbia Centre on Sustainable Investment (March 2014), A Framework to Approach Shared Use of Mining-Related Infrastructure Case Study: Liberia, http://ccsi.columbia.edu/files/2014/05/Case-Study_Liberia-March-2014.pdf

¹⁶⁶ Phase Two Press Release, available at: <http://corporate.arcelormittal.com/news-andmedia/news/2013/march/01-03-2013>

similar level of detail on waybill fees.

While the 2014 annual activity report and the 2015 annual progress report highlighted the potential for transport revenues from two agreements, they conceded that the MSG had yet to “cover any information” about extractives-related transport revenues. It noted the USD 1.3 billion agreement for a 25-year iron ore trans-shipment deal with West African Exploration/Sable Mining for third-party use of the ArcelorMittal-operated railway and provided the concession fee and tariffs. Sable would pay a USD 1.5 million – USD 5 million in annual concession fees for the trans-shipment of iron ore from zero million/ton to 10 million/ton each year, as well as additional taxes and duties.¹⁶⁷ Yet while the 2014 annual report stated that future EITI Reports would disclose revenues associated with this agreement as transport revenue materialised, subsequent EITI Reports did not refer to transport revenues, nor the cancellation of Sable Mining’s deal for third-party railway access.

Stakeholder views

All stakeholders consulted confirmed that the government did not receive revenues from the transportation of mineral commodities during the period under review. Industry representatives and a former MSG co-chair noted that ArcelorMittal was amortising the investment in refurbishing the railway and port over time and thus was not making transport payments to government in the period under review. However, in the case of third-party use, revenues from use of the infrastructure was to be shared between the government and ArcelorMittal.¹⁶⁸ The IA was not aware of the existence of third-party access provisions for infrastructure developed as part of mining MDAs.

Initial assessment

The International Secretariat’s initial assessment is that Liberia this requirement was not applicable to Liberia in the period under review.

Transactions between SOEs and government (#4.5)

Documentation of progress

Section 3.6 (p.32) stated that given the absence of oil and gas production in 2013-14, NOCAL only collected payments from oil and gas companies such as surface rent, signature fees and taxes on transactional income, which it then transferred to the government. However, the diagram in Section 3.5 (p.31) indicated that NOCAL also collected social welfare contributions, annual training and Hydrocarbon Development Fund contributions, in addition to the surface rent, which it then remitted to the LRA. Section 3.6 (p.32) confirmed that NOCAL submitted two templates, covering payments received from oil and gas companies and payments made to government agencies. The reconciliation results by company in Section 5.1.1 (pp.49-50) reflected NOCAL’s reporting of payments to government, although not disaggregated by revenue stream. Annex 8 (p.77) provided NOCAL’s 2012-13 and 2013-14 budgets, sourced from NOCAL’s website, which indicated NOCAL’s surface rental fee payments to the government.

The 2012-13 EITI Report also noted that NOCAL was the only SOE collecting revenue on behalf of the government. It confirmed that NOCAL only collected payments from oil and gas companies such as surface

¹⁶⁷ p.19, LEITI (2015), Liberia EITI annual activity report 2014 -

https://eiti.org/sites/default/files/documents/2014_liberia_annual_activity_report.pdf and p.19, LEITI (2016), Liberia EITI annual activity report 2015 - https://eiti.org/sites/default/files/documents/liberia_eiti_2015_annual_progress_report_0.pdf

¹⁶⁸ Columbia Centre on Sustainable Investment (March 2014), A Framework to Approach Shared Use of Mining-Related Infrastructure Case Study: Liberia, http://ccsi.columbia.edu/files/2014/05/Case-Study_Liberia-March-2014.pdf

rental, signature fees, and taxes on transactional income and comprehensively disclosed and reconciled these revenues.

Stakeholder views

One industry representative expressed concern at the fact the 2013-14 EITI Report did not reflect a change they had asked from the IA on a previous draft of the report, namely that some oil and gas companies' surface rental fees were paid directly to the LRA, while others paid such fees directly to NOCAL. Representatives from NOCAL confirmed that the SOE collected surface rental fees on PSCs with Anadarko and EHL, but that PSCs with Chevron and ExxonMobil paid such fees directly to the LRA. They also noted that all surface rental fees collected by NOCAL were remitted in their entirety to the government. NOCAL representatives also confirmed that signature bonuses were paid directly to the Consolidated Fund, not to NOCAL, and that the contributions NOCAL made to the national budget came primarily from proceeds of TGS Nopec agreements (for the sale of seismic data), asset transfers and bid round application fees. A former Senator explained that NOCAL's transfers to the national budget were aggregated in one line-item, under "contributions from NOCAL". A former Senator explained that the MFDP would normally request for transfers from NOCAL to the budget and that the dividend from NOCAL was typically agreed by the NOCAL board, although he explained that there were sometimes questions surrounding how the Board determined the level of transfers to government.

A former industry MSG member noted the existence of ad hoc transfers by NOCAL to various entities outside of statutory procedures. A former Senator confirmed that NOCAL had made different types of contributions to different entities in the past, such as to the Ebola trust fund or different charities, which were referred to as social contributions in NOCAL's budget. NOCAL representatives confirmed the existence of ad hoc transfers to other government entities, such as a USD 150,000 payment to the Ebola Trust Fund in early 2014.¹⁶⁹

Representatives from GAC noted that EITI recommendations related to NOCAL had helped improve the granularity and clarity of the SOE's routine disclosures, particularly in differentiating revenue and expenditure flows.

Initial assessment

The International Secretariat's initial assessment is that Liberia has made satisfactory progress in meeting this requirement. While the description of NOCAL's transactions with the government appears insufficiently specific, the EITI Report comprehensively disclosed and reconciled statutory payments from the SOE to government. However, the lack of reference to ad hoc transfers from NOCAL is a concern. In preparing its next EITI Report, the MSG may wish to identify all types of payments made by NOCAL to different government entities during the scoping phase, to ensure appropriate reference is made to ad hoc transfers.

Subnational direct payments (#4.6)

Documentation of progress

¹⁶⁹ See p.3 of Government of Liberia (November 2014), The Government of Liberia and development partners' contributions to the ebola crisis, https://www.google.co.th/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=0ahUKEwiTxd2dud_OAhVE2RoKHQMqDQIQFggaMAA&url=https%3A%2F%2Fwww.mfdp.gov.lr%2Findex.php%2Fdocuments%2Freports%2Fspecial-report%3Fdownload%3D33%3Aebola-financing-report-november-2014&usg=AFQjCNG67WhofasMhFqcYK2vWLIUVPW5w

While Section 4.1.1 (p.34) listed annual social contributions to counties and communities as revenues under the scope of reconciliation, these appeared to represent social expenditures that had been miscategorised as direct subnational payments. The description of these contributions in Section 4.3.3 (p.42) confirmed that they represented a form of mandatory social expenditures. No other direct subnational payments were referred to or reported in the EITI Report. The 2012-13 EITI Report also reported such mandatory social expenditures in this way.

Stakeholder views

All stakeholders consulted confirmed that companies did not make any direct subnational payments.

Initial assessment

The International Secretariat's initial assessment was that this requirement was not applicable to Liberia in 2013-14.

Level of disaggregation (#4.7)

Documentation of progress

Data in the 2013-14 EITI Report was presented disaggregated by company in Section 5.1.1 (pp.49-50) and by revenue stream in Section 5.1.2 (pp.51-52), but not by receiving government entity. While the EITI Report stated in the introduction (p.8) and Section 5.1.1 (p.49) that detailed reconciliation reports for each company were included as a separate document published on the LEITI website in order to keep the EITI Report's size reasonable, there is no evidence on the LEITI website of these detailed reconciliation reports. The data in the 2013-14 EITI Report was not presented disaggregated by project. The 2012-13 EITI Report presented reconciled data disaggregated by company and revenue stream (pp.45-47 and 48-49), but not by receiving government entity nor by project.

Stakeholder views

Secretariat staff confirmed that the reconciliation result sheets by company were not publicly available on the website but could be requested in person from the secretariat. Secretariat staff also expressed surprise at the EITI Report's reference to these being available from the LEITI website. Industry representatives noted that there was no particular commercial sensitivity to reporting on a project basis since Liberian law required ring-fencing of payments per project. Representatives from LRA noted that ring-fencing of tax calculations on a project-level basis curbed the most basic form of transfer pricing, but not more advanced forms of transfer pricing for instance through sales to related parties. These representatives noted that one of the mandates of the LRA's new Natural Resources Taxation Service was to curb transfer pricing and called on EITI implementation to support these goals. CSOs consulted did not express any particular views on the level of disaggregation in the EITI Report or on the desirability of project-level reporting. The IA noted that the possibility of moving to project-level reporting had not been discussed with the MSG in preparing the 2013-14 EITI Report and that it was unclear whether MLME or LRA had appropriate systems to extract project-level revenue information. The IA confirmed that it had provided the MSG with the final company-level reconciliation sheets, even if these had not been published on the LEITI website, and provided a copy of these spreadsheets to the International Secretariat.

Initial assessment: The International Secretariat's initial assessment is that Liberia has made meaningful progress towards meeting this requirement. While the EITI Report referred to company-level reconciliation sheets available on the LEITI website, these were only available upon request from the LEITI Secretariat.

In preparing its next EITI Report, the MSG should ensure that reconciled data is presented disaggregated by individual company, revenue stream and receiving government entity either in the EITI Report or on the LEITI website.

Data timeliness (#4.8)

Documentation of progress

The 2013-14 EITI Report was published on 28 June 2016, within two years of the year covered by the scope of reconciliation. Sections 2.5 (p.17) and 5.2.1.b (p.54) of the EITI Report confirmed that the reconciliation covered payments made between 1 July 2013 and 30 June 2014.

The 2012-13 EITI Report was published on 30 December 2015 and the reconciled data was therefore 2.5 years old at the time of publication. On 16 January 2015 Liberia submitted a request for an extension to its 30 June 2015 reporting deadline, which had been endorsed by the MSG at its 10 December 2014 meeting.¹⁷⁰ The request cited the ‘disruptive consequences’ of the Ebola Virus Disease (EVD) and the government’s preoccupation with curtailing the spread of the virus as the main reason for the six-month extension, which was granted by the EITI Board at its 29th meeting in Brazzaville on 14 April 2015.¹⁷¹

The 2011-12 EITI Report was published on 30 June 2013 and included calculations of material entities’ tax liabilities for the first time.

Stakeholder views

Secretariat staff noted that the original intention was to publish both the 7th and 8th EITI Reports as a single report, but that the untimely death of a member of the IA’s team had forced them to split the two reports in order to publish the 7th EITI Report within the reporting deadline. The 8th EITI Report was approved by the MSG on 23 August 2016. Representatives from industry, government and civil society considered the timeliness of EITI data to be one of the main challenges of EITI implementation in Liberia. CSO representatives not on the MSG said that the data provided was less useful because by the time it is published, it’s already available through other means. Citing the example of domestic banks’ reporting, industry representatives considered that EITI data should be disclosed with at most a one-year time lag, rather than the current two years, in order to improve the usefulness of the data. Representatives from the MFDP echoed these views, arguing that more timely data would be of greater use to policy-makers.

Initial assessment

The International Secretariat’s initial assessment is that Liberia has made satisfactory progress towards meeting this requirement. The MSG may wish to consider ways of disclosing information on a more regular basis and could consider linking EITI reporting timelines to the parliamentary cycle, potentially increasing its impact.

Data quality (#4.9)

The EITI Standard states that “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 Board¹⁷²”. The assessment below addresses

¹⁷⁰ <http://eiti.org/internal/implementation-committee>

¹⁷¹ See minutes of the 29th EITI Board meeting in Brazzaville, <http://eiti.org/internal/implementation-committee>

¹⁷² <https://eiti.org/TOR-IA>

the requirements outlined in requirement 4.9, and adherence to the key features of the agreed upon procedure for EITI Reports.

Documentation of progress

Appointment of the IA: The contract for the 2013-14 and 2014-15 EITI Reports was signed with the consortium of Moore Stephens and Parker and Associates on 18 March 2016. Procurement of the IA for these EITI Reports was conducted as a single-source repeat procurement, in line with a clause in the IA's contract for the 2012-13 EITI Report allowing for such repeat procurement in case of satisfactory performance. The 2013-14 and 2014-15 EITI Reports were only published separately following the death of a member of the IA's team in June 2016. (See Requirement 4.8). The call for expressions of interest for the IA for the 2012-13 EITI Report was circulated in early September 2014.¹⁷³ Initial bids were received in late October 2014 and assessed by the bid evaluation committee, formed of five members from the LEITI Secretariat, NOCAL, GAC, National Investment Commission and the Financial Management Training Programme. While industry and CSOs were not represented on the evaluation committee, the committee reported to the MSG and provided the full text of the technical and financial proposals to the MSG for review and approval. The LEITI Act requires procurement of the IA to follow the PPC Act. At the beginning of each fiscal year, the LEITI Secretariat submits estimated costings of procurements to the PPCC for approval and subsequently undertakes procurements within the budget allocated. Given that the procurement plan approved by PPCC defines the procurement process, deviations from the agreed procurement process requires a no objection from PPCC. However for procurements in line with requirements of the PPC Act, there is only a requirement for no objection from PPCC for contracts above USD 200,000. The MSG always provides final approval of the contract following no objection from PPCC and empowers the LEITI Secretariat to sign the contract.

ToR for the IA: The ToR for the IA for the 2013-14 and 2014-15 EITI Reports was approved by the MSG in February 2016. The ToR for the IA agreed by the MSG for the purpose of the 2013-14 and 2014-15 EITI Reports is based on the standard ToR agreed by the EITI Board, but there are some deviations. The major deviation is that the agreed ToR did not specify the scope of material companies and revenue streams to be covered in the reconciliation, either in Section 3 (p.4) or in the annexes. While the agreed ToR refers to annexes of the standard ToR approved by the EITI Board, these annexes were omitted from the agreed ToR. While the standard ToR requires the MSG to work together with the IA to clearly define the taxes, revenues and companies included in the scope of reconciliation, the ToR agreed by the MSG requires only the IA to review and define the relevant materiality thresholds.

Agreement on reporting templates: The MSG held a workshop to agree reporting templates for the 2013-14 and 2014-15 EITI Reports on 7 April 2016. A similar workshop on the templates for the 2012-13 EITI Report was held on 5 June 2015. Involving all three stakeholder groups, the workshops involved presentations from the IA, LRA and GAC and solicited feedback from reporting companies. There is no minute that confirms MSG approval of the reporting templates that were used for the report although the minutes of the MSG's 4 May 2016 meeting confirm the MSG's approval of the 2013-14 and 2014-15 EITI inception report. Based on a comparison of the reporting templates in the annex of the 2012-13 EITI Report and the reporting template in the annex of the 2013-14 EITI Report, it appears that similar reporting templates were used for both financial years, although the number of revenue streams included in the scope of disclosures increased significantly from 46 to 97 and a new template for companies' employment

¹⁷³ http://www.leiti.org.lr/uploads/2/1/5/6/21569928/reoi_leiti_6_report_2.pdf

data was created.

Review of audit practices: Section 3.7 (pp.32-33) of the 2013-14 EITI Report provided an overview of the statutory audit and assurance procedures for both extractives companies and government agencies. It stated that there were no legal requirements for companies to appoint an external auditor for their financial statements. Based on sources from the GAC website¹⁷⁴, Section 3.7 described the GAC's statutory audit duties under Section 53.1 of the June 2005 GAC Executive Law covering 85 public institutions including the LRA. However, the EITI Report did not refer to any non-trivial deviations from statutory audit requirements and did not comment on whether all reporting entities had had their financial statements for the period under review audited to international standards.

Agreement on assurances: Section 2.4 (p.17) described the quality assurance procedures for ensuring the reliability of EITI data. Reporting companies, including NOCAL, were required to submit management representation letter and to obtain certification from a registered external auditor that the figures reported in the reporting templates were in accordance with instructions issued by LEITI, complete and in agreement with the accounts for the 2013-14. Companies were also encouraged to submit copies of their audited 2014 financial statements. Reporting government entities were required to include a sign-off by an authorised senior officer and to obtain confirmation from the GAC that the transactions reported in the reporting templates were in accordance with instructions issued by LEITI, complete and in agreement with the accounts for the 2013-14. The GAC was required to carry out agreed upon procedures under international standards in certifying the reporting templates provided by government entities. The GAC's report on applying agreed-upon procedures to government's 2013-14 EITI reporting templates¹⁷⁵ described the agreed-upon procedures for certifying government disclosures, which included verification that all company payments to ministries were in line with terms of their contracts and reconciliation of line ministry receipts with LRA's records of transfers to the Consolidated Fund.

The MSG agreed the quality assurance procedures at its 4 May 2016 meeting as part of its discussion of the inception report. The MSG decided to omit the requirement for government entities to submit confirmation from external auditors that their 2013-14 and 2014-15 financial statements had been audited. It also made the request for material companies to submit copies of their audited financial statements optional rather than mandatory.

Confidentiality: Section 1.8 (p.7) of the ToR for the IA required the IA to advise the MSG on appropriate provisions for safeguarding the confidentiality of information pre-reconciliation. Section 2.2 (p.16) of the 2013-14 EITI Report described these provisions, with reporting entities required to report and to address any questions directly to the IA.

Reconciliation coverage: For mining, Section 4.2.1 (p.38) provided the reconciliation coverage provided by the agreed materiality threshold at 98.39% of total government mining revenues in 2013-14, while for oil and gas Section 4.2.3 (pp.39-40) provided the reconciliation coverage of 99.61% of total government mining revenues in 2013-14. However, given that an additional four mining companies were found to be material during the reconciliation phase, the EITI Report did not provide the reconciliation coverage for the full 19 material mining companies. Section 5.3 (p.55) provided the materiality of unreconciled discrepancies as 1% of total payments reported by government entities. Sections 1.5 (p.12), 5.1.1 (pp.49-50) and 5.3 (p.56) noted that one mining company and one forestry company had not submitted reporting

¹⁷⁴ <http://gacliberia.com/>

¹⁷⁵ <http://www.gac.gov.lr/auditDoc/2013-2014%20-%207TH%20LEITI%20Final%20Report.pdf>

templates and provided their share of government extractives revenues in the scope of reconciliation as USD 1,569,207, or 1.18% of revenue, as well as their individual share of government extractives revenues in scope. Section 5.4 (p.59) confirmed the share of government extractives revenues provided through unilateral government disclosure as 1.46% of total government extractives revenues, which referred to government revenues from mining, oil and gas, agriculture and forestry.

Assurance omissions: Section 1.5 (pp.12-13) provided the results of reporting entities' data certification, confirming receipt of the Auditor General's report on agreed-upon procedures for LEITI reporting templates from the LRA and supervising ministries as well as the GAC's certification of government entities' reporting templates. The GAC's report on applying agreed-upon procedures to government's 2013-14 EITI reporting templates¹⁷⁶ highlighted certain challenges in LRA's record-keeping and noted that evidence of the transfer of USD 496,699.71 in mining revenues from LRA to the Consolidated Fund had not been provided by either LRA or the central bank. This can be calculated as amounting to 0.63% of government mining revenues in 2013-14, although this figure was not explicitly provided in the EITI Report. While noting that timely provision of information relative to the reconciliation process was a key challenge for GAC, the report provided certification of government's EITI reporting.

Section 1.5 of the 2013-14 EITI Report also provided an overview of certification by reporting companies. Of the 19 reporting mining companies, 16 provided management sign-off and 13 provided an external auditor's certification. All five reporting oil and gas companies provided management sign-off while only three provided an external auditor's certification. However, Section 1.5 provided the materiality of omissions by reporting companies as a share of total number of companies, not government revenues. While it provided the share of government revenues from companies that provided neither management sign-off nor external auditor certification, it did not provide the materiality of companies that did not provide the external auditor's certification. This implies that the materiality of omissions of full quality assurance by reporting companies was not provided in full. Annex 10 (pp.80-81) provided the breakdown of quality assurances provided by each reporting company, disaggregated by company.

Data reliability assessment: Section 1.5 (p.13) provided the IA's assessment of reliability of the reconciled data, which noted that, except for the omissions in quality assurances highlighted, the IA "reasonably conclude[d]" that the EITI Report duly covered the significant contributions made in the year under review by extractive companies to the revenues of Liberia. However, it is noteworthy that the GAC noted in Section 1.2 of its report on its agreed-upon procedures for the 2013-14 EITI Report: "Because of the matters described in the Basis for Disclaimer of Opinion paragraphs, however, we were not able to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion."

Sourcing of information: The EITI Report included consistent sourcing of contextual information in footnotes to the relevant sections. It did not appear that any stakeholders other than the IA had included comments or opinions.

Past recommendations: Section 7.2 (pp.64-65) provided an overview of follow-up on three past EITI recommendations, with follow-up on one recommendation¹⁷⁷ completed and on two others¹⁷⁸ not yet completed. The three recommendations were narrowly related to EITI reporting rather than to broader extractive industry reforms.

¹⁷⁶ <http://www.gac.gov.lr/auditDoc/2013-2014%20-%207TH%20LEITI%20Final%20Report.pdf>

¹⁷⁷ To improve the level of completeness of the LEITI extractive industries database.

¹⁷⁸ To ensure that reporting companies and government entities meet reporting deadlines and to ensure that reporting templates were correctly prepared.

Current recommendations: Section 7.1 (p.63) provided a single recommendation from the 2013-14 EITI Report, that the LRA carefully prepare reporting templates as requested, with supporting schedules.

The 2012-13 EITI Report provided similar descriptions and adopted a similar approach to quality assurance procedures. It provided an overview of statutory audit procedures for companies and government entities (pp.30-31) although not of the actual audit practices in the period under review. Annex 10 provided an overview of reporting companies' provision of the required quality assurances and named non-complying companies, although it did not assess the materiality of omissions. The GAC submitted a report on agreed-upon procedures for the certification of government entities' EITI reporting (p.11). However, the EITI Report did not indicate whether all government entities' financial statements had been audited for the year under review, nor whether companies or government audit reports were publicly available.

Stakeholder views

Secretariat staff explained that the MSG used the standard ToR from the EITI website, which they had then tailored to Liberian circumstances for the EITI Reports covering 2012 to 2015. MSG members from all three constituencies confirmed they had had a chance to provide input to the ToR for the 2013-14 EITI Report. However, GAC representatives stated that they had not been solicited for input into the ToR but would be eager to do so as long as it was not perceived as interfering in LEITI's independence. By providing such input, the representatives noted that the IA's work could be used as a diagnostic of the GAC's current systems and make proposals for reform.

The IA confirmed that it had met with GAC during the inception phase for the 2013-14 EITI Report to assess its operating procedures and level of involvement with EITI implementation, but that a summary of this review had not been included in the EITI Report. The IA also confirmed that it had not been involved in agreeing the GAC's or companies' quality assurance procedures with the MSG ahead of data collection and was not solicited to provide its professional opinion on the procedures for ensuring data reliability. The IA was not aware of a review of the GAC's agreed procedures for EITI certification in the past several years. All stakeholders consulted including from the GAC and MFDP stated that the GAC was not sufficiently resourced (either financially or in human resources) to fulfil its statutory audit responsibilities. While the GAC was meant to audit all government entities on an annual basis, it routinely only undertook an (often delayed) audit of the Consolidated Fund as well as ad hoc specialised audits. For instance, GAC was preparing an audit of NOCAL for 2011-2015, which it expected to finalise by end 2016. A former MSG co-chair highlighted the establishment of an Internal Auditing Agency (IAA) in 2011, which reported to the legislature and was aimed at establishing internal audit officers within each ministry and agency. However, several development partners noted that while the IAA¹⁷⁹ had been established through donor support in 2012 it had only published one set of reports that had not been made public. Meanwhile many government institutions had not yet established an internal auditor. The fact that the internal auditing structure had not been implemented in key entities like the MFDP was cited as the main reason for Liberia's non-compliance with the US Fiscal Transparency Report.¹⁸⁰

Secretariat representatives expressed pride in how the quality assurance of the process had improved in recent reports, noting that the GAC now provided some quality assurance at the early stages of the reporting exercise. Government and secretariat representatives consulted noted that the timeliness of the GAC's certification of government EITI reporting templates had improved in the 2013-14 EITI Report.

¹⁷⁹ <http://www.iaa.gov.lr/pages1.php?pgID=69>

¹⁸⁰ <http://www.state.gov/e/eb/ifa/oma/fiscaltransparency/260301.htm>

Secretariat staff explained that pressure from the President's office had ensured the GAC was now completing its EITI certification prior to publication of the report since the 2012-13 EITI Report. Representatives from GAC noted that they followed agreed-upon procedures for the certification of government EITI disclosures but did only audited ministries and agencies on an ad hoc basis, often with some delay. The GAC undertook a three-way certification process, confirming the government's reporting templates with the underlying billing data from the central bank, receipts collected by the LRA and actual deposits at the Consolidated Fund. The IA confirmed that the procedures followed by the GAC did not represent an audit or reconciliation, but rather a form of cross-checking disclosures with the government's revenue systems, and that the government's disclosures were not subject to audit to international standards. The IA expressed concerns over the fact that GAC provided certification of government disclosures pre-reconciliation, which meant that quality assurance was provided before clarifications and in some cases additional information was provided by the reporting government entities. The IA noted that GAC highlighted some of the same misclassifications of revenues by LRA that the IA also resolved during the reconciliation phase. A former industry MSG member expressed concern over the limited scope of the agreed upon procedures undertaken by the GAC, questioning whether this provided sufficient assurances for the reliability of EITI data since these were not based on audits to international standards. MFDP representatives did not express any particular views on the GAC's agreed upon procedures. A former Senator did not consider that the GAC should certify government's EITI disclosures given the public's distrust of the government's certification and called for statutory audits of government entities by independent auditing firms. CSOs consulted noted their satisfaction at the quality assurance procedures adopted for the 2013-14 EITI Report, noting that they considered the EITI data to be reliable. They explained that the selection of international auditors as the IA provided credibility for the reconciliation process.

Representatives from the GAC highlighted the challenges in the way revenue data was captured by the central bank given the lack of unique revenue identifiers (such as for export data), although their work with the IA and central bank on the 2012-13 EITI Report had brought significant improvements in the 2013-14 EITI Report. The GAC had carried out spot checks on the EITI templates to ensure the accuracy of export data. While the GAC hoped to move to a full audit of extractive industry revenues in line ministries, their budget and capacity constraints meant that they could only undertake the current agreed-upon procedures at present. Several development partners noted that while they considered the reconciliation of payments in the EITI Reports to be credible, the underlying government reports on which EITI disclosures were based were unreliable. These partners noted that the reliability of government data constituted one of the biggest challenges. Representatives from LRA and MFDP noted that GFS classification had been implemented for revenues flowing to the Consolidated Fund, but that other agencies, ministries and SOEs did not yet use the coding.

Industry representatives were satisfied with the quality assurance procedures for company reporting. While companies did not include certification of EITI reporting templates as part of their regular external audits, the cost of this EITI specific certification was absorbed as part of the companies' normal contracts with their external auditors. However, this was only the case for those companies with audited financial statements, with wide variations in audit practices between foreign-invested companies and smaller locally-owned companies. The IA did not express concerns over the reliability of company reporting, noting that the differences in companies' fiscal years and the need to follow the EITI reporting period of July-June ensured that companies only reported figures on a cash-basis of accounting and did not tend to confuse these with their accrual-based audited financial statements.

Initial assessment

The International Secretariat's initial assessment is that Liberia has made inadequate progress towards meeting this requirement. The MSG has agreed ToR for the IA and reporting templates for the 2013-14 EITI Report, reviewed audit rules and agreed quality assurance procedures for EITI disclosures. Through its work with the GAC in recent years the MSG has perfected agreed upon procedures for ensuring the reliability of its data as well as audit requirements for company reporting. While limited in scope, the status of past EITI recommendations is regularly reviewed. However, the MSG's agreed ToR deviates significantly from the standard ToR agreed by the EITI Board, most notably in removing the scoping and materiality discussions from the MSG and outsourcing it to the IA. The MSG has not based its discussion of assurance procedures on an assessment of actual auditing practices and a number of companies did not provide the required EITI assurances. In preparing its next EITI Report, the MSG should ensure any deviations from the standard ToR are non-material, base its discussion of assurance procedures on an assessment of actual practice and use recommendations of the EITI Report as a monitoring and evaluation platform for assessing progress in public and private-sector auditing practices. The MSG may also wish to liaise with INTOSAI and AFROSAI-E on extractives revenue auditing standards.

Table 4 - Summary initial assessment table: Revenue collection

EITI provisions	Summary of main findings	Initial assessment of compliance with the EITI provisions
Comprehensiveness (#4.1)	The MSG set a clear materiality threshold for selecting companies, but not for revenue streams. The EITI Report listed all material companies and government entities, but did not describe all material revenue streams. While the government appears to have provided full unilateral disclosure for revenues received by LRA, these were not disaggregated by revenue stream and certain off-budget revenues (e.g. from NOCAL to the University of Liberia) were not disclosed.	Meaningful progress
In-kind revenues (#4.2)	Given the absence of oil and gas production the government does not receive any of its statutory in-kind revenues.	

Barter and infrastructure transactions (#4.3)	The EITI Reports did not refer to any contractual provisions for the development of infrastructure for third-party use, despite widespread knowledge of such provisions in five MDAs.	No progress
Transport revenues (#4.4)	While the government would be entitled to transportation revenues from third-party use of the Buchanan port and railway, and from ArcelorMittal once its investment in the refurbishment is amortised, there was no such arrangement in place in the period under review.	
Transactions between SOEs and government (#4.5)	While the description of NOCAL's transactions with the government appears insufficiently specific, the EITI Report comprehensively disclosed and reconciled statutory payments from the SOE to government. However, the lack of reference to ad hoc transfers from NOCAL is a concern.	Satisfactory progress
Subnational direct payments (#4.6)	While the EITI Report referred direct subnational payments, we understand these are mandatory social expenditures and that no direct subnational payments exist.	
Level of disaggregation (#4.7)	While the EITI Report referred to company-level reconciliation sheets available on the LEITI website, these were only available upon request from the LEITI Secretariat.	Meaningful progress
Data timeliness (#4.8)	The MSG has consistently published timely EITI Reports aside from during the Ebola crisis.	Satisfactory progress
Data quality (#4.9)	The MSG has agreed ToR and reporting templates for the 2013-14 EITI Report, reviewed audit rules and agreed quality assurance procedures. Through its work with the GAC the MSG has agreed procedures for ensuring the reliability of government data and a growing number of companies have complied with the audit requirements. While limited in scope, the status of past EITI recommendations is regularly reviewed. However, the MSG's agreed ToR deviates significantly from the standard	Inadequate progress

	ToR for the IA agreed by the EITI Board, by outsourcing the scoping and materiality discussions from the MSG to the IA. The MSG has not based its discussion of assurance procedures on an assessment of actual auditing practices and a number of companies did not provide the required EITI assurances.	
<p>International Secretariat's conclusions and recommendations:</p> <ol style="list-style-type: none"> 1. In preparing its next EITI Report the MSG should base its materiality discussion on the government's full disclosure of all extractives revenues collected, including those off-budget, and specify a clear materiality threshold for selecting revenue streams for reconciliation. The MSG should also ensure that government's full unilateral disclosure is presented disaggregated by revenue streams and that the IA's assessment of the overall comprehensiveness of the EITI Report be included. 2. In preparing its next EITI Report, the MSG should ensure any deviations from the standard ToR are non-material, base its discussion of assurance procedures on an assessment of actual practice and use recommendations of the EITI Report as a monitoring and evaluation platform for assessing progress in public and private-sector auditing practices. The MSG may also wish to liaise with INTOSAI and AFROSAI-E on extractives revenue auditing standards. 3. In preparing its next EITI Report, the MSG may wish to identify all types of payments made by NOCAL to different government entities during the scoping phase, to ensure appropriate reference is made to ad hoc transfers. 4. In preparing its next EITI Report, the MSG should assess the existence of infrastructure provisions during the scoping phase to ensure that companies' disclosures are categorised according to strict definitions. 5. In preparing its next EITI Report, the MSG should ensure that reconciled data is presented disaggregated by individual company, revenue stream and receiving government entity either in the EITI Report or on the LEITI website. 		

3 Revenue management and distribution

3.1 Overview

This section provides details on the implementation of the EITI requirements related to revenue management and distribution.

3.2 Assessment

Distribution of revenues (#5.1)

Documentation of progress

Section 3.5 (pp.29-31) of the 2013-14 EITI Report described the budget-making process and noted provisions (Section 26) of the LRA Act that all revenues collected by the LRA were required to be paid into the Consolidated Fund. The diagram of revenue flows (p.31) confirmed that all revenues collected by LRA

flowed to the Consolidated Fund and were therefore recorded in the national budget. However, revenues collected by the National Port Authority (fees and charges), the University of Liberia (Scientific Research Fund) and NOCAL (social welfare contribution, surface rental, annual training and Hydrocarbon Development Fund) were not transferred to the Consolidated Fund. While Section 3.6 (p.32) stated that NOCAL collected payments from oil and gas companies such as surface rent, signature fees and taxes on transactional income, which it then transferred to the government, it also noted that NOCAL's transfers to the government were sometimes made "on emergency basis", which meant that companies' payments to NOCAL were not necessarily inducing payments to government. Section 3.7 (p.33) described provisions (Section 30) of the LRA Act, which stipulated that the LRA was required to keep books of accounts and proper records in conformity with the National Accounting Standards, International Public Sector Financial Reporting Standards and the PFM Act as applicable.

The 2012-13 EITI Report indicated that all extractives revenues were statutorily required to be recorded in the national budget, mainly through the Consolidated Fund. (p. 29), but did not provide an explanation for the allocation of any extractives revenues not recorded in the budget. There was no reference in the 2012-13 EITI Report to any domestic or international revenue classification system.

Stakeholder views

Representatives from GAC confirmed that revenues collected by NPA and certain streams collected by NOCAL (such as contributions to the social development fund) did not flow to the Consolidated Fund and were therefore not recorded in the national budget. The IA explained stakeholders had not been able to explain the management of off-budget revenues and that its understanding of the management of off-budget funds was thus limited. Several development partners and the IA confirmed that there were off-budget revenues such as those collected by NOCAL, NPA and the University of Liberia. Several MFDP representatives confirmed that revenues collected by NPA and University of Liberia were not recorded in the national budget, but explained that these revenues were maintained off budget because it was impossible to ring-fence revenues flowing to the Consolidated Fund. They explained that NPA like all SOEs had to report annually to the MFDP, which were annexed to the draft budget submitted to the legislature annually.¹⁸¹ While the IA noted it had been told during the inception phase that all extractives revenues were required to flow to the Consolidated Fund, the IA had found during the reconciliation process that some companies made payments to entities other than LRA that were not recorded in the national budget. Representatives from LRA explained that some PSCs required that oil and gas companies make payments of surface rental fees directly to LRA while others were required to make such payments to NOCAL, with the share that NOCAL was required to remit to LRA specified in each PSC. The representatives considered that PSCs should be clarified in order to clearly distinguish what the LRA should collect from oil and gas companies.

They also noted that the NPA remitted some of the revenues it collected from extractives companies to the LRA, although they were not required to remit all funds, and that the EPA remitted only some of the funds it collected to the LRA. The LRA calculated the tax liabilities of each company holding either an MDA or a PSC based on the terms of each specific agreement, which superseded the Revenue Code given that they were ratified by the legislature. A former industry MSG member and a development partner noted that the NPA's budget was not publicly available and it was thus unclear how the revenues collected by NPA were

¹⁸¹ See for instance MFDP (2015), SOEs Financial Performance Report, 2014/2015, <https://www.mfdp.gov.lr/index.php/soe-unit?download=88:soe-annual-report>

managed, since they were not recorded in the national budget. They explained that the NPA appeared to undertake certain non-commercial expenditures such as social expenditures, in an apparent duplication of responsibilities with other government entities.

Several CSO MSG members consulted explained that the government decided which revenues were recorded in the national budget and which were not, noting that CSOs disseminated EITI Reports to local communities as a means of tracking extractives payments and ensuring that those not recorded in the national budget were used for their intended purposes. Several CSOs outside the MSG noted the lack of clarity about which revenues flowed to the national budget and which did not, and that there was no visibility on the rules governing allocation of funds that were not recorded in the budget.

Representatives from LRA explained that the national revenue classification system was based on GFS classifications but that GFS classification had not yet been implemented by entities other than the LRA, such as NOCAL. Representatives from GAC highlighted the importance of the implementation of GFS revenue classification by the LRA in facilitating the GAC's work of tracking extractives revenues and called for all revenues collected by other entities to also follow the same classifications.

Initial assessment

The International Secretariat's initial assessment is that Liberia has made inadequate progress towards meeting this requirement. While the 2013-14 EITI Report described the general budget-making process and the statutory revenue management procedures, it did not clearly highlight the extractives revenues that were not recorded in the budget nor the allocation of such off-budget revenues. The MSG has not included reference to national or international revenue classification systems in the 2014 EITI Report, although this is only encouraged under Requirement 5.1. In light of the existence of off-budget revenues, the MSG should ensure that future EITI Reports clearly identify revenue streams that are not recorded in the national budget and explain the allocation of such off-budget revenues. It is also encouraged to consider using future EITI Reports as a means of tracking implementation of GFS classifications for extractives revenues.

Sub-national transfers (#5.2)

Documentation of progress

Section 4.1.3 (p.36) of the 2013-14 EITI Report stated that there was no provision in Liberian legislation for sub-national transfers and that, according to the Liberian Revenue Code, all tax revenues were considered general revenues paid to the Consolidated Fund and appropriated by the legislature for general government uses. The EITI Report thus clearly stated that the EITI Requirement for disclosure of subnational transfers was not applicable to Liberia.

The 2012-13 EITI Report also confirmed that sub-national transfers were not applicable in Liberia's mining, oil and gas sectors (p.34), although it did not clarify the distribution of land and surface rental fees or county social development funds to counties.

Stakeholder views

Several CSOs and development partners confirmed that contributions to country social development funds were paid through the LRA to the Consolidated Fund and that the central government was meant to use these funds for the benefit of communities in the counties hosting extractives activities. Thus these representatives emphasised that social development fund contributions were not subnational transfers

but rather a form of mandatory social expenditures. Representatives from government entities like the MFDP and LRA confirmed that there were no sub-national transfers in Liberia, which was also noted in NRGI's 2013 Resource Governance Index.¹⁸²

Initial assessment

The International Secretariat's initial assessment is that this requirement was not applicable to Liberia in 2013-14.

Additional information on revenue management and expenditures (#5.3)

Documentation of progress

Section 3.5 (pp.29-31) of the 2013-14 EITI Report described the budget-making process. Section 3.7 (pp.32-33) described the statutory audit procedures for government entities. The EITI Report did not refer to any earmarked revenues, nor additional information on projected production, commodity prices or revenue forecast.

The 2012-13 EITI Report did not include a description of any revenues earmarked for specific programs or geographic regions apart from a general discussion of social contributions (p.34). The EITI Report did not describe Social Development Funds or the distribution of land and surface rental fees to the counties. While the EITI Report described the country's budget and auditing processes (pp.27-29, 30-31), it did not include other information about projected production, commodity prices and revenue forecasts.

Stakeholder views

Several MFDP representatives considered social development fund contributions to be earmarked funds, explaining that proposals for use of these funds were made annually by counties and were expected to be implemented by the central government. Industry representatives confirmed that these funds were meant to be used in specific counties. Several CSOs both on the MSG and off expressed concern over the use of social development funds, noting their impression that they were typically not used for the benefit of communities they were earmarked for. The IA confirmed that these funds were earmarked for use in specific counties but noted that the implementation of these earmarked revenues was unclear in practice. Representatives from LRA noted that the share of Surface Rental Fees paid by mining and oil and gas companies that were earmarked for counties differed between different agreements and that the LRA calculated the earmarks separately for each agreement.

Several MFDP representatives noted that the MFDP released GDP figures including for mining on a semi-annual basis, although this did not include the value of production or exports. They also explained that under the Medium-Term Revenue Framework the MFDP released seven-year projections for GDP per sector and five-year projections for fiscal revenues from iron ore production.

Initial assessment

It is encouraging that the MSG has made some attempt to including information on revenue management and expenditures in the 2013-14 EITI Report, although it has not disclosed the management of earmarked extractives revenues. Such efforts are only encouraged and are not taken into account in assessing compliance. The MSG is encouraged to ensure future EITI Reports clearly highlight any earmarked extractives revenues and explain the allocation of such earmarked funds in practice.

¹⁸² http://www.resourcegovernance.org/sites/default/files/country_pdfs/liberiaRGI2013.pdf

Table 5 - Summary initial assessment table: Revenue management and distribution

EITI provisions	Summary of main findings	Initial assessment of compliance with the EITI provisions
Distribution of revenues (#5.1)	While the 2013-14 EITI Report described the general budget-making process and the statutory revenue management procedures, it did not clearly highlight the extractives revenues that were not recorded in the budget nor the allocation of such off-budget revenues.	Inadequate progress
Sub-national transfers (#5.2)	The 2013-14 EITI Report confirms that there were no statutory nor actual subnational transfers in the period under review.	
Information on revenue management and expenditures (#5.3)	The 2013-14 EITI Report did not disclose the management of earmarked revenues.	
<p>International Secretariat's conclusions and recommendations:</p> <ol style="list-style-type: none"> 1. In light of the significance of off-budget revenues, the MSG should ensure that future EITI Reports clearly identify revenue streams that are not recorded in the national budget and explain the allocation of such off-budget revenues. It is also encouraged to consider using future EITI Reports as a means of tracking implementation of GFS classifications for extractives revenues. 2. The MSG is encouraged to ensure future EITI Reports clearly highlight any earmarked extractives revenues and explain the allocation of such earmarked funds in practice. 		

4 Social and economic spending

4.1 Overview

This section provides details on the implementation of the EITI requirements related to social and economic spending (SOE quasi-fiscal expenditures, social expenditures and contribution of the extractive sector to the economy).

4.2 Assessment

Social expenditures (#6.1)

Documentation of progress

There is no evidence from MSG meeting minutes or EITI Reports of the MSG's discussion of a materiality threshold for reporting mandatory social expenditures. While Section 4.1.2 (p.36) of the 2013-14 EITI Report described the EITI Requirement to disclose mandatory social expenditures, it only included the IA's recommendation to disclose these payments rather than a statement on whether mandatory social expenditures existed in 2013-14. Section 4.3.3 (p.42) described the annual social contributions to counties and communities, which were included in the scope of reconciliation. Section 4.3.3 (p.48) described the social welfare contributions applicable to oil and gas companies. The reconciliation results in Sections 1.2

(p.9) and 5.1.2 (pp.51-52) showed that these two types of mandatory social expenditures were disclosed and reconciled. Section 6.2 (p.62) provided the detail of four reporting companies' mandatory social expenditures, disaggregated by company and by cash and in-kind payments, but not by project or type of mandatory social expenditure. While NOCAL was not listed as one of the four reporting companies in Section 6.2, the detail of NOCAL's 2012-13 and 2013-14 budgets in Annex 8 (p.77) revealed that NOCAL paid social welfare contributions, social rental fees and made contributions for manpower training, capacity building and social development. The EITI Report did not refer to voluntary social expenditures and these were not disclosed.

The 2012-13 EITI Report provided disclosures of mandatory social expenditures, disaggregated by company and between cash and in-kind payments (p.62), and justified the distinction between voluntary and mandatory social expenditures (p.34). However, the 2012-13 EITI Report did not specify the exact nature of in-kind social expenditures nor the identity of beneficiaries and only provided the general categories of social spending (including infrastructure in health, education, roads and agriculture, projects related to the promotion of agriculture and grants provided to the population).

Stakeholder views

All stakeholders on the MSG confirmed that the MSG had not set a specific materiality threshold for reporting mandatory social expenditures and had in effect considered all forms of mandatory social expenditures as material. Secretariat staff explained that the MSG had decided to only include general information of voluntary social expenditure since the 2011-12 EITI Report as they had concerns over companies exaggerating the value of their voluntary social expenditures, citing the example of a company with a USD 10 million operation in Liberia claiming to have invested USD 30 million in social expenditures in one year. CSO representatives on the MSG were satisfied at excluding voluntary social expenditures from the scope of disclosures as companies had been exaggerating their expenditures with no evidence of payments. However, CSOs outside the MSG said that this would be one of the most important data points the EITI could provide and argued that misstatements warranted more explanation and investigation, rather than just exclusion from EITI reporting.

NRGI's 2013 Resource Governance Index noted that Liberia required mining companies to contribute to social development funds benefiting communities in the counties where they operate. It highlighted that rules governing these funds were defined by legislation and published in mineral development agreements, but that the national audit authority had found that county receipts did not exactly match the amounts companies were required to pay.¹⁸³ Several CSOs and development partners confirmed that contributions to country social development funds were paid to the LRA and the Consolidated Fund and the central government was then supposed to use these funds for the benefit of communities in the counties hosting extractive industries. Thus they emphasised that social development fund contributions were not subnational transfers but rather a form of mandatory social expenditures. They noted that the use of these funds was not clear: while the Ministry of Internal Affairs was supposed to track the disbursement of these funds to approved projects, they noted significant delays in the distribution of such social development funds. Industry representatives expressed concern over the use of County Social Development Funds, noting that they did not consider that these were used to positively impact local communities' lives. Several CSOs not on the MSG noted the lack of clarity in the management of Social Development Funds, highlighting that they were meant to support education and training. The MFDP's annual fiscal outturn

¹⁸³ http://www.resourcegovernance.org/sites/default/files/country_pdfs/liberiaRGI2013.pdf

reports disclose the aggregate value of these social transfers.¹⁸⁴ Representatives from GAC noted that audit reports on social development funds of some, but not all, counties were available online.¹⁸⁵ The IA considered the quality of reporting of mandatory social expenditures in the 2013-14 EITI Report as poor, noting that social expenditures were only presented in an aggregated form because reporting companies had not disaggregated their disclosures by beneficiary despite reporting templates requiring this level of disaggregation.

NOCAL representatives explained that all oil and gas companies made contributions to NOCAL for social expenditures (USD 125,000 a year) and for training (USD 100,000), as well as one-off payments ranging from USD 0.5 million to USD 1.5 million for the Hydrocarbon Development Fund at the time of award of PSC. In addition, Chevron had established an additional fund to disburse USD 3.3 million a year on social expenditures in line with its PSC, while ExxonMobil had established an escrow account at the central bank to disburse additional social expenditures. A former industry MSG member noted that some mining companies (both exploration and production license holders) were also required to make contributions to the University of Liberia through the government, although the representative expressed scepticism about whether the University of Liberia ever received these revenues. Secretariat staff confirmed that direct payments to the University of Liberia represented a form of mandatory social expenditures. The IA noted that reporting entities and other stakeholders consulted were not able to track oil and gas company payments to University of Liberia that were paid through NOCAL. The IA explained that the discrepancy between the USD 475,000 reported in NOCAL's budget as payments to University of Liberia in 2013-14 in Annex 8 (p.77) and the USD 10 reported in NOCAL's reporting template for the same purpose in Section 5.1.2 (p.52) was likely the difference between what was budgeted and what was actually paid, confirming that the USD 10 would have represented the actual payment for 2013-14.

A former industry MSG member noted the existence of a type of mandatory social expenditures that was not described in the EITI Report, where mining companies were required to earmark 2% of their total annual budget towards mandatory social expenditures under the March 2010 implementing regulations of the Mining Act.

Initial assessment

The International Secretariat's initial assessment is that Liberia has made meaningful progress towards meeting this requirement. While the 2013-14 EITI Report provided companies' disclosures of mandatory social expenditures disaggregated by cash and in-kind, albeit without setting an explicit materiality threshold for social expenditures, it did not disclose the nature of in-kind mandatory social expenditures nor the identity of any non-government beneficiaries. There is no evidence of the MSG's attempts to reconcile mandatory social expenditures nor of any barriers to such a reconciliation. It is also unclear from stakeholder consultations whether the mandatory social expenditures reported in the 2013-14 EITI Report are comprehensive. The MSG should ensure that future EITI Reports clarify the full scope of mandatory social expenditures in Liberia's mining, oil and gas sectors and that reporting of mandatory social expenditures be disaggregated by type of payment and beneficiary, clarifying the name and function of any non-government (third-party) beneficiaries of mandatory social expenditures. The MSG may also wish to

¹⁸⁴ See MFDP (2014), Annual fiscal outturn report for fiscal year 2013-14, <https://www.mfdp.gov.lr/index.php/fiscal-outturn?download=40:annual-fiscal-outturn-fy2013-14>

¹⁸⁵ See for example GAC (November 2014), Auditor General's Report on the county development fund and social development fund of Sinoe County for the fiscal years 2011-12 and 2012-13, <http://gac.gov.lr/auditDoc/2014%20AGs%20Report%20on%20the%20CDF%20and%20SDF%20of%20Sinoe%20County%20for%20the%20FY%202011%20-%202012%20&%202012%20-%202013.pdf>

consider the feasibility of reconciling mandatory social expenditure disclosures and, subject to the three stakeholder groups' agreement, consider establishing a robust framework for reporting voluntary social expenditures.

SOE quasi fiscal expenditures (#6.2)

Documentation of progress

While the 2013-14 EITI Report did not refer to any quasi-fiscal expenditures undertaken by NOCAL, the only SOE in the extractive industries, item 8 in NOCAL's annual budget expenditures in Annex 8 (p.77) listed USD 475,000 in payments to the University of Liberia for the year under review. However, it appeared from Section 5.2.1.c (p.54) that another oil and gas company, ExxonMobil E&P Liberia Ltd., also made contributions to the University of Liberia through the Government of Liberia, rather than as a direct transfer to the university. Likewise the 2012-13 EITI Report did not report the existence of any quasi-fiscal expenditures.

Stakeholder views

Representatives from the LRA, development partners, NOCAL and industry confirmed that NOCAL undertook quasi-fiscal expenditures such as its foreign scholarship programme, which were categorised as social expenditures and manpower development in NOCAL's budget. The IA confirmed the absence of MSG discussions of quasi-fiscal expenditures, noting that discussions had focused on payments to University of Liberia, which were considered mandatory social expenditures. The IA stated that it had sought information on NOCAL's expenditures but had only been provided with its budget during preparations for the 2013-14 EITI Report.

Initial assessment

The International Secretariat's initial assessment is that Liberia has made inadequate progress towards meeting this requirement. There is no evidence of the MSG's discussions related to the existence or materiality of quasi-fiscal expenditures and the 2013-14 EITI Report did not refer to quasi-fiscal expenditures. The MSG should assess the existence and materiality of quasi-fiscal expenditures and ensure that future EITI Reports comprehensively disclose any material quasi-fiscal expenditures under taken by NOCAL or in relation to state participation in the mining sector.

Contribution of the extractive sector to the economy (#6.3)

Documentation of progress

Section 3.1 (p.21) provided the mining sector's *contribution to the economy* both in absolute terms (USD) and relative to GDP. Section 3.2 (p.25) provided the same for the oil and gas sector.

Section 3.1 (p.21) provided the mining sector's *contribution to government revenues* in absolute terms (USD) and Section 3.2 (p.25) provided the same for the oil and gas sector, although their share of total government revenues was not provided.

Section 3.1 (p.21) provided the mining sector's *contribution to exports* in absolute terms (USD) and relative to total exports. Section 3.6 (p.32) confirmed that there was no oil and gas production in 2013-14.

Section 1.4 (p.11) provided *employment* in agriculture, forestry and fishing on the one hand and mining and quarrying on the other in absolute terms. The aggregate extractive industries' share of total employment

was also provided. No figures were provided for employment in the oil and gas sector.

The EITI Report provided the general *location* of extractive industry activity, with the general locations provided for all mining licenses in Annex 4 (pp.71-72) and for leased petroleum blocks in Annex 5 (pp.73-74). A map of petroleum blocks was provided in Section 3.2 (p.24).

Section 3.3 (p.26) provided the agricultural sector's contribution to the economy in absolute terms as well as its share of government revenues in absolute and relative terms. Section 3.4 (p.28) provided the same for the forestry sector.

The 2012-13 EITI Report provided similar information on the extractive industries (pp.19, 22, 24 and 26), as well as relative and absolute employment data by sector (p.10 and Annex 11), share of government revenue, of real GDP and of total exports (p.19).

Stakeholder views

The IA highlighted the absence of comprehensive government revenue information and the challenges in implementation of a revenue classification system in Liberia. Representatives from the IA also noted that employment figures had also presented important challenges with only partial statistics provided by the Ministry of Labour, highlighting the need for more preparatory work to be undertaken by the MSG ahead of the IA's appointment. The IA noted that the MLME had not provided it with any information on informal mining activities, which explained the coverage in the EITI Report. MSG members did not express any particular comments on the comprehensiveness of information related to contribution to the economy.

Initial assessment

The International Secretariat's initial assessment is that Liberia has made meaningful progress towards meeting this requirement. The 2013-14 EITI Report disclosed, in absolute and relative terms, the extractive industries' contribution to GDP and to exports as well as their absolute contribution to government revenues, the mining sector's contribution to employment and the general location of extractives activities. However, the extractive industries' relative share of total government revenues and employment in the oil and gas sector was not provided. Liaising with relevant government entities, the MSG should ensure that future EITI Reports provide the extractive industries' share of total government revenues and the value of oil and gas employment for the period under review. The MSG may also wish to agree a definition of extractive industry employment, considering whether to include non-permanent staff for instance, and consider ways of publishing this information in a timelier manner online.

Table 6 - Summary initial assessment table: Social and economic spending

EITI provisions	Summary of main findings	Initial assessment of compliance with the EITI provisions
Social expenditures (#6.1)	While the 2013-14 EITI Report provided companies' disclosures of mandatory social expenditures disaggregated by cash and in-kind, albeit without setting an explicit	Meaningful progress

	<p>materiality threshold for social expenditures, it did not disclose the nature of in-kind mandatory social expenditures nor the identity of any non-government beneficiaries. There is no evidence of the MSG's attempts to reconcile mandatory social expenditures nor of any barriers to such a reconciliation. It is also unclear from stakeholder consultations whether the mandatory social expenditures reported in the 2013-14 EITI Report are comprehensive.</p>	
SOE quasi fiscal expenditures (#6.2)	<p>There is no evidence of the MSG's discussions related to the existence or materiality of quasi-fiscal expenditures and the 2013-14 EITI Report did not refer to quasi-fiscal expenditures.</p>	Inadequate progress
Contribution of the extractive sector to the economy (#6.3)	<p>The 2013-14 EITI Report disclosed, in absolute and relative terms, the extractive industries' contribution to GDP and to exports as well as their absolute contribution to government revenues, the mining sector's contribution to employment and the general location of extractives activities. However, the extractive industries' relative share of total government revenues and employment in the oil and gas sector was not provided.</p>	Meaningful progress
<p>International Secretariat's conclusions and recommendations:</p> <ol style="list-style-type: none"> 1. The MSG should ensure that future EITI Reports clarify the full scope of mandatory social expenditures in Liberia's mining, oil and gas sectors and that reporting of mandatory social expenditures be disaggregated by type of payment and beneficiary, clarifying the name and function of any non-government (third-party) beneficiaries of mandatory social expenditures. The MSG may also wish to consider the feasibility of reconciling mandatory social expenditure disclosures and, subject to the three stakeholder groups' agreement, consider establishing a robust framework for reporting voluntary social expenditures. 2. The MSG should assess the existence and materiality of quasi-fiscal expenditures and ensure that future EITI Reports comprehensively disclose any material quasi-fiscal expenditures under taken by NOCAL or in relation to state participation in the mining sector. 		

3. Liaising with relevant government entities, the MSG should ensure that future EITI Reports provide the extractive industries' share of total government revenues and the value of oil and gas employment for the period under review. The MSG may also wish to agree a definition of extractive industry employment, considering whether to include non-permanent staff for instance, and consider ways of publishing this information in a timelier manner online.

Part III – Outcomes and Impact

7. Outcomes and impact

7.1 Overview

This section provides details on the implementation of the EITI Requirements related to the outcomes and impact of the EITI process.

7.2 Assessment

Public debate (#7.1)

Documentation of progress

Communications: LEITI has a communications strategy and a dedicated communications team within the secretariat charged with implementing it, as well as a Reporting and Communications Committee in the MSG.

The 2013-15 communication strategy¹⁸⁶, the third such strategy since 2008, builds on the findings of the study of citizens' perception of the LEITI process, published in November 2011.¹⁸⁷ The survey had found low levels of public awareness about LEITI and recommended the recruitment of a communications specialist to lead implementation of the previous communication strategy. The 2013-15 communication strategy aims to "establish and maintain a clear and relevant two-way communication between it and the various stakeholders and beneficiaries of the LEITI process, ensuring that the public is informed about the program and contributing to its implementation." Through support for communication of LEITI's mission and results, the communication strategy seeks to enhance public understanding and involvement in LEITI, enhance the media's understanding of LEITI and of its own role in raising public awareness of LEITI's goals and objectives, and to undertake regular assessments of public perceptions of LEITI in order to develop new and appropriate communications tools. The MSG has defined the target audience groups for its dissemination of EITI Reports, which included government ministries and agencies, the legislature, the judiciary, international partners, embassies and diplomatic missions near Monrovia, youth and women groups, student groups, traditional leaders, church organisations and the general public in all fifteen counties of Liberia.¹⁸⁸ The MSG appears to review progress in implementing the communications strategy

¹⁸⁶ LEITI, Liberia EITI communications strategy 2013-2015 -

http://www.leiti.org.lr/uploads/2/1/5/6/21569928/leiti_communications_strategy_2013-15.pdf

¹⁸⁷ LEITI (November 2011), Why communications is crucial to promoting extractive transparency? A study of citizens' perception of the LEITI process, <https://www.scribd.com/document/151474308/LEITI-Perception-Survey-Report>

¹⁸⁸ See p.26, OGP (2014), Independent reporting mechanism: Liberia progress report 2013-2014, http://www.opengovpartnership.org/sites/default/files/IRMReport-Liberia_final.pdf

at least once a year as part of discussions about EITI Report dissemination efforts at MSG meetings.¹⁸⁹

The MSG's Policy Manual established a permanent Reporting and Communications Committee (RCC) to advise the MSG on all communication matters, facilitate interface between the MSG and communication stakeholders and advise the MSG on strategies to enhance awareness of the LEITI brand. Committee membership is listed in Annex A below. Minutes of these committees' meetings, which are not published on the LEITI website but were made available to the International Secretariat, show that the RCC meets on an *ad hoc* basis and reports to the MSG. The last record of meetings provided to the Secretariat is dated 14 June 2016.

Following the recommendation of the public perceptions survey and in line with the MSG's Operations Manual, the LEITI Secretariat recruited a Communications and Outreach Officer in 2013 and of two Communications Assistants (with support from GiZ) in mid-2014.¹⁹⁰ The communications department publishes a quarterly newsletter, prepares drafts of the annual activity report, coordinates outreach to civil society and community leaders, arranges regular media appearances and interviews, and engages actively in social media platforms. It appears that quarterly newsletters were temporarily ceased in 2014.¹⁹¹ The 2015-16 workplan allocated 36% of LEITI's non-recurrent expenditure to communications and outreach activities.

Given that the 2013-14 EITI Report was only published in late June, no dissemination efforts had taken place by the start of Validation in July 2016. There is no evidence that the EITI Report was formally launched at the MSG's 30 June 2016 meeting as the MSG approved the EITI Report subject to subsequent revisions.¹⁹² The 2014-15 EITI Report was launched at the MSG's 23 August 2016 meeting following the MSG's formal approval of the report. Although there was some limited media coverage of the 2014-15 EITI Report's launch¹⁹³, dissemination of the 2013-14 and 2014-15 EITI Reports had yet to start as of September 2016. The MSG formally launched the 2012-13 EITI Report, the beneficial ownership pilot, the simplified contracts matrix and the quarrying sector scoping study at the same public event on 15 December 2015.¹⁹⁴ Dissemination of the 2012-13 EITI Report was delayed to January 2016 due to delays in securing funding for dissemination from the African Development Bank. In January 2016 the MSG held regional dissemination roadshows in Liberia's four regions, covering all 15 counties.¹⁹⁵ The MSG considers its dissemination efforts reached a total of 18,000 people in 2015, up from 12,000 in 2014 and 4500 in 2013

¹⁸⁹ See for instance LEITI (January 2016), MSG meeting minutes 27 January 2016, http://www.leiti.org.lr/uploads/2/1/5/6/21569928/final_msg_meeting_minutes_january_27_2016.pdf; LEITI (January 2015), MSG meeting minutes 28 January 2015, http://www.leiti.org.lr/uploads/2/1/5/6/21569928/draft_msg_meeting_minutes_-_january_2015.pdf; and LEITI (December 2014), MSG meeting minutes 10 December 2014, http://www.leiti.org.lr/uploads/2/1/5/6/21569928/draft_msg_meeting_minutes_december_10.pdf

¹⁹⁰ LEITI (2015), Liberia EITI annual activity report 2014 - https://eiti.org/sites/default/files/documents/2014_liberia_annual_activity_report.pdf

¹⁹¹ See <http://www.leiti.org.lr/newsletter>

¹⁹² LEITI (June 2016), MSG meeting minutes 30 June 2016, http://www.leiti.org.lr/uploads/2/1/5/6/21569928/draft_msg_meeting_minutes_june_30_2016.pdf

¹⁹³ See for instance Global News Network Liberia (31 August 2016), Extractive Revenue Drops from US\$135M in 2014 to US\$100M in 2015 LEITI's 8th report revealed, <http://gnnliberia.com/2016/08/31/extractive-revenue-drops-us135m-2014-us100m-2015-leitis-8th-report-revealed/>

¹⁹⁴ LEITI (15 December 2015), 'LEITI launches 6th reconciliation and other reports', <http://www.leiti.org.lr/news-and-press-releases/leiti-launches-6th-reconciliation-and-other-reports>

¹⁹⁵ The roadshows were held in Western Region 2 (Rivercess, Grand Bassa, Margibi and Montserrado), Western Region 1 (Bomi, Gbarpolu and Grand Cape Mount), Northern Region (Nimba, Bong and Lofa) and South-Eastern Region (Grand Gedeh, Sinoe, River Gee, Marland and Grand Kru). See p.6 of LEITI 2015 annual activity report.

according to LEITI's 2014 and 2015 annual activity reports.¹⁹⁶ Dissemination efforts in 2015 marked the first time the MSG reached beyond county capitals to specific communities affected by extractive industries.

The MSG had launched the 2011-12 EITI Report on 30 June 2014¹⁹⁷ and the 2010-11 EITI Report alongside the first post-award process audit report in May 2013¹⁹⁸, although there is no evidence that the MSG held a press conference separate from the MSG's meeting for these launches. The MSG held 25 town-hall meetings in ten counties, radio talk shows, and local newspapers as part of its dissemination of the 2010-11 EITI Report in 2013.¹⁹⁹

With support from GiZ, LEITI published a simplified matrix of 30 mining, oil and gas, forestry and agriculture contracts in December 2015, summarising the fiscal terms, contract dates, community benefits and other key provisions of the agreements.²⁰⁰ The aim is to improve the public's ability to understand Liberia's main concessions to reduce misconceptions about terms of the contracts and improve the public's ability to hold the concessionaire to the terms of its contract. Several CSOs have been actively disseminating this matrix in early 2016 and expanded their support for contract monitoring.²⁰¹

The LEITI Secretariat has also formalised outreach to the media. In 2013 a group of journalists established the Extractives Media Watch NGO as a vehicle for journalists covering the extractive industries to pool resources and build their capacities. The LEITI Secretariat has worked with these stakeholders and held "Editor Forums" on 21 September 2012 and 28 November 2015, training workshops for around 20 executives from various community radio stations throughout Liberia. LEITI features fairly regularly in national media, particularly in relation to EITI Report launches and dissemination activities. Media coverage of the 2012-13 EITI Report in December 2015 focused on the reconciliation of revenues²⁰², while coverage of the 2014-15 EITI Report centred on the sharp drop in government extractives revenues.²⁰³ Liberia's participation in the 7th EITI Global Conference in Lima, Peru, in February 2016 also received some attention in the local press.²⁰⁴ The first post-award process audit generated significant media coverage when it was published in 2013.²⁰⁵ The LEITI Secretariat has also used advertising to reach areas without radio access,

¹⁹⁶ See pp.22-23 of LEITI 2015 annual activity report and p.25 of LEITI 2014 annual activity report.

¹⁹⁷ LEITI (30 June 2014), 'Press Statement Marking the Launch of the 5th EITI Report for Liberia', <http://www.leiti.org.lr/news-and-press-releases/press-statement-marking-the-launch-of-the-5th-eiti-report-for-liberia>

¹⁹⁸ LEITI (16 May 2013), 'MSG Endorses 4th EITI Report & Post Award Process Audit Report', <http://www.leiti.org.lr/news-and-press-releases/msg-endorses-4th-eiti-report-post-award-process-audit-report>

¹⁹⁹ See p.VII, OGP (2014), Independent reporting mechanism: Liberia progress report 2013-2014, http://www.opengovpartnership.org/sites/default/files/IRMReport-Liberia_final.pdf

²⁰⁰ LEITI (December 2015), Abridged simplified contract matrix designed for multi-stakeholder reference, Liberia extractive industries, http://www.leiti.org.lr/uploads/2/1/5/6/21569928/contract_matrix_final_version.pdf

²⁰¹ See for instance CENTAL's contract monitoring document, http://www.tiliberia.org/?page_id=72

²⁰² See for example Liberian Daily Observer (15 December 2015), '6th EITI Report Shows Gains In Extractive Sector', <http://www.liberianobserver.com/business/6th-eiti-report-shows-gains-extractive-sector>

²⁰³ See for example Global News Network (31 August 2016), 'Extractive Revenue Drops from US\$135M in 2014 to US\$100M in 2015 LEITI's 8th report revealed', <http://gnnliberia.com/2016/08/31/extractive-revenue-drops-us135m-2014-us100m-2015-leitis-8th-report-revealed/>

²⁰⁴ See for example Liberia News Agency (26 February 2016), 'Liberia to share best practices at 7th EITI confab', <http://www.liberianewsagency.org/pagesnews.php?nid=6737>

²⁰⁵ See for instance This is Africa (19 July 2013), Liberia EITI exposes corruption in resource contracts, <http://www.thisisafricaonline.com/Business/Legal-Bulletin/Liberia-EITI-exposes-corruption-in-resource-contracts>; Reuters (1 May 2013), Exclusive: Resource Deals Audit Overshadows Liberia Anti-graft Push, http://rightsandresources.org/en/news/reuters-exclusive-resource-deals-audit-overshadows-liberia-anti-graft-push/#.WAc_ppN95R0; and The Liberian Observer (1 December 2015), 60 Concessionaires 'Operating Illegally', <http://liberianobserver.com/news/60-concessionaires-%E2%80%98operating-illegally%E2%80%99>

rolling out 12 advertising billboards with LEITI awareness messages in remote areas of the country.²⁰⁶

Outreach: The LEITI Secretariat has led outreach efforts for years, primarily focused on subnational stakeholders such as host communities and students. In 2014, the LEITI Secretariat has recruited and trained focal points in each of Liberia's 15 counties, a majority of which come from civil society. Remunerated monthly, these focal points coordinate outreach and dissemination in their counties, liaising with local radio stations and providing regular reports to LEITI Secretariat of their activities. Supported for the first year by the World Bank and subsequently by the government, these focal points are expected to interact regularly with their communities and the secretariat in Monrovia to gauge impact and help direct action. LEITI has also carried out outreach to parliamentarians, primarily through the representatives of the Senate and the House of Representatives in the MSG.

An area where the MSG has been most active in terms of outreach and dissemination has been with schools, particularly at the secondary level. In February 2013 LEITI launched its e-Club, an extractive club programme in high schools that involves activities such as peer-to-peer discussions, lecture series, mentoring and field trips.²⁰⁷ Perhaps most successfully, LEITI established a network of debating clubs nationwide, where more than 400 students took part in debating on issues of extractive industry governance.²⁰⁸ It worked with the Global Youth Anti-Corruption Network, an NGO, to hold a youth forum on natural resource governance in December 2014 with roughly 100 attendees, of which 60% were university students.²⁰⁹ It previously held an inter-high school debate about natural resources in June 2013.²¹⁰ As of May 2014, the number of high schools participating in the e-Club rose to 15, with support from GIZ.²¹¹ The MSG has also contributed to "extractives corners", extractives-focused research corners in high schools filled with donated media (books and movies) related to the extractive industries to 15 schools as of 2015.²¹² As part of its 2015-16 workplan, the MSG had planned to establish a LEITI Centre of Excellence to offer short-term certificate courses on natural resource governance and environmental management, although this was not completed due to delays in funding from UNDP.²¹³

Stakeholder views

All stakeholders consulted highlighted LEITI's dissemination activities as one of the strongest aspects of implementation. Industry stakeholders and some CSOs not on the MSG considered that the focus of communications efforts was excessively on advertising rather than substantive conversations. Industry said that they had not participated actively in dissemination activities. Government and civil society stakeholders on the MSG and secretariat staff stated that LEITI had focused on dissemination in all of

²⁰⁶ See LEITI (2015), Liberia EITI annual activity report 2014 -

https://eiti.org/sites/default/files/documents/2014_liberia_annual_activity_report.pdf

²⁰⁷ LEITI (21 February 2013), 'LEITI launches e-Club program', <http://www.leiti.org.lr/news-and-press-releases/leiti-launches-e-club-program>

²⁰⁸ GiZ, Regional resource governance in fragile states of West Africa project description, <https://www.giz.de/en/worldwide/15792.html>

²⁰⁹ LEITI (10 December 2014), 'LEITI-GYAC Hosts Natural Resource Governance Forum for Youths', <http://www.leiti.org.lr/news-and-press-releases/leiti-gyac-hosts-natural-resource-governance-for-youths>

²¹⁰ LEITI (17 June 2013), 'St. Teresa Convent Wins LEITI Inter-high School Debate', <http://www.leiti.org.lr/news-and-press-releases/st-teresa-convent-wins-leiti-inter-high-school-debate>

²¹¹ LEITI (May 2014), MSG meeting minutes 28 May 2014, http://www.leiti.org.lr/uploads/2/1/5/6/21569928/msg_meeting_minutes_may_28_2014.pdf

²¹² LEITI (30 March 2015), 'LEITI Supports Research on Extractive Sector in High Schools', <http://www.leiti.org.lr/news-and-press-releases/leiti-supports-research-on-extractive-sector-in-high-schools> and p.15 of LEITI (2015), Liberia EITI annual activity report 2014 - https://eiti.org/sites/default/files/documents/2014_liberia_annual_activity_report.pdf

²¹³ See LEITI 2015 annual activity report, https://eiti.org/sites/default/files/documents/liberia_eiti_2015_annual_progress_report_0.pdf

Liberia's counties since the earliest days of implementation in 2008-9. Civil society MSG members explained that they considered dissemination of EITI Reports and public debate about the findings was one of their primary responsibilities and formed an integral part of the EITI process. Indeed, they noted that public debates about the EITI Reports were key to confirming the reliability of information in EITI Reports and represented a form of quality assurance of the EITI Reports. Several development partners considered the LEITI's communications activities to be one of the most dynamic aspects of implementation, but expressed some concern over the effectiveness of outreach, highlighting the challenges posed by Liberia's low literacy rate. Some development partners questioned whether attendance at dissemination events might be driven by financial incentive, given the USD 5 allowances for attendees, but also noted that such per diems were in line with common practice by donors and NGOs. One development partner and several CSOs both on and off the MSG highlighted the importance of the simplified contract matrix in improving the public's understanding of extractives contracts and noted that there had already been considerable interest in the contracts in the eight months since publication.

Several CSO MSG members noted that they maintained focal points in each of Liberia's 15 counties, which were used to organise roadshows and other regional events. Industry stakeholders noted that the media was increasingly citing information from LEITI Reports, but expressed concern over some of the coverage associated with the post-award license audit. Secretariat staff and CSOs on the MSG considered that media coverage of EITI had improved, with the establishment of organisations like Extractive Media Watch, which coordinated and supported coverage of the extractive industries.

A parliamentarian stated that EITI Reports were consulted by some members of the House of Representatives and Senate, noting that this was one of the primary roles of the legislator on the MSG. However, the parliamentarian noted that the level of consultations between the legislature and LEITI had declined in the past year, while conceding that Liberia was in the midst of a political crisis linked to the mining sector. Stakeholders from all constituencies confirmed that EITI Reports were not being discussed in conjunction with the on-going political crisis, despite its links to mining license allocation procedures.

Initial assessment

The International Secretariat's initial assessment is that Liberia has made satisfactory progress in meeting this requirement. The MSG has taken steps to ensure that the EITI report is comprehensible, actively promoted and publicly accessible. Through the organisation of dissemination events and workshops, LEITI has ensured that the EITI has also contributed to public debate, particularly at the subnational level. Public debate has been generated by specific data from EITI Reports, such as information on extractive industry revenues and license allocations. However, there is little evidence that the EITI is providing a platform for discussions and debates about how the mining, oil and gas sectors are managed.

To continue improving, LEITI should consider ways to ensure that other stakeholders are encouraged to participate more actively in the development of communications strategies instead of only dissemination activities. Government, parliamentary and industry stakeholders should participate more actively alongside civil society and the secretariat in developing communications strategies that look beyond dissemination and outreach. The MSG may wish to consider establishing more formal mechanisms for subnational consultations to provide input to national EITI discussions, to ensure discussions at the local level are reflected in MSG discussions.

Data accessibility (#7.2)

Documentation of progress

The MSG has produced summary reports for Liberia's first five EITI Reports (covering 2007-8²¹⁴, 2008-9²¹⁵, 2009-10²¹⁶, 2010-11²¹⁷ and 2011-12²¹⁸) but not of the sixth, covering 2012-13, or subsequent reports. All LEITI documents are in English, Liberia's national language, but not in any local language. The 2013-15 LEITI Communication Strategy noted (p.12): "English is not widely spoken in most rural communities, some of which are affected concessions areas where the people have even more critical concerns regarding the process. With sixteen local languages, it is important to consider the language preference of the communities in any communication activity to be undertaken." There is evidence from minutes of dissemination events that secretariat staff and civil society communicated in certain local languages during roadshows, although English remains the sole language for printed material.

The LEITI secretariat has not yet made EITI data available in machine-readable format on its website, although it provided summary data templates for EITI Reports published under the EITI Standard (ie the 2012-13 and 2013-14 EITI Reports) to the International Secretariat on 11 July 2016, which are available on the EITI global website.²¹⁹ While Liberia's EITI Reports do not refer to GFS revenue classification, the newly-established LRA started implementing the 2001 GFS Manual framework from 2014 and has reported annual central government revenues in this way up to 2013 data, according to the IMF.²²⁰ Although only revenues received by the Consolidated Fund are classified under GFS at present, the government plans to extend GFS to other entities like NOCAL and NPA in future. The LEITI Secretariat has also produced innovative infographics based on their EITI Reports, including one that was awarded second place in the EITI's infographic competition in 2013.²²¹

Stakeholder views

Stakeholders did not express any particular views on the availability of LEITI information in machine-readable format. MSG members and secretariat staff had not consulted with the LRA on preparation of the GFS-coded summary EITI data tables and considered this to be the IA's responsibility, in line with the ToR for the IA.

Industry stakeholders consulted did not use information from the EITI Reports and considered the role of companies in terms of reporting requirements rather than use of EITI data. Civil society MSG members stated that their organisations did use EITI information extensively in their advocacy and campaigning. Some representatives from CSOs not on the MSG found EITI reports to be difficult to read. Most said that they considered the information in the post-award process audit and the simplified contract matrix to be of greater use than the EITI Reports. Government stakeholders consulted did not make specific use of EITI information but noted they considered EITI Reports to be reference documents. Civil society

²¹⁴ Summary of first LEITI Report, 1 July 2007-30 June 2008, <https://www.scribd.com/document/151340662/LEITI-1st-Report-Summary>

²¹⁵ Summary of second LEITI Report, 1 July 2008-30 June 2009, http://www.leiti.org.lr/uploads/2/1/5/6/21569928/leiti_report_forweb.pdf

²¹⁶ Summary of third LEITI Report, 1 July 2009-30 June 2010, <http://www.leiti.org.lr/uploads/2/1/5/6/21569928/leiti3rdsum.pdf>

²¹⁷ Summary of fourth LEITI Report, 1 July 2010-30 June 2011, http://www.leiti.org.lr/uploads/2/1/5/6/21569928/summry_of_4th_report.pdf

²¹⁸ Summary of fifth LEITI Report, 1 July 2011-30 June 2012, http://www.leiti.org.lr/uploads/2/1/5/6/21569928/leiti_report_-_final_33.pdf

²¹⁹ Revenue collection section of Liberia EITI country page, https://eiti.org/implementing_country/25#revenue-collection

²²⁰ IMF (July 2016) Liberia Article IV Consultation, <https://www.imf.org/external/pubs/ft/scr/2016/cr16238.pdf>

²²¹ EITI (31 October 2013), Winners of the EITI Infographic competition, <https://eiti.org/node/4586>

representatives on the MSG said that the summary reports had been useful and expressed regret that these were no longer being produced due to funding constraints.

Initial assessment

Requirement 7.2 encourages the MSGs to make EITI Reports accessible to public in open data formats. EITI Reports are accessible through the LEITI website and roadshows, while report summaries have been produced in the past. Machine-readable EITI data is available through the EITI international website, but is not actively disseminated. The MSG is encouraged to work with the IA and LRA to complete GFS-coded summary EITI tables for each EITI Report, using the GFS extractives codes to label off-budget revenues collected by NOCAL, NPA and others. The MSG should also define its open data policy. The MSG may consider undertaking a study to identify what information required to be disclosed under the EITI Standard is already publicly available and what information is not yet routinely disclosed. Opportunities for providing more EITI data in open data formats could also be explored.

Lessons learned and follow up on recommendations (7.3)

Documentation of progress

The MSG has consistently discussed the findings and recommendations from Liberia's EITI reporting at its meetings.

The number of recommendations has fallen in recent EITI Reports, declining from six in the 2009-10 EITI Report to four in the 2012-13 EITI Report and one in the 2013-14 EITI Report. All four of the recommendations in the 2012-13 EITI Report are narrowly focused on strengthening EITI reporting rather than broader sector reforms. These included the need for timely and accurate reporting by government entities and extractives companies, the need to update the extractives companies' database and the need to exclude line ministries from the scope of reporting financial information for reconciliation given the establishment of the LRA in 2014.

Stakeholder views

Civil society representatives not on the MSG complained that the EITI was not fulfilling its potential because findings in reports were not translating into government actions that could lead to impact. A former National Coordinator regretted that "there had not been a bold step in a long time". He added that LEITI needed to work closer with other anti-corruption agencies and "re-assess what its role should be in an increasingly corrupt society". As an example he said that the post-license process audit had not led to any changes in the allocation of licenses and contracts. The lack of follow-up by the government was identified as the biggest challenge to LEITI by stakeholders from all constituencies except civil society representatives on the MSG. Stakeholders consulted noted that the pace of implementation of recommendations had fallen over the last couple of years, even as some improvements were also registered over the same period. Secretariat staff pointed at the work being done with the GAC in particular as an example of recommendations leading to concrete changes.

Initial assessment

The International Secretariat's initial assessment is that Liberia has made satisfactory progress in meeting this requirement. While recommendations of EITI Reports are not consistently implemented, the MSG has held consistent debates over the recommendations, even if the pace of follow up on EITI recommendations appears to have slowed since 2014. To continue improving, the MSG may wish to work with government

to formalise mechanisms for following up on EITI recommendations and may wish to consider establishing some form of inter-ministerial coordination for more effective and systematic implementation. The MSG may also wish to consider ways of moving the discussion beyond investigation of discrepancies and sanctioning of non-reporting companies towards ways in which the EITI process can improve the governance of the sector.

Outcomes and impact of implementation (#7.4)

Documentation of progress

There is limited evidence of the MSG using the annual activity reports as a means of benchmarking LEITI's overall record of achievements, identify shortcomings and feed into future workplans. Some members of the MSG appear to consider the annual activity report as a means of tracking impact of EITI implementation, for instance by correlating the growth in government extractives revenues with LEITI activities.²²² However in previous years, it appears from meeting minutes that the MSG considered production of the report as simply a requirement of the EITI Standard, rather than a means of ensuring accountability to Liberian stakeholders.²²³

The 2015 annual progress report was approved by the MSG at its 30 June 2016 meeting²²⁴ but does not appear to be published on the LEITI website²²⁵ even if it is accessible on the EITI international website.²²⁶ Some of the main achievements highlighted were increased efforts at advocacy and stakeholder feedback, promoting stakeholders' participation, staff capacity building, the launching of the 6th EITI Report, beneficial ownership study and mining sector scoping study as well as communications, outreach and capacity building. The report includes a section on follow-up on recommendations from the 2012-13 EITI Report as well as reference to the LEITI gap analysis published in April 2015. It provides a summary of activities in 2015, an assessment of progress in meeting requirements of the EITI Standard related to reporting (Requirements 3.1-4.2 of the 2013 EITI Standard) but not for other EITI requirements, an overview of progress in meeting workplan objectives and a narrative of efforts to strengthen EITI implementation through extending the scope of EITI reporting and expanding stakeholder engagement. While the 2015 annual activity report did not provide a quantitative assessment of progress in meeting workplan objectives, it provides a narrative of progress in meeting these objectives. Both the broader strategic goals and the work plan objectives were outlined along with the activities undertaken to achieve these goals. It is apparent that the MSG was able to make progress towards 11 of the workplan's objectives, including dissemination of the 6th EITI Report, recruitment of the IA for the 7th and 8th EITI Reports, launch of the second post-award process audit, production of a first BO report and a mining sector scoping study, capacity building of CSOs and traditional leaders, launch plans for a LEITI Centre of Excellence, decentralisation of LEITI activities, development of a strategic plan and simplified contract

²²² See LEITI (June 2016), MSG meeting minutes 30 June 2016,

http://www.leiti.org.lr/uploads/2/1/5/6/21569928/draft_msg_meeting_minutes_june_30_2016.pdf

²²³ See for instance discussion of the draft 2014 annual activity report, LEITI (June 2015), MSG meeting minutes 26 June 2015, http://www.leiti.org.lr/uploads/2/1/5/6/21569928/minutes_of_june_26_meeting-revised.pdf and discussion of the 2012 annual activity report, LEITI (May 2014), MSG meeting minutes 28 May 2014,

http://www.leiti.org.lr/uploads/2/1/5/6/21569928/msg_meeting_minutes_may_28_2014.pdf

²²⁴ LEITI (June 2016), MSG meeting minutes 30 June 2016,

http://www.leiti.org.lr/uploads/2/1/5/6/21569928/draft_msg_meeting_minutes_june_30_2016.pdf

²²⁵ LEITI annual activity reports, <http://www.leiti.org.lr/activity-reports.html>

²²⁶ LEITI (June 2016), LEITI annual activity report 2015,

https://eiti.org/sites/default/files/documents/liberia_eiti_2015_annual_progress_report_0.pdf

matrix. This represented a significant increase in achievements over 2014, when the Ebola outbreak caused significant delays in implementing the 2014 workplan.

The 2014 annual activity report was published in June 2015²²⁷, having been approved by circular following the MSG's 26 June 2015 meeting.²²⁸ The MSG members' inputs to the 2014 annual activity report are not recorded in meeting minutes. The 2014 report provided a narrative of activities undertaken during the year, assessments of progress in meeting workplan objectives, EITI Requirements and in following up on past EITI recommendations. It also described the MSG's efforts to extend the scope of EITI reporting, improve stakeholder engagement and significant achievements. However, neither the 2014 nor 2015 activity reports included assessments of the impact of EITI implementation.

Nonetheless the two most recent annual activity reports significantly expand the scope of the MSG's annual assessment over the 2013 annual activity report²²⁹, published in June 2014, which only provided a narrative of activities but no assessment of progress in meeting workplan objectives or EITI Requirements.

In 2012 LEITI hosted an impact assessment workshop with support from GiZ, where the MSG started work on a monitoring and evaluation framework for assessing LEITI's impact.²³⁰ However there is little evidence of the MSG considering the impact of EITI implementation since then, with the LEITI gap analysis published in April 2015 only referred to the need for EITI Reports published under the Standard to become more useful to public debate.²³¹

Stakeholder views

Stakeholders from all constituencies consulted said that the main outcome of LEITI had been to build trust in local communities and instil in the conscience of companies the knowledge that someone would look through their books. However, they also generally noted that this was not a sufficient impact, given that government had been slow to act on the findings of LEITI Reports. Civil society representatives on the MSG stressed that the main impact of EITI implementation had been that many more people had access to information that affected them directly, which in turn helped to reduce violence in local communities. An industry representative said that being able to show that companies contributed to local communities and paid their dues had had a direct effect on the level of violence in their local communities.

The secretariat provided evidence that the annual progress report had been sent to the MSG for comments before its approval. Industry and civil society representatives outside the MSG said that they had not been asked by their representatives to review or otherwise provide input to the report, but they did not appear to see this as a problem. No concerns were raised by stakeholders about the content of the report. Civil society representatives outside the MSG said that they did not consider the progress report relevant to their work because they considered it to be a purely managerial tool that LEITI used to implement the LEITI Act and to respond to donor funding procedures. This view was to a certain extent shared by representatives on the MSG, and in particular industry.

²²⁷ LEITI (June 2015), LEITI annual activity report 2014,

https://eiti.org/sites/default/files/documents/2014_liberia_annual_activity_report.pdf

²²⁸ LEITI (June 2015), MSG meeting minutes 26 June 2015,

http://www.leiti.org.lr/uploads/2/1/5/6/21569928/minutes_of_june_26_meeting-revised.pdf

²²⁹ LEITI (2014), Liberia EITI annual activity report 2013 -

<https://eiti.org/files/LEITI%20ANNUAL%20REPORT%202013%20FINAL.pdf>

²³⁰ LEITI (2012), GiZ Impact Assessment Workshop, <http://www.leiti.org.lr/giz-impact-assessment-workshop.html>

²³¹ See p.56 of LEITI (April 2015), Applying the 2013 EITI Standard in Liberia: Gap analysis and recommendations -

http://www.leiti.org.lr/uploads/2/1/5/6/21569928/gap_analysis_report.pdf

Initial assessment

The International Secretariat's initial assessment is that Liberia has made meaningful progress in meeting this requirement. While LEITI produces an annual activity report that assesses progress in achieving workplan objectives, some of the requirements of the EITI Standard and follow-up on past EITI recommendations, the MSG does not appear to have used these reports to assess the impact of implementation. While the MSG has held discussions on the impact and outcomes of EITI implementation in Liberia, these have tended to remain ad hoc and informal. To continue improving, constituency representatives could establish more formal consultation mechanisms to provide all stakeholders an opportunity to provide feedback on the EITI process and the impact of the EITI. The MSG may wish to undertake an impact assessment with a view to identify opportunities for increasing the impact of implementation.

Table 7 - Summary initial assessment table: Outcomes and impact

EITI provisions	Summary of main findings	Initial assessment of compliance with the EITI provisions
Public debate (#7.1)	The MSG has taken steps to ensure that the EITI report is comprehensible, actively promoted and publicly accessible. Through the organisation of dissemination events and workshops, LEITI has ensured that the EITI has also contributed to public debate, particularly at the subnational level. Public debate has been generated by specific data from EITI Reports, such as information on extractive industry revenues and license allocations. However, there is little evidence that the EITI is not providing a platform for discussions and debates about how the mining, oil and gas sectors are managed.	Satisfactory progress.
Data accessibility (#7.2)	EITI Reports are accessible through the LEITI website and roadshows, while report summaries have been produced in the past. Machine-readable EITI data is available through the EITI international website, but is not actively disseminated.	
Lessons learned and follow up on recommendations (7.3)	While recommendations of EITI Reports are not consistently implemented, the MSG has held consistent debates over the recommendations, even if the pace of follow up on EITI recommendations appears to have slowed since 2014.	Satisfactory progress.
Outcomes and impact of implementation (#7.4)	While LEITI produces an annual activity report that assesses progress in achieving workplan objectives, some of the requirements of the EITI Standard and follow-up on past EITI recommendations, the MSG does not appear to have used these reports to assess the impact of implementation. While the MSG has held discussions on the impact and outcomes of EITI implementation in Liberia, these have tended to remain ad hoc and informal.	Meaningful progress.

International Secretariat's conclusions and recommendations:

1. To continue improving, constituency representatives could establish more formal consultation mechanisms to provide all stakeholders an opportunity to provide feedback on the EITI process and the impact of the EITI. The MSG may wish to undertake an impact assessment with a view to identify opportunities for increasing the impact of implementation.
2. To continue improving, LEITI should consider ways to ensure that other stakeholders are encouraged to participate more actively in the development of communications strategies instead of only dissemination activities. Government, parliamentary and industry stakeholders should participate more actively alongside civil society and the secretariat in developing communications strategies that look beyond dissemination and outreach. The MSG may wish to consider establishing more formal mechanisms for subnational consultations to provide input to national EITI discussions, to ensure discussions at the local level are reflected in MSG discussions.
3. To continue improving, the MSG may wish to work with government to formalise mechanisms for following up on EITI recommendations and may wish to consider establishing some form of inter-ministerial coordination for more effective and systematic implementation. The MSG may also wish to consider ways of moving the discussion beyond investigation of discrepancies and sanctioning of non-reporting companies towards ways in which the EITI process can improve the governance of the sector.
4. The MSG is encouraged to work with the IA and LRA to complete GFS-coded summary EITI tables for each EITI Report, using the GFS extractives codes to label off-budget revenues collected by NOCAL, NPA and others. The MSG should also define its open data policy. The MSG may consider undertaking a study to identify what information required to be disclosed under the EITI Standard is already publicly available and what information is not yet routinely disclosed. Opportunities for providing more EITI data in open data formats could also be explored.

8. Impact analysis (not to be considered in assessing compliance with the EITI provisions)

Documentation of progress

Impact: The EITI process in Liberia has had some impact, even if stakeholders agree it has been more pronounced at the level of subnational debate than in policy-making circles at the national level. As part of the International Secretariat's assessment of the impact of the EITI in Liberia in its eight years of implementation, all stakeholders were asked why Liberia was implementing the EITI. Several former MSG members and development partners considered that the primary impetus for Liberia originally implementing the EITI was external pressure, in the form of conditionality for eligibility for debt relief under the Enhanced Heavily Indebted Poor Countries (HIPC) Initiative. Several government stakeholders considered that while the initial impetus may have come from external drivers, Liberia's government was implementing the EITI as a means of reforming governance of its extractive industries and improve the environment for responsible foreign direct investment.

One of the most significant impacts of EITI implementation may have been in building relations between stakeholders with a history of confrontation. As President Ellen Johnson Sirleaf wrote in a foreword to a 2008 guide on EITI-related communications: "Trust is the greatest asset a country can have. (...) LEITI represents an important step in advancing our efforts to engage with stakeholders, to talk about our

resources, and to build trust in our communities.”²³² Several CSOs noted that before the EITI, no communities knew how much money the government was getting from the sector but that people now have access to this information. Avoiding conflict in local communities was seen by civil society representatives on the MSG as the principle goal they wished to achieve through their participation in the EITI. Several industry and CSO stakeholders highlighted the inclusion of forestry in the scope of EITI reporting from the start in 2009, considering that this proved LEITI’s responsiveness to local demands for information and accountability. Academic sources tend to confirm this impact of EITI implementation in Liberia, highlighting the role of the MSG in bringing together “previously hostile parties” in this first forum for discussion and reduce tensions.²³³

While government representatives noted that EITI compliance status reflected their commitment to transparency and securing a social license to operate for companies, representatives from industry did not highlight a significant impact of implementation although welcomed the EITI as the first institutional medium for communicating with host communities. Several government, industry and CSO representatives noted that the most significant evidence of the impact of the EITI were the regional EITI roadshows in all counties hosting extractives activities, the high-profile LEITI maintained through billboard advertising and the 15 county focal persons in dissemination and outreach. Several CSOs emphasised the importance of the simplified contracts matrix published by LEITI in 2015 as a key tool for public outreach and awareness raising about terms of specific mining, agriculture and forestry contracts. A few CSOs noted that the EITI could yield more benefits to citizens by, in particular, disclosing more information on beneficial ownership, which could reduce the risk of conflict of interest and corruption.

Sustainability: The EITI process also faces significant risks to its sustainability, both financially and in terms of consistency of engagement. LEITI’s budgetary allocation from government has been reduced from USD 774,000 in 2014-15 to a budgeted USD 718,000 for 2015-16, although this was further cut to USD 664,000 in light of the government’s budgetary constraints. Support from donors including the World Bank, GiZ, AfDB and USAID reached USD 756,000 in 2015-16. However, delays in approval of the national budget for 2016-17 means the LEITI secretariat and MSG have been operating at a reduced capacity since the start of the fiscal year in July 2016. As a stop-gap measure, the government has been funding LEITI since July with emergency appropriations of one-twelfth of LEITI’s proposed annual budget. At the political level, the sustainability of the EITI process faces some risks given the potential impact of October 2017 general elections on government representation and chairing of MSG meetings.

²³² As quoted in Eddie Rich and Negbalee Warner (June 2012), ‘Addressing the roots of Liberia’s conflict through the Extractive Industries Transparency Initiative’,

http://www.environmentalpeacebuilding.org/assets/Documents/LibraryItem_000_Doc_096.pdf

²³³ See for instance “EITI’s achievements”, p.8, The Hague Institute for Global Justice (2015), ‘Background Paper Natural Resources, the Extractive Industries Transparency Initiative, and Global Governance,

http://www.stimson.org/sites/default/files/Commission_BP_Lehmann.pdf

Annexes

Annex A - List of MSG members and contact details

List of MSG members

Government

Patrick N. Sendolo, Ministry of Lands, Mines & Energy
 Amara M. Konneh, Ministry of Finance & Development Planning
 Harrison S. Karnwea, Sr., Forestry Development Authority
 Adolph Lawrence, House of Representative
 Florence Chenoweth, Ministry of Agriculture
 Morris M. Dukuly, Ministry of Internal Affairs
 Elfrieda S. Tamba, Liberia Revenue Authority
 Randolph McClain, National Oil Company of Liberia

Civil society

S. Barbington Coleman, Liberia Labor Congress
 Ezekiel S. Johnson, WONGOSOL
 James M. Yarsiah, Rights and Rice Foundation
 Cecelia T. M. Danuweli, Publish What You Pay Coalition

Private sector

Henri Harmon, Golden Veroleum
 Keith Conrad, Exxon Mobil
 Esiaka B. Konneh, Gold & Diamond Dealers & Brokers Association
 John Deah Sr., Liberia Timber Association
 Atul Mittal, Westren Cluster
 Debar Allen, Aureus Gold

Other

Chief Zanzan Karwor, National Traditional Council of Liberia

Non-voting observers

Margret Kilo, African Development Bank
 Mark Mattner, German Development Cooperation (GIZ)
 Charles Amo-Yartey, International Monetary Fund
 Gbehzohngar Findley, Liberia EITI Board Representative
 Frances R. Deigh Greaves, National Civil Society Council of Liberia
 Kamil Kamaluddeen, United Nations Development Program
 Karim Landgren, United Nations Mission in Liberia (UNMIL)
 Debora Malac, United States Embassy
 Inguna Dobraja, World Bank

Composition of MSG Committees

Finance and Administration Committee

Cecelia Danuweli, PWYP
 James Yarsiah, Rights & Rice Foundation
 Marpue Speare, WONGOSOL
 John Deah, Liberia Timber Association(LTA)
 Edward Kamara, Forestry Development Authority (FDA)
 Kofi Ireland, UNMIL
 Alex Yeanay, African Development Bank

Reporting and Communications Committee

Cecelia Danuweli, PWYP

James Yarsiah, Rights & Rice Foundation

Marpue Speare, WONGOSOL

Laurentine Bass, ExxonMobil

Johnny S. Tarkpah, NOCAL

Edward Kamara, Forestry Development Authority (FDA)

Stephen B. Dorbor, Ministry of Lands, Mines and Energy

Elvin Frank, Ministry of Internal Affairs

Kofi Ireland, UNMIL

Annex B - List of stakeholders consulted

Government

Hon. Stephen B. Dorbor, Ministry of Lands, Mines, and Energy

Ousman Dukuly, Chief of Office Staff, Office of the Minister, Ministry of Lands, Mines, and Energy

Hon. Tanneh G. Brunson, Deputy Minister for Budget and Development Planning, Ministry of Finance and Development Planning

Alieu Fuad Nyei, Assistant Minister for Expenditure, Department of Fiscal Affairs, Ministry of Finance and Development Planning

Melvin Sheriff, Director of Concessions and PPP, National Investment Commission

Johnny Tokpah, NOCAL

Karmo D. Ville, Vice-President of Finance, NOCAL

Hon. Elfrieda Stewart Tamba, Liberia Revenue Authority

Darlingston Y. Talery, Liberia Revenue Authority

Atty Mohammed Fahnbulleh, Program Manager/Executive Assistant, Liberia Anti-Corruption Commission (LACC)

Zobon A.Kolenky, Asset Declaration & Verification Officer, Education & Prevention Division, Liberia Anti-Corruption Commission (LACC)

Hon. Yusador S. Gaye, Auditor General, R.L., General Auditing Commission

Foday G. Kiazolu, Deputy Auditor General, General Auditing Commission

Industry

Monique Cooper-Liverpool, PetraLiberia (and former MSG member from BHP Billiton)

Laurentine Bass, ExxonMobil E&P Liberia

Sekou M. Sheriff, Administrative Coordinator, ExxonMobil E&P Liberia

Matthew Scharf, Regional Public and Government Affairs Advisor, ExxonMobil E&P Cote d'Ivoire

Ansu Konneh, Western Cluster

Debar Allen, Bea Mountain Mineral Corp.

Darren Kelly, Hummingbird Resources Liberia

Armando Costabile, Earthsource Mineral International

Lassana H. Kemokai, West Africa Diamonds Inc.

Jamoil Cummings, Afric Diam Company Inc.

K. Emmanuel Yarkpazuo, Manager-Compliance, Golden Veroleum Liberia

Civil society

Anderson Miamen, Center for Transparency and Accountability in Liberia (CENTAL)

Thomas Doe Nah, Center for Transparency and Accountability in Liberia (CENTAL)

Augustine Tamba, Federation of Liberian Youths (FLY)

Harold M. Aidoo, IREDD

Kanio Bai Gbala, Trust Africa

Cecelia T.M. Danuweli, Publish What You Pay

Marpue M. Speare, Women NGO Secretariat of Liberia (WONGOSOL)

James M. Yarsiah Sr., Rice & Rights Foundation

Ezekiel S. Johnson, National Labor Congress/Gold & Diamond Miners Workers Union of Liberia (GODIMWUL)

Roland M. Perry, Extractive Media Watch (EMW)

Karen Daniels, Program Manager, Samaritan's Purse International Relief

Frances R. Deigh-Greaves, National Civil Society Council of Liberia

Lewis Glay, Inprofile Daily Newspaper

Alaska Johnson, Daily Observer Newspaper

Othelo B. Garblah, New Dawn Newspaper

Abbas Dulleh, New Democrat Newspaper

George B. Bardue, News Newspaper

Rodney D. Sieh, Front Page Africa

Others

Radhouane Bouzaiane, Moore Stephens LLP

Hedi Zaghouani, Moore Stephens LLP

Senator Gbehzohngar M. Findley

Kofi Ireland, United Nations Mission in Liberia (UNMIL)

Christoph Buchberger, Advisor – Regional Resource Governance in West Africa, GiZ

Kamil Kamaluddeen, United Nations Development Program (UNDP)

Lilieth Whyte, Economic and Commercial Officer, US Embassy Monrovia

Alexander W. Sokoloff, Political and Economic Counselor, US Embassy Monrovia

Ishmael Abeyale, Revenue Specialist, Revenue Development Foundation

Annex D – Cost of Liberia EITI Reports

EITI Report Year	EITI Report number	Independent Administrator	Cost (USD)	Contract Date
2009-10	3rd	Moore Stephens LLP	108,200	4-Oct-10
2010-11	4th	Ernst & Young Ghana and MGI Mombo & Co.	93,540	5-Oct-12
2011-12	5th	Ernst & Young Ghana and MGI Mombo & Co.	103,541	31-Oct-13
2012-13	6th	Moore Stephens LLP and Parker & Associates LLC	110,000	6-Feb-15
2013-14 and 2014-15	7th and 8th	Moore Stephens LLP and Parker & Associates LLC	110,000	18-Mar-16

Source: LEITI Secretariat

Annex E - List of reference documents

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