

Contract Transparency Mapping in Liberia's Extractive Sector

21 April 2022

This briefing document is a summary of the larger report produced for the EITI/LEITI under the terms of reference for '[Contract Transparency Mapping in Liberia's Extractive Sector](#)'. The work was carried out between December 2021 and March 2022., by MineHutte.

1. Introduction

Liberia's motivation to address corruption, mismanagement, and distrust around the management of natural resources is clear, given the sector partly fuelled the Civil War in the country (second civil war: 1999–2003). Therefore, the importance of transparency in resource management is particularly important in Liberia and appreciated by the government and stakeholders.

Liberia joined the EITI in 2008, and its status of overall compliance with EITI Requirements is at 'Meaningful Progress'. Liberia was undergoing a validation exercise in the first quarter of 2022, the results of which were not available at the time of the writing of this assessment.

This policy brief summarises the assessment for Liberia on compliance with the EITI Requirement 2.4 (2019)¹ on contract disclosure which states:

Implementing countries are required to disclose any contracts and licenses that are granted, entered into or amended from 1 January 2021. Implementing countries are encouraged to publicly disclose any contracts and licenses that provide the terms attached to the exploitation of oil, gas and minerals.

The tasks under this assessment reviewed the licences and contracts for agriculture, forestry, mining and oil & gas based on:

1. A review of the current level and extent of contract disclosure under the legal & policy frameworks and in practice
2. Conducting stakeholder interviews to assess the challenges in achieving full disclosure
3. Providing recommendations and actions to LEITI to improve contract disclosure in the future.

2. Assessment of Current Levels of Contract Disclosure

The following table summarises the assessment of the current sources of public disclosure of licences and contracts for Liberia.

| | Description / Assessment |
|---|--|
| 1 | <p>National Bureau of Concessions: The NBC prepares a concession list, that is updated throughout the year (whenever a contract is signed/issue or amended). The list indicates the status of the concession (active/inactive) and is available on request from the NBC.</p> <p>The list does not provide full contract text, and while it is available on request, is not publicly disclosed on a government webpage. Partially meets EITI Requirement 2.4.</p> |

¹ EITI Standard (2019)

| | |
|---|---|
| 2 | National Concession Map Portal : The website portal displays active (real time) concessions, with additional data to be included as and when the NBC finalises the validation of new additions/changes to the concessions list. The portal provides basic information on each concession. |
| | The portal update is dependent on the information provided to the NBC by the concession granting entities in a timely manner. The web portal is publicly accessible but does not provide full contract documents. Partially meets EITI Requirement 2.4. |
| 3 | Mining Online Repository : Managed by the Ministry of Mines & Energy Liberia, the repository provides real time information on licences for reconnaissance, prospecting, exploration, mining, dealing, and brokering. |
| | The repository is publicly accessible and provides basic information for each contract and licences. However, the full contract documents are not available. Partially meets EITI Requirement 2.4. |
| 4 | NOCAL Website : Managed by the National Oil Company of Liberia, the portal provides an interactive map, divided by applicable blocks. |
| | The information is publicly available and is considered up-to-date, but full contract documents are not available. Partially meets EITI Requirement 2.4. |
| 5 | LPRA Website : Managed by the Liberia Petroleum Regulatory Authority, currently no information available, as there are no Production Sharing Contracts active at this time. |
| | Not applicable |
| 6 | FDA Website : Managed by the Forestry Development Authority, the website has a section for licences and permits. |
| | There are no licences and permits available on the webpage, although such contracts and licences are active in Liberia. Therefore, disclosure requirements are not met by this website. Does not meet EITI Requirement 2.4 |
| 7 | LEITI Website : Managed by the LETI Secretariat, the website makes a range of documentation available for the public, with contracts for the mining, oil, forestry, and agriculture sectors. |
| | The LEITI website is the main platform for the disclosure of contracts, and the only repository of full contract texts, that are fully accessible by the public. The site is modern and functioning, with a basic search feature. However, the full list of contracts, when compared to the project list available from other government agencies, is not available on the website (see Table 1). LETI is currently working on updating these contracts and aims to achieve greater contract disclosure in the future. Therefore, the webpage is considered as only partially meeting the EITI Requirement 2.4. |

*Table 1: Summary of LEITI Contract Mapping Study Results**

| Sector | Active Contracts | Disclosed Contracts via LEITI | Percentage Coverage |
|-------------------------------|------------------|-------------------------------|---------------------|
| Mining (Concession List) | 3 | 2.5** | 83% |
| Mining (Repository List) | 903 | 3 | 0.33% |
| Oil (Concession List) | 0 | 0 | - |
| Forestry (Concession List) | 22 | 13 | 59% |
| Agriculture (Concession List) | 9 | 9 | 100% |

** Valid as of March 2022*

** includes a contract without its amendment, and therefore has been recorded as a 0.5

3. Legal & Policy Frameworks

The legal and policy frameworks in Liberia, overall, are conducive to disclosure and supportive of extensive disclosure practices (see summary findings in Table 2). No legal hurdles to disclosure were discovered or

identified as being problematic. While the EITI Requirement 2.4 takes a staged approach to contract disclosure, Liberia’s disclosure obligations have applied since the implementation of the LEIT Act (2009), many years in advance of the date upon which EITI Requirement 2.4 requires disclosure. The LEIT Act also extends disclosure requirements beyond the oil and mining sector under EITI 2.4, to cover the forestry and agriculture sectors.

Table 2: Summary of Legal & Policy Disclosure Obligations

| Sector | Document | Provisions on Disclosure | Application of EITI Requirement 2.4 |
|--------------------|--|--------------------------|---|
| Legislation | | | |
| Agriculture | PPCA - Public Procurement and Concessions Act 2005 | Yes | Yes |
| Forestry | NFRL - National Forestry Reform Law 2006 | Yes | Not via sector law, only via laws of general application. |
| Mining | MML - Minerals and Mining Law 2000 | No | Not via sector law, only via laws of general application. |
| Oil | PL - Petroleum Law 2014 | Yes | Yes |
| Policy | | | |
| Agriculture | National Food & Agriculture Strategy | Partial | Indirectly |
| Forestry | Forestry Management Strategy | No | No |
| Mining | National Mineral Policy 2010 | Partial | Indirectly |
| Oil | National Petroleum Policy 2012 | Yes | Yes |

Assessment: The Liberian legal and policy frameworks are found to meet the requirements and guidance related to EITI Requirement 2.4. Disclosure for each of the four sectors is regulated by a combination of general and specific laws and regulations and sectoral policies. The most comprehensive legal and policy framework is found in the oil sector.

Disclosure in the mining sector is governed by general laws and policy commitments, without specific sectoral obligations or requirements. Should reform of the Mineral and Mining Law be undertaken, and a new mineral policy issued, it is recommended that specific terms on disclosure be inserted, similar to the oil sector.

4. Challenges & Recommendations

The previous sections have noted that while the Liberian legal and policy frameworks meet the requirements for EITI Requirement 2.4, in practice there is a gap between the requirement and full disclosure. The challenges and recommendations identified for meeting full disclosure requirements include the following:

1) *Establishing a full List of Contracts Subject to Disclosure*

To meet full contract disclosure, it is essential to first clearly establish a complete list of active projects. This information is currently available from various sources and does not always match ‘active’ projects. For example, the active contract information between the Mining Repository and the NBC portal are not synchronised. Without a complete list, it is difficult to collect and then verify whether contract information has been fully disclosed. The three main government sources on contracts have considerable discrepancies and inconsistencies. There are differences in the number of contracts listed, the status of contracts, type of

contracts and variance in contract parties. Having a single, uniform source of contracts which are subject to disclosure and maintained by a single entity within the government would allow LEITI to cross reference the list against contracts currently disclosed to ensure EITI Requirement 2.4 and the LEITIA are fully implemented.

Recommendation: Establish a process within LEITI and the government that records the list of active projects from various ministries, in a systematic and standardised manner². In addition, LEITI should organise the data that is currently available from various ministries, using a standardised data template for all projects.

2) Establish a formal Process for the Disclosure of Contracts

Contract disclosure is currently undertaken in an ad hoc fashion and government authorities have different approaches to disclosure. Whilst the NBC has a process in place whereby LEITI can obtain contracts, this could be streamlined and refined so contracts are automatically disclosed to LEITI. At the present time there is also no timeline within which contracts should be disclosed and no mechanism for LEITI to be formally notified that a contract has been issued, amended or modified, thus triggering disclosure requirements.

Recommendations: LEITI Secretariat needs to establish a process, where contracts are collected systematically, any updates and amendments are tracked and recorded and are available through its webpage for the public. In addition, the MSG should decide on a contract disclosure threshold for the short term and focus on collecting the concession agreements for the priority projects. A schedule can be devised for the collection of contracts for the remaining licences/concessions.

3) Comprehensibility & Accessibility of Disclosed Contracts

Currently disclosed contracts have some issues as to their comprehensibility and accessibility. The documentation available on LEITI is not displayed in a user-friendly manner and mixed in with information that is not required under disclosure requirements. This makes it difficult to establish the contract status, whether it is an up-to-date version, whether the contract has been amended or restated, the effective date or the contract/amendment history. The format of the documents also relies primarily on poorly scanned copies which have not been signed and cannot be searched. This form of disclosure of contracts is not conducive to the principles and purposes of EITI Requirement 2.4.

Recommendations: Improve the quality of disclosure with better organisation of the webpage and contract templates (such as searchable pdfs). In addition, provide summaries or highlight important transparency topics that are of high relevance for Liberia within contracts, such as: fiscal terms, local employment commitments, local community commitments etc. The MSG should constitute a working group to discuss and decide how to use the information provided in the disclosed contracts and dissemination plans for this information. This includes enacting the summary contract matrix concept being considered by the MSG.

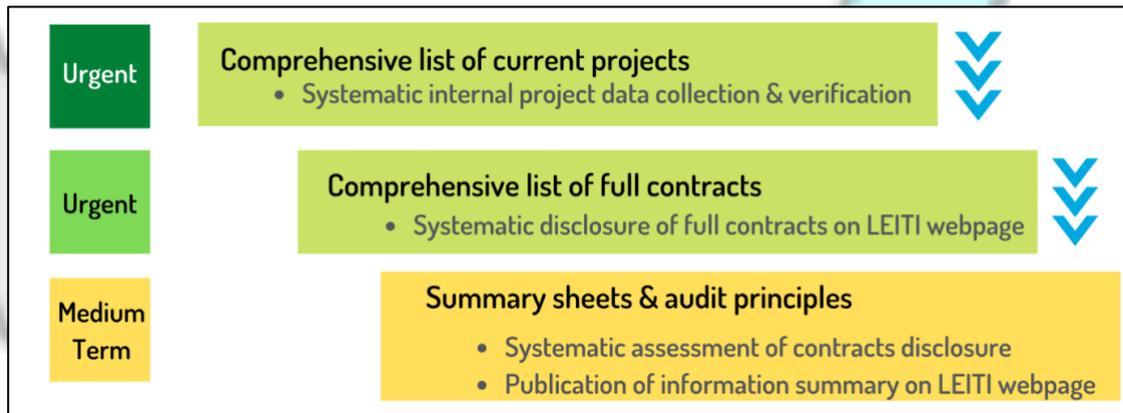
5. Summary

The [Validation Report for Liberia](#) (2017) gave Liberia an Satisfactory progress rating for policy on contract disclosure. In terms of policy commitments, this assessment still stands in March 2022. It is the process of disclosure that has been identified as the main challenge for the country. Information on contracts and licences is publicly disclosed, but this information is found in different government sources and often contradictory between sources. It is difficult to assess whether the information is up-to-date and as well as assessing what information is missing. The extent of full contract documents being disclosed also is limited, again a process issue rather than one of policy and legal intent. The challenges and recommendations provided to LEITI Secretariat (Figure 1) focus on organising a more rigorous data collection, collation, and dissemination process.

² The NBC relies (to most part successfully) on contracting authorities sharing the information with them in a timely manner. However, gaps in disclosure remain.

This involves setting up a data management system with the Secretariat that organises information collected from various government sources and is verified. The approach towards full contracts being made available on the LEITI webpage needs to be in a more organised manner, with internal checks on contracts received, before they are uploaded for public dissemination. Finally, given the large number of concession contracts in Liberia, it is recommended that the content of the contracts is assessed and verified and made available in a more digestible format for public consumption. Some of these actions are already under consideration by the LEITI Secretariat and now require a schedule and plan for execution.

Figure 1: Proposed Actions for LEITI on full compliance with Requirement 2.4



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