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Liberia's Draft Petroleum Policy Paper: Five vital improvements

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The latest draft of Liberia's Petroleum Policy Paper (received 6 July 2012) marks a significant step forward for the development of a new framework to manage the country's oil. However, while the policy contains a number of encouraging provisions, several sections require clarification or changes to ensure that future oil revenues are managed properly.

In several respects the Draft Policy marks a significant improvement over Liberia's current legal framework. Positive components include:

- The separation of regulatory and operational mandates – to be split between the National Oil Company of Liberia and a new independent regulatory body.
- Ongoing citizen consultations on what revenues generated by the sector should be spent upon.
- Legal standing for Liberian citizens to enable them to hold officials to account for wrongdoing.

However, in its current form the Draft Policy also contains weaknesses that, if left unaddressed, would leave the oil sector at risk of financial mismanagement. To address this risk, the following five provisions should be incorporated into the final policy:

1) Assign collection of dividends from state participation in petroleum blocks to the Ministry of Finance, not NOCAL (Section IV)

Dividends should be collected by the Ministry of Finance, not the National Oil Company, and be channeled into the appropriate government budget and petroleum savings funds. The National Oil Company should be provided with a reasonable budget set by the Ministry of Finance and be responsible for keeping within that budget.

WHY? *As demonstrated in oil producing countries with weak governance such as Angola, National Oil Company control of revenues risks corruption and revenue loss as fiscal controls and accountability safeguards applicable to the rest of the Government are diluted. Additionally, if a National Oil Company does not, like other government agencies, have a set budget it is likely to spend all the resources it receives or use them inefficiently, leaving little for central government and for the country's development.*

2) Ensure transparent and competitive bidding for both reconnaissance and extraction, and close loopholes (Section VII)

Competitive bidding should be mandatory for all stages of the oil production process, including reconnaissance and extraction. The Draft does not make explicit that all contracts should be bid upon, including reconnaissance licenses. Loopholes in the Draft Policy that could circumvent requirements for competitive bidding – such as award by direct negotiation if a competitive process has failed to attract good quality bids, and unclear provisions for the transfer of license or operatorship – must also be tightened.

WHY? *Competitive bidding ensures that the country gets the best deal by appointing a company on the basis of merit rather than on a first come, first served basis or through corruption.*

3) Establish the independent regulatory body immediately and with a comprehensive mandate (Section II)

The Draft Policy states that an independent regulator will be established only at some point in the future “as the evolving petroleum sector requires”. This regulatory body should be established immediately, must have the mandate to conduct investigations whenever any credible allegations arise, and must have the power to enforce its decisions.

WHY? *By stating that the independent regulator will be created at an unspecified time in the future, permits and licences may be allocated and oil sector finances managed in the interim without independent oversight. Without a broad mandate, the independent regulator will be powerless.*

4) Clearly set out the aims and management of designated petroleum funds (Section IV)

The Draft Policy provides insufficient detail regarding how and when money channeled into designated petroleum funds will be spent, and which bodies or officials will have control over it. Priorities for spending this revenue should include an oil spill contingency fund and capacity building of government authorities and employees.

WHY? *These pots of money will be highly vulnerable to misuse. Setting out the rules regarding their use at an early point, as well as ensuring that they are managed in an accountable and transparent manner, will help ensure that any proceeds from Liberia’s oil production benefit the country and its ongoing development.*

5) Include more specific provisions on transparency

The Policy needs to guarantee public access to information on the legislation drafting process, the ultimate beneficial ownership of companies and the operations of all companies. It should also include requirements that investigations by the independent regulator or auditor are made public. Setting up a Public Hydrocarbon Information Office would be a useful step.

WHY? *The current language in the draft policy states a commitment to transparency but sets out few specific details. Without specific provisions, these commitments are meaningless.*

For more detailed analysis and additional issues, see the September 2011 report *Curse or Cure? How oil can boost or break Liberia’s post-war recovery*, published by Global Witness and the Liberian Oil and Gas Initiative.¹ Additional analysis on the importance of robust transparency and fiscal management safeguards can be found in the February 2012 Global Witness brief *Liberian Oil: Ensuring Revenues for Development*.²

¹ Available at <http://www.globalwitness.org/library/curse-or-cure-how-oil-can-boost-or-break-liberia%E2%80%99s-post-war-recovery>.

² For a copy of this brief or for any further information please contact Global Witness via Jonathan Gant at jgant@globalwitness.org or Chloe Fussell at cfussell@globalwitness.org.