

# **The Nigerian EITI: Extending the Quest for Transparency to the Solid Minerals Sector**

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BY

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## Protocol

We are most appreciative to see the enthusiastic crowd of the good people of the South-East Zone to this road show. This event has also taken us to the North- Central, South-West, South-South and North-West geo-political zones. Participation at these road-shows has been quite impressive and I have been overwhelmed by the level of enthusiasm and interest participants have shown in gaining insight and understanding on issues relating to the extractive industries. It is pertinent to state that the NEITI has a mandate to pursue programs designed to promote transparency in the oil and gas sector, and its work so far has focused on setting the framework for engaging the sector in a way that Nigerians will be better informed of what is going on in the industry.

## **Natural Resources in the Nigerian Economy**

The role of oil and gas in the Nigerian economy cannot be overemphasized: it accounts for 75-95% of fiscal revenue in all tiers of Government, 90-95% of foreign exchange earnings and about 33% of GDP. However, the dilemma facing most oil dependent countries is that the sector is an enclave sector; it is very capital intensive, and its contribution to overall employment is minimal. The sector is also of great importance because what happens in the sector can have adverse

consequences for the rest of the economy in the form of the so-called "Dutch Disease" syndrome, with implications for the behavior of the real effective exchange rate, and competitiveness of the non-oil sector. It also creates opportunities for rent-seeking behavior. International studies have shown that if the sector is managed well, it can be a veritable source of blessing to the country (as in the case of Norway, for example); if managed badly it can wreck havoc on a country. In contrast, the solid minerals sub-sector has been at the fringe of the economy, accounting for less than one percent of the GDP, due partly to the neglect of the last several decades. However, it is generally acknowledged that the sector has great potentials if well developed and managed. Countries like South Africa and Botswana have efficiently harnessed their solid minerals and this has yielded huge incomes from the sector.

The heavy dependence of the Nigerian economy on the oil and gas sector accentuates the need for diversification of the economy, including through the development of alternative sectors like solid minerals; the sector has stronger potentials than the oil sector in terms of job creation. Another factor, which makes the development of the solid minerals sector an absolute necessity relates to the nature of our political economy. Solid minerals are more widely distributed across Nigeria, quite unlike oil and gas resources that are concentrated in the Niger Delta region. Politically, if all states have something to contribute to the national treasury, the clamor for resource control will be less vociferous and everyone will show more sympathy for the cry for better environmental management of the fallouts from mining activities since every state will be directly exposed to this hazard. The Enugu environment can certainly attest to

the issue of environmental degradation arising from coal mining activities of the past.

### **The Solid Minerals Sector in retrospect**

Prior to the advent of reforms in the solid minerals sector, the sector was characterized by

- uncoordinated issue and holding of leases and mining rights;
- lack of transparency in the process of license issues;
- prevalence of illegal miners;
- lack of clarity on ownership rights between the Federal and State governments;
- lack of a reliable geological database on minerals;
- lack of security in mining rights and its transferability;
- dominance of the sector by the government, with the usual inefficiencies;
- and
- absence of vision and weak capacity on part of parent Ministry.

These aforementioned issues strongly discouraged investment in the sector, both from local entrepreneurs and international investors. In fact, Nigeria lost out in the mining sector boom of the 1990s. Ghana's earning from gold grew by 300% between 1990 and 2001; Mali's revenue from gold mining grew by 720% over the same period; Tanzania's gold output grew by 630% (1990-2001); Rwanda's NB-TA production increased by 6300% between 1994 and 1998, etc. To get a clearer picture of the value of some of the solid minerals, consider the price of tantalite: in 1996, it sold for \$14 per kg on the international market; in 2000, the price had risen to \$70 per kg, while in 2001, it was \$165 per kg. Contrast the potential with the miserable performance of our mining sector. In 2004, the sector contributed

just N298.5 million (about \$2.3 million) to an economy with a GDP of about \$100 billion (i.e. about 0.02%). A well managed minerals sector therefore represents a good source of steady income for Nigerian miners as well as of foreign exchange earnings for the country. What is needed is a good and transparent management of the sector in order to attract significant amounts of capital to bring in modern mining equipment and to run the sector on the basis of robust IT infrastructure.

### **Recent Reforms in the Solid Minerals Sector**

The reforms recently introduced in the mining sector were aimed at addressing some of the shortcomings identified earlier. These included:

- restructuring the Ministry of Solid Minerals Development (MSMD) for a more effective performance of its role as administrator/regulator
- moving it away from the mindset of ownership of the mineral resources, which could be in conflict with its role as regulator
- reviewing the mineral and mining Act of 1999 to make it more attractive to investors
- establish a transparent system for granting mining licenses and titles
- strengthening geological data generation capacity
- privatization of mineral assets of moribund parastatals like the National Coal Cooperation
- it also entailed the removal of the discretionary powers of the Minister in the award of mineral licenses
- A mining cadastre has been established with responsibility for realizing and maintaining the above goals. 34 different solid minerals have been identified and coded, ranging from barites to clay, gold, and tantalite.

The extent of the problem in the mining sector is confirmed by the outcome of the reform exercise, summarized below:

- Only 10% of mineral title holders turned up for the revalidation exercise
- Only 30% of the revalidation submissions were valid
- Most of the mineral rights (80%) were for quarrying

### **Lessons from the Oil and Gas Sector**

There are comparisons that can be drawn from the pre-reforms mining sector and the oil sector except in detail. They both lacked transparency and due process in their modes of operation, there was too much discretion in the award of licenses in both sub-sectors, and capacity was weak on the part of government agencies mandated with oversight of both sectors. However, the oil sector has a higher profile; it is more strategic and larger amounts of money are involved. Nevertheless, there are important lessons that the mining sector can learn from the oil sector in terms of the drive for transparency. I shall focus on a few areas that we have managed to implement in the oil and gas sector, namely, **an audit of the sector's activities, engagement of key stakeholders (including Civil Society), and skills upgrade on part of government agencies.**

### **Establishment and Role of the Nigeria EITI**

The necessity for the establishment of the N-EITI became quite obvious after a study by the World Bank which was commissioned by this Administration in 2000 revealed some disturbing findings. Among other things, it found lapses in

four broad areas, namely, crude oil output and disposal; funds inflows: funds outflow; and institutional effectiveness.

It therefore became imperative for the Administration to take decisive steps to institutionalize a system of regular independent audits of hydrocarbons reserves, financial flows and processes/practices in the Extractive Industry. Nigeria was the first country to sign on to the EITI in the fourth quarter of 2003 and the Federal Government inaugurated the National Stakeholders Working Group (NSWG) in February 2004 to oversee the EITI process.

### **Some Specific Functions of the N-EITI**

The efforts to establish transparency in the oil and gas sector is an integral part of the ongoing economic reform program (captured in the NEEDS document 2004). Like other elements of the program, steps are being taken to underpin the N-EITI through legislative instrument. A draft Bill is presently under consideration by the National Assembly. Among other things, it mandates the NEITI to pursue the following specific objectives.

Sections 2 (a), (b), and (c) respectively state the primary objectives of NEITI as:

- " to ensure due process & transparency in the payments made by extractive industry (EI) companies"
- " to ensure accountability in the revenue receipts of the Federal Government from EI companies"
- " to eliminate all forms of corrupt practices in the determination, payments receipts and posting of revenue accruing to the FG from EI companies"

For the purpose of realizing these objectives, section 3 (a), (d), and (f) respectively, required the N-EITI:

- " to develop a framework for transparency in the reporting & disclosure by EI companies of revenue due to or paid to the FG"

- "to request from EI companies,"... an accurate record of the cost of production & volume of sale of oil, gas , or other minerals extracted by the company.."
- "to ensure that all payments to the from EI companies, including taxes, royalties, dividend, bonuses, penalties, levies and such like, are duly made."

### **The Nigerian Audit of the Oil and Gas Industry for the period 1999-2004**

A conscious resolution was taken to integrate the general EITI principles to the Nigerian situation. Such was the enthusiasm to reform the sector that it was felt that the objective must go beyond looking at revenue flows a la 'publish-what-you-pay'. The outcome of the World Bank report formed the basis for designing the Nigerian template. Thus, the NSWG engaged the services of an international audit company, the Hart Group (comprising of reputable Nigerian and British firms), after a thorough international tender process-to execute and audit all oil companies at three levels: a process audit, financial audit and a physical audit. It was mandated to critically review and challenge, where appropriate, the annual accounts and tax filings of each oil company, and entailed looking at the books of relevant Government agencies that have a role in collecting the sector's revenue in the form of royalty, taxes, etc, as well as the Central Bank of Nigeria (CBN) where the monies are deposited in Government accounts. The idea is that standard templates would be developed, which would be adopted by all government agencies for reporting of relevant data on a routine basis. That is why events of this type are of importance to NEITI and it goes a long way in getting the Nigerian public fully engaged in the process.

The Financial Audit focused on public reporting of the payment and revenue data on both the side of the paying companies and the responsible Government entity such as the Federal Inland Revenue Service (FIRS) and the Central Bank.

The Physical Audit concentrated on the accuracy of the volumes produced, lifted, exported and consumed in the domestic market. The Process Audit concentrated on the process by which the affairs of the sector is handled and whether this provides an adequate basis for protecting the interest of the federal government in matters concerning oil and gas. This is premised on the notion that unless there is a strong and transparent process in place to anchor the above, problems of poor revenue accountability, crude oil and products theft, opaque contracting and acreage awards and such other malpractices, which have implication for revenue, would continue to pose governance problems.

The audit exercise covered the period, 1999-2004 to coincide with the tenure of the present administration. The results stemming from the financial audit exercise revealed that there was no loss of revenue; the Auditors stated that an amount equivalent to about 2% of the aggregate revenue for the period (well within the conventional margin or error of the profession). Another major observation was that the system of data keeping was very weak. For example, the data showed that for some years, the Central Bank recorded less money in Government accounts than Oil Company records indicate that they paid, while in other years, more money was recorded as having been paid than the level oil companies said they paid, this resulted in discrepancies between CBN and oil companies records. In the light of this development, the auditors were instructed by the President to resolve the observed differences and they were able to narrow the discrepancy to an amount equivalent to 0.02%.

### ***Remediation Measures***

#### **CBN**

The report highlighted CBN lacked efficient record keeping practices and weak accounting systems.

In response, CBN stated that the following measures have been put in place to address the identified lapses:

- Arrangement has been made for robust IT infrastructure
- An integrated document management system is currently being set up.
- A payment system committee has been set up and the committee is making all the necessary arrangements to ensure convergence of information by all government entities.

#### **OAGF**

The Audit report also stated that the OAGF lacked proper accounting systems and efficient interfacing with the CBN and NNPC

The OAGF informed the team that

- They are working out a program on capacity building with the Petroleum Technology Development Fund (PTDF)
- CBN and NNPC would henceforth advise the OAGF of all transactions on a daily basis.

#### **DPR**

The report highlighted that DPR lacked capacity to carry out independent assessment of oil companies royalty liabilities and also lacked efficient accounting systems.

DPR informed the team that

- A National Data Repository (NDR) is currently being set up to address the issues of poor data management.
- DPR also called for the review of their budget allocation which has hindered their productivity over the years.

#### **NNPC**

The report noted that NNPC's interfacing with other government entities was not organized and lacked proper data keeping systems.

In responding, NNPC stated that:

- They were currently working on an automated software package for data retrieval which would be released 3<sup>rd</sup> or 4<sup>th</sup> quarter of 2007.
- Accenture was engaged to restructure the cooperation.

## FIRS

The audit report noted that FIRS lacked proper accounting systems and poor record keeping practices.

In responding, FIRS noted:

- They have embarked on in-house capacity training for their staff
- A revised bill on the PPTA act was currently before the National Assembly to address all the gray areas in the Act.

The result of the physical audit showed that there is systematic loss of crude oil between the wellhead and the export/metering terminals. The Auditors conducted an experiment over an extended period involving the monitoring the flow rate in oil pipelines during the day, and after midnight. It was discovered that the flow rate at night was lower than during the day, suggesting theft activities during the hours of darkness when security patrol was less intense. Finally, on the process audit, the report flagged some concerns, including the discretionary powers given to the Minister of Petroleum for allocating oil blocks. This power arises from the Petroleum Act of 1969; the abuse of this power, particularly under the military, was obviously not anticipated that the time the Act was written. Concern was also raised about the inclusion of the way that the Local Content Vehicle was implemented in the 2005 Bid Round. This is being looked at with a view to improving on it in the 2006 Round.

The audit reports were shared openly with the Nigerian public (Civil Society, media, etc.), and they are available on the NEITI website: [www.neiti.gov.ng](http://www.neiti.gov.ng).

In a bid to resolve the observed lapses amongst government entities in petroleum sector governance, President Olusegun Obasanjo at the Federal Executive Council meeting held on the 3<sup>rd</sup> of May 2006, directed the NEITI to develop and implement a remediation strategy for the identified lapses from the 1999-2004

NEITI Audits. As part of efforts to achieve this objective, an Inter-Ministerial Task Team was inaugurated on the 15<sup>th</sup> of August 2006 by the Minister of Education and Chairperson NEITI. The team comprises of representatives from all government entities involved in the petroleum sector. The primary mandate of the team is to develop an efficient interfacing framework which would be adopted by all stakeholders in the sector.

### **Lessons Learned and Going Forward**

It is clear from the above that there are some lessons from the experience of the oil and gas industry, which will be of great benefit to the solid minerals sector, including the following:

- Having a deliberate and regular program of skills upgrade for such staff and they must be well compensated; also, they must be able to match industry operators in knowledge
- Make it clear to operators that their activities will be audited, and must therefore provide requisite data on demand
- Operators must be made to observe best practices in environmental standards, as well as corporate social responsibility
- Completely remove the element of discretionary allocation of licenses, and ensure that the relevant laws are in place to underpin this.

### **Closing Thoughts**

We believe that the interest of the Nigerian people should be vital in the management of the entire extractive sector -encompassing oil & gas, as well as the solid minerals sector. The mishaps of the oil sector must not be repeated in the solid minerals sector. Citing a comment passed by the British Prime Minister Tony Blair at the 2003 EITI London conference, he noted that "a lack of transparency undermines public confidence in the legitimacy of the state". The Federal Government has thus set the transparency agenda through the reform program and it is up to the rest of the country to take up the challenge. Let me

end by thanking all of you good people of the Coal City and its environs for turning up to grace this event. It is our collective responsibility as Nigerians to ensure the successful entrenchment of transparency into the extractive industry, not just in oil and gas, but also in the solid minerals sector.

Thank you all