

THE NIGERIA EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE (NEITI):

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The Nigeria Extractive Industries Transparency Initiative (NEITI) is the Nigerian subset of a global initiative aimed at following due process and achieving transparency in payments by Extractive Industries (EI) companies to governments and government linked entities.

President Olusegun Obasanjo GCFR, at a Workshop on the 19-20 February 2004, launched the NEITI, which builds on existing government transparency efforts. The National Stakeholders Working Group (NSWG) made up of 28 individuals from; Civil Society (2); Media (1); Government (14); Indigenous and Multi-National companies (3); the Organised Private Sector (4); National Assembly (2) and State's (Regional) Houses of Assembly (2), is the platform through which the Federal Government of Nigeria is implementing the global initiative.

IMPLEMENTATION OF THE NEITI OBJECTIVES

The NSWG set out to achieve the following objectives:

1. An independent Audit of Nigeria's EI (Oil & Gas in the first instance)
2. Codification to ensure independent annual Audits in subsequent years beyond the present administration and assume oversight function.

3. To build Capacity in the EI; particularly government Agencies relevant to EI revenue management and Civil Society
4. Develop and implement a Communications Strategy to fully engage the public; particularly the Nigerian Civil Society Organisations and Community Groups to ensure that Nigerians know that the EI resources belong to them.

STRUCTURE OF THE WORK OF THE NSWG

The work of the NSWG, which is coordinated by the NEITI Secretariat, is thus far structured along five lines:

- A TECHNICAL TEAM
- B LEGISLATIVE TEAM
- C FOCAL TEAM
- D CIVIL SOCIETY TEAM
- E MEDIA TEAM

THE ROLE OF THE TECHNICAL TEAM

The Technical Team was formed to evaluate all tenders for NEITI assignments and report their findings to the NSWG. The TEAM is made up of Mrs. J. Maduka, Chairman; Mr. George Osahon; Mr Gbite Adeniji and Mr. Stan Rerri. The work of the Technical Team led to the selection of the NSWG Advisor, Goldwyn International Strategies (GIS), a Washington based energy consultancy.

THE LEGISLATIVE TEAM: TOWARD AN NEITI BILL

With a mandate to set the agenda and strategy for the legislative backbone of the NEITI, the Legislative Team is made up of Obiageli Ezekwesili, SSA-P Chair; Senator Lee Maeba, Chairman, Senate Petroleum

Committee; Hon. Dr. Cairo Ojougboh, Chairman, House of Representatives Petroleum Committee and Hon. Chibike Rotimi Amaechi, Speaker, Rivers State House of Assembly.

The inaugural meeting of the LEGISLATIVE TEAM was held on Monday 2nd August 2004 and a draft NEITI bill was presented to the NSWG on the 10th of August 2004. The Group then asked the LEGISLATIVE TEAM to present a Final Copy of the NEITI bill to the NSWG on the 26th of October 2004. The NSWG presented the NEITI bill to His Excellency, President Olusegun Obasanjo GCFR in December 2004.

On the 22nd of December 2004, after due consultations, the Federal Executive Council, presented the NEITI bill to the National Assembly for passage into law.

On the 19th of January 2006, the House of Representatives passed the NEITI bill. The Bill is currently awaiting the second reading at the Senate.

BUILDING BACK IN THE EI AND AGENCIES OF GOVERNMENT

The FOCAL TEAM was set up for the design and oversight of a Technical Assistance (TA) Program that combines a variety of coordinated training programs, inward secondments of expertise and infrastructure support for

selected government agencies. The Members are Obiageli Ezekwesili, SSA-P, Chair; Edmund Daukoru, Special Adviser to the President on Petroleum; Ifueko Omoigui, Chairman, Federal Inland Revenue Service (FIRS); Imo Itsueli, Dubri Oil; O.C. Harry, Nigerian National Petroleum Corporation (NNPC); Bode Augusto, Budget Office; Bright Okogu, Oil & Gas Accounting Unit, Ministry of Finance (MOF); Mac Ofurhie, Department for Petroleum Resources (DPR); Phil Chukwu, National Petroleum Investment Management Services (NAPIMS); B.O.N. Okafor, Central Bank of Nigeria (CBN); Gbite Adeniji, Gbite Adeniji & Co and Stan Rerri, NEITI Secretariat.

The Focal Team held its inaugural meeting on the 6th of July 2004 and adopted a Capacity Needs Strategy Agenda with a three-pronged approach namely short, medium and long term. The short term involves organising generic biannual Networking Seminars, Conferences and Workshops for staff and stakeholders drawn from the Oil & Gas Unit- MOF, DPR, NNPC, FIRS, Budget Office-MOF, National Assembly, Political Party leadership, Civil Society including Labour, Revenue Mobilization Allocation & Fiscal Commission, Civil Service, Office of the Secretary to the Government of the Federation and Office of the Head Of the Civil Service. The NEITI Conference that held on the 14th to 17th of February 2005 was the start of the generic Capacity Building Plan. The second Conference is planned for September 2005.

The Medium Term Strategy includes Cross Posting of Agency Staff, Secondments/ Attachments/ Recruitment, Continuous and Sustained Training to mitigate attrition proportion and setting up of Technical Advisory Teams made up of upright retired staff of the relevant government Agencies-A Volunteer Force. The long-term strategy is focused on finding sustainable funding sources for incessant year-to-year capacity and manpower development. The Petroleum Technology Development Fund (PTDF) was identified as a funding window.

ENGAGING THE PUBLIC: THE ROLE OF THE CIVIL SOCIETY TEAM

The CIVIL SOCIETY (CS) TEAM directly engages the wider NGO constituency. The membership is drawn from TRANSPARENCY IN NIGERIA (TIN)/ Dr H. Assisi Asobie; PENGASSAN/ Dr L. B. Ogbeifun; Citizens Organisations/ Mrs J. Maduka and the NEITI Secretariat/ Stan Rerri.

NEITI intends to publish all information and data on the EI through a grass-root based communication strategy and the engagement of rural communities and regional civil society groups. This will help us change the perception of the EI and build ownership amongst wider stakeholders.

The purpose of the interactive session is to fashion ways in which Civil Society can contribute to the entire process. The engagement with CS

commenced through a meeting facilitated by the DFID with the Publish What You Pay (PWYP) Nigerian coalition of over 47 civil society organisations, drawn from the six geo-political regions and 13 representing a wide-range of socio-economic and cultural interests. The coalition is part of an international network of organisations calling for the mandatory disclosure of the payments made by oil, gas and mining companies to governments, and for governments to publicly reveal its revenues from these sectors so that citizens can hold them accountable for their management. The NSWG/ CS Session that held on the 30th of November 2004 elected a CS Action Plan Team with a mandate to produce a Strategic Plan for Civil Society engagement in the NEITI. Members are:

1. Dr. H. Assisi Asobie CHAIRMAN/ TIN
2. Mrs Joanna Maduka Citizens Organisations
3. Mr Emma Ezeazu Centre for the Dev. CS
4. Hajia Binta Ahmed N.C. Women's Societies
5. Stan Rerri NEITI Secretariat
6. David Ugolor PYWP Secretariat

The CS Action Plan Team held its inaugural meeting on the 25th of April 2005. The Team produced a comprehensive CS Engagement Strategy for ratification by the Joint NSWG/ CS Interactive Session. The Strategy has three main thrusts:

1. To develop an administrative framework for an improved working relationship/ partnership with the NSWG

2. To build capacity within Civil Society Organisations

(CSO's) to:

- ⇒ Help CSO's understand the workings of the Extractive Industry enabling them to ask the right questions
- ⇒ Help CSO's educate their constituency and the general public as to the workings of the Extractive Industry, building ownership and an understanding that the resources actually belong to the people
- ⇒ Help CSO's better understand the data and information expected from the work of the Auditors enabling robust information dissemination

3. To fashion ways to deepen Extractive Industries transparency and develop effective feedback mechanisms.

The Team proposed Nationwide Road Shows in each of the six geopolitical regions in Nigeria. The Road Shows will take the NEITI message to the grassroots and most importantly, receive feedback. To date four Road Shows have held in the South-South zone (Port Harcourt), The North West zone (Kaduna), the South West zone (Lagos) and the North Central zone (Abuja)

THE ROLE OF THE MEDIA TEAM

The MEDIA TEAM, anchored by Olusegun Adeniyi of ThisDay Newspapers and Orji Ogbonnaya Orji, formerly of Radio Nigeria, has the task of ensuring that the work of the NSWG drills down or percolates broadly

across the sector. The work of the Media Team contributed immensely to the development of the NSWG/ CS Communications Strategy.

THE NEITI AUDIT PROGRAM

The NEITI/ NSWG commenced its Audit program with a strategic two-stage approach in line with International Best Practice namely:

1. An International Invitation for Expression of Interest (EOI) in the selection of an Auditor.
2. A Request for Proposals (RFP) from short-listed firms to carry on the following:
 - **Physical Audit;** a reconciled figure and a coherent map that will give a complete picture of the amount of oil/gas that has been produced/ lifted/ lost/ refined/ exported in the given period of review
 - **Financial Audit;** a reconciled picture that shows who has paid money, how much and who to?
 - **Process Audit;** a critical examination of crucial extractive industry processes like levels and justification of Capital Expenditure proposals; checks and balances in importation of products; comparative analysis, benchmarking and recommendations for improvement.

On the 15th of March 2005, the NSWG selected the Hart Group through an International Competitive Tender (ICT) to conduct Financial, Process and Physical Audits of Nigeria's Oil & Gas Industry.

AUDIT PROGRAM: STATUS

The Hart Group presented and Interim Financial Audit report to the NEITI Secretariat on the 31st of December 2005. The NEITI presented the report to the public on the 12th of January 2006 followed by an International High Level Consultative Round table.

On the 17th of January 2006 the NEITI Presented a 2nd Financial Audit Interim Report & an Interim Physical Audit Report which were both subjected to Roundtable Discussions. The public presentation of the reports coincided with the Abuja International Advisory Group (IAG) meeting and the NEITI 2nd Year anniversary.

The Final Financial, Physical and Process Audit Reports were presented the public on the 11th of April 2006 followed by the High Level Consultative Roundtable discussions.

On the 3rd of May 2006, the NEITI Secretariat presented the Audit Reports to the Federal Executive Council chaired by the President.

The highlights of the findings and recommendations are:

A. Financial, Physical and Process Audits

The audit work was hindered by poor record keeping systems and procedures at Government Ministries and Agencies. This was made more

difficult by reliance on decentralised, largely paper based systems. There is little use of use of suitable, secure IT systems to provide and analyse consistent data to various users.

1. Generally there is scope to make much greater use of IT systems to improve controls, to eliminate inconsistencies arising from duplicated information and to improve transparency by making possible a wider sharing of data.

2. Royalty payable.

Comparison between the reconciled physical hydrocarbon balances and the declared volumes for royalty purposes revealed differences (some higher, some lower). These differences had not been previously noted and require investigation. Some companies have not provided explanations for the differences.

3 Petroleum Profit Tax (PPT) payable.

a. Comparison between the reconciled physical hydrocarbon balances and the declared volumes for PPT purposes revealed differences (both higher and lower). These differences had not been previously noted and require investigation. Some companies have not provided explanations for the differences.

b. Comparison of the deductions claimed by companies for PPT purposes against the expenditures in their audited accounts revealed in some cases differences which the companies have not explained.

4 Funds paid to the Central Bank of Nigeria (CBN)

There were differences between the amounts reported by the companies as paid and the amounts reported by the CBN as received. Overall, the CBN recorded receipts less than the companies said they paid.

5 Metering and Hydrocarbon Production

a) Nigeria's oil industry metering practices and reporting methods have not been geared to routine production of information on hydrocarbon flows by year and by individual shareholder.

b) The metering infrastructure and the records are weak and do not enable the calculation of a hydrocarbon balance to address the question of unaccounted oil.

c) Volumes used by the companies for royalty and PPT show significant differences, between the reconciled hydrocarbon flows and the taxation and royalty returns. The position, however, is very complex due to the arrangements for unitisation and product swaps between companies.

d) Gas investment and incentives, have contradictions and appear inconsistent with the PPT Act and Company Income Tax; these should be investigated and resolved.

6. Recommendations for financial, physical and process audits

- i. DPR should engage with the companies to resolve differences on royalties.
- ii. DPR should determine a practical definition of royalty, in accordance with legislation, and agree the royalties due for each year in the period 1999 – 2004.
- iii. DPR should in future review the conformity of royalty payments to reconciled hydrocarbon production for each year.
- iv. DPR should take responsibility for the assessment and filing of royalties' payable on the upstream companies.

- v. DPR should more actively monitor payment of royalty to ensure that producers make timely payment. DPR should always issue a receipt for payment received.
- vi. DPR should spearhead the arrangements for monitoring the entire hydrocarbon and liquids balance of the sector, from wellhead to terminal / refinery should be reinforced.
- vii. DPR should ensure that a reconciliation of export liftings with oil companies take place regularly in order to identify inconsistencies in the records and adjust them on a timely basis.
- viii. DPR should established guidelines / standards for preparation of formal mass balance statements. This should be mainstreamed into companies' information and reporting systems.
- ix. DPR should assert authority to assess and collect royalty liabilities.
- x. The FIRS should improve its record keeping systems.
- xi. FIRS should obtain explanations from the companies for the differences on PPT and calculate the PPT due for each year in the period 1999 – 2004, raising revised assessments as applicable. It is understood that FIRS has commenced this review.
- xii. FIRS capacity in dealing with PPT should be strengthened. FIRS have made progress in 2006 in improving the way in which companies present their computations of PPT.
- xiii. FIRS should be proactive in assessing and collecting the PPT liabilities of the companies.
- xiv. CBN should examine the differences between its records and the companies' records and report to NEITI and the AGF on its findings.

- xv. The Accountant General of the Federation (AGF) should be empowered to actively manage the financial flows associated with the oil and gas sector. The system should be reformed to put the AGF in a position of management and control.
- xvi. All oil companies should prepare an annual statement for submission to DPR and FIRS setting out the reconciliation of its PPT and royalty self assessments to the annual mass balance and guidelines.
- xvii. NAPIMS should request that the annual audited cost reports from companies include the mass balance, prepared in accordance with relevant standards.
- xviii. External auditors should be required to report annually on the hydrocarbon mass balance. The form of report requires discussion.
- xix. There is need for development of a regulatory system for the production of gas. There is currently little or no regulation of this important sub-sector.

B. Licensing

7 The current Nigerian oil and gas regime and licensing policy was examined and compared to the situations in the United Kingdom, Norway and other comparator countries. This review identified areas where improvements may be made.

8 Recommendations for Licensing

- i. The Petroleum Act should be updated, after consultation with industry, to take account of perceived omissions (gas), ambiguities and lack of clarity.
- ii. The lessons of the 2005 bid round should be absorbed. The improvements in transparency should be enshrined in law and the limits of ministerial discretion should be defined narrowly.
- iii. The declared Bid Round Schedule should be adhered to, by ensuring that all necessary elements are in place at the time the bidding round is announced.
- iv. The prequalification process for Local Content Vehicles should be strengthened and made more transparent: a list of pre-qualified companies should be publicly accessible. International Companies should be free to undertake due diligence on LCVs and choose their own partners.
- v. The bidding criteria should be reduced to a market signature bonus and local content so that transparency in the bidding process is increased.
- vi. The quantity and quality of publicly available data should be improved to facilitate transfers of licences and provide transparency in the bidding process

The Federal Executive Council approved the NEITI remediation strategy at its meeting on Wednesday the 3rd of May 2006. To that end the NEITI Secretariat held an executive remediation strategy implementation meeting with the Hart Group and Covered Entities on the 11th of May 2006.

After extensive technical presentations from the Hart Group, Covered Entities and the NEITI Secretariat, the session agreed to the following road map, with the Hart Group playing a key role in the reconciliation process.

- The Hart Group to send specific key issues concerning respective Oil companies to them by 11am of 12th May 2006.
- A template for proforma timetable for conclusion of the audit that was distributed to representatives of Oil Companies at the meeting should be completed and returned to the Auditors by close of business on Wednesday, 17th May 2006. The template will show what to be done, who will do it and when they will do it.
- The meeting agreed that the whole exercise shall be concluded on or before June 14, 2006.
- DPR to form Groups of about 2-3 people with each of the oil companies Terminal Operators in order to reconcile volumes for PPT.
- Volumes for PPT and Royalty to be disaggregated. Terminal Operators and DPR to take charge to enable resolution of problems of volumes, rate etc
- CBN, DPR and FIRS to each prepare timetable for when reconciliation meetings with each of the oil Companies can hold. All Timetables to be ready and sent to all affected covered entities by Monday 15th May, 2006.
- NEITI Secretariat to be copied on all emails between the Auditors and covered entities and between Government regulatory Agencies and oil companies.
- Covered Entities to return all outstanding Templates on the Physical Audit (Metering only)
- NEITI to monitor compliance of all of the above

Obiageli Ezekwesili

Minister of Solid Minerals Development
and Chairperson, NEITI

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NSWG Milestones: Timeline of Activities

19th Feb 2004 Inauguration of NSWG

9th March 2004 Oil & Gas Knowledge Acquisition Seminar for NSWG Members and 1st of 13 NSWG Meetings to date

1st April 2004 NSWG Adoption of Terms of Reference/ Scope for engagement of Technical Advisor (TA)

19th June 2004 Advert in National Papers for EOI for TA

24th of June 2004 1st NSWG/Civil Society Interactive Session

6th of July 2004 Focal Team Inaugural Meeting

2nd Aug. 2004 Legislative Team Inaugural Meeting

10th Aug. 2004 Presentation of draft NEITI bill to NSWG by Legislative Team

26th Oct. 2005 NSWG Acceptance of Development Grant from DFID to engage Technical Advisor

30th Nov. 2004

1. Engagement of Technical Advisor, GIS through transparent international tender
2. Final Copy of NEITI bill to NSWG
3. 2nd CS Interactive Session

17th Dec. 2004 Int. and National Advert for EOI for Audit Services

22nd Dec. 2004 NEITI Bill presented to National Assembly by the Federal Executive Council

12th Jan. 2005 NSWG approval for Request for Proposals (RFP's)

31st Jan. 2005 RFP's sent to short-listed bidders

14th Feb. 2005: Receipt of RFP's & Start of NEITI Conference

15th Mar. 2005: Engagement of Auditor, Hart Group and commencement of Financial, Process and Physical Audits

17th March 2005: 2nd London EITI Conference and endorsement of NEITI as a Global Model

22nd April 2005: 1st Audit Deliverable- Financial Report 1

27th/28th July 2005: South-South Roadshow

12th/13th October 2005: North West Roadshow

1st/2nd December 2005: South West Roadshow

31st December 2005: Interim Financial Audit Report Submitted

12th January 2006: 1st High level Roundtable on Audit Reports

16th February 2006: International Advisory Group on EITI Meeting in Abuja

16th February 2006: Signing of MOU with Civil Society Groups

17th February 2006: Presentation of 2nd Financial Audit Report & 2nd High Level Roundtable Discussion.

17th February 2006: Public Lecture, Transparency & the Oil Dilemma

11th April 2006: Final Financial, Physical and Process Audit Reports presented to the public

11th/ 12 April: North Central Road Show

3rd May 2006: Presentation of Audit Reports to the President-in-Council.

11th May 2006: Audits remediation strategy meeting with Oil Companies and the Hart Group