

“Flagship or Pipedream: A critical analysis of Nigerian Extractive Industries Transparency Initiative (NEITI) “

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DECLARATION

I declare that the dissertation, which I hereby submit for the degree Magister Legum (LLM) Extractive Industry Law in Africa at the University of Pretoria, is my own work and has not previously been submitted by me for a degree at this or any other tertiary institution.

I the undersigned, whose name appears on the title page of this dissertation, has obtained, for the Research described in this work, the applicable research ethics approval.

I further declare that I have observed the ethical standards required in terms of the University Of Pretoria's Code of ethics for researchers and the Policy guidelines for responsible research.

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ABSTRACT

The Nigerian Extractive Industries Transparency Initiative (NEITI) is a subset of the global Extractive Industries Transparency Initiative (EITI), and for some reasons NEITI has been regarded by many actors and observers as the global EITI flagship programme or one of the foremost national chapters of EITI , along with Azerbaijan.

When one considers the guiding principles and beliefs of EITI that wealth from a country's natural resources should benefit its citizens, and this requires high standard of transparency and accountability. When one further considers that EITI growing status as a platform for progress, that is bringing greater transparency and accountability to all aspects of natural resources management including tax transparency, commodity trading and licensing, one would expect ground breaking disclosure which is required on beneficial ownership to ensure that the identity of proprietors of oil, gas and mining companies operating in EITI countries are made public. As such to a greater extent the measurement of the success of (NEITI) will be subjected to evaluation against the principles of EITI.

KEYWORDS: Transparency and accountability, EITI, NEITI, and Nigeria.

LIST OF ACRONYMS

ICG	International Crisis Group
IMF	International Monetary Fund.
EITI	Extractive Industries Transparency Initiative
MSG	Multi-Stakeholder Group
NEITI	Nigerian Extractive Industries Transparency Initiative
NNPC	Nigerian National Petroleum Corporation
NSWG	National Stakeholder Working Group
OECD	Organization of European Community Development
PSI	Policy Support Instrument.
PSNR	Permanent Sovereignty over Natural Resources
PWYP	Publish What You Pay
SOE(S)	State Owned Enterprise (S)

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CHAPTER 1: RESEARCH OVERVIEW

1.1: Introduction

Permanent sovereignty over natural resources (PSNR) has emerged as a fundamental principle in international Law,¹ allowing post developing colonial nations to assert full sovereignty or sovereign rights over natural resources found within the limit of their Jurisdiction.

International law has involved to recognizing a number of substantive and procedural rights over natural resources; the rights to participate in the decision-making and prior and informed consent in the context of natural resources extraction projects² and sharing of benefits, arising from the exploration and commercial exploitation of natural resources in indigenous lands. By implementing substantive and procedural rights that allows indigenous people to exercise resource right,³ it is suggested that states have transferred sovereign powers over natural resources to non-state actors, thus upsetting the notion of permanent sovereignty as right belonging to the state.⁴ Therefore PSNR has developed to place a right and a duty to the state through international law to work towards the concept of sustainable development.

African natural resources have for many years been a source of power and wealth for the continent's ruling elites and multinational corporations and less often for citizens themselves⁵. Unfortunately competition for the control of revenue from natural resources has fuelled inter-

1. Schwebel, Stephen M. "The Story of the UN's Declaration on Permanent Sovereignty over Natural Resources." *American Bar Association Journal*(1963): 463-469.

2. Ward, Tara. "Right to Free, Prior, and Informed Consent: Indigenous Peoples' Participation Rights within International Law, The." *Nw. UJ Int'l Hum. Rts.* 10 (2011): 54.

3. Borrows, John. "Issues, Individuals, Institutions and Ideas." *Indigenous LJ* 1 (2002): ix.

4. Pereira, Ricardo, and Orla Gough. "Permanent Sovereignty over natural resources in the 21st century: natural resource governance and the right to self-determination of indigenous peoples under international law, 14 *Melbourne Journal of International Law* (2013)." 1-45.

5. Kālu, Nkemjika E. "The Looting Machine: Warlords, Oligarchs, Corporations, Smugglers, and the Theft of Africa's Wealth." *African Review of Economics and Finance* 8.1 (2016): 160-163..

generational cycle of corruption, conflict and poverty, forestalling opportunities to spur economic growth and social development.⁶

Revenue from oil, gas and mining ought to spur economic growth and social development in developing countries.⁷ In reality, however, economies that are overly dependent on oil and mineral wealth have often encouraged authoritarian rather than democratic form of government,⁸ particularly in countries with weak legal or regulatory frameworks. Rents from natural resources allow ruling elites to consolidate power through patronage systems, while revenue mismanagement has fuelled devastating spiral of corruption, conflict and poverty.⁹ Competition for control over natural resource has led to armed conflict in countries like Nigeria, the Democratic Republic of Congo, Liberia and Sierra Leone, and to the suppression of political dissent and violation of human rights in countries like Congo-Brazzaville and Chad Republic.¹⁰

The effort of various local organizations and advocates to promote greater transparency in the management of their countries natural resource wealth has garnered increase international attention in recent years. A growing number of initiatives targets oil and mining companies, government and international financial institutions in their crusade effort. The Kimberly Process (a joint initiative of government, civil groups and private sector) aims to limit the regulated sale of

6. Fokuoh Ampratwum, Edward. "The fight against corruption and its implications for development in developing and transition economies." *Journal of Money Laundering Control* 11.1 (2008): 76-87.

7. Mitchell, Sara McLaughlin, and Cameron G. Thies. "Resource curse in reverse: how civil wars influence natural resource production." *International Interactions* 38.2 (2012): 218-242.

Also see Olaniyan, Kolawole. "African Union Convention on Preventing and Combating Corruption: A Critical Appraisal." *Afr. Hum. Rts. LJ* 4 (2004): 74. See also African Union Convention on preventing and combating corruption July "2003

8. Karl, T. L. (1999). The perils of the petro-state: reflections on the paradox of plenty. *Journal of International Affairs*, 31-48. Karl, T. L. (1999). The perils of the petro-state: reflections on the paradox of plenty. *Journal of International Affairs*, 31-48

9. Le Billon, P. (2001). Angola's political economy of war: The role of oil and diamonds, 1975–2000. *African Affairs*, 100(398), 55-80

10. McGowan, P. J. (2006). Coups and Conflict in West Africa, 1955-2004: Part II, Empirical Findings. *Armed Forces & Society*, 32(2), 234-253.

rough diamond as a source of funding for conflict.¹¹ The Publish What You Pay (PWYP) coalition, a network of over 300 non-governmental organizations worldwide, promotes mandatory disclosure of payment made by oil, gas and mining companies to the government.¹²

The Extractive Industries transparency Initiative (EITI) encourages government and their private sector counterparts to adhere to a voluntary set of principles that include publication and verification of company payment and government revenues from oil, gas and mining.¹³ The effectiveness of these initiatives is dependent upon their ability to foster cooperation beyond ministries, multinational organizations and multinational corporations to include legislative bodies, political parties, civil organizations, and the media. Each of this group has a distinct and complementary role to play-demanding and enforcing accountability, and ensuring that nation's natural wealth benefits broader populations.

1.2: Oil and mineral wealth – Africans mixed blessing

Africa is a home to some of the world's largest deposit of mineral and oils.¹⁴ It is also noted that as non-renewable resource decline in many part of the world and global demands increase, African countries are set to earn increasingly high profit from this sector. From statistical report, between 1997 and 2001, for example, West Africa's gold output increased 56 percent, at a time when production in many countries was declining.¹⁵ A majority of the world's diamond -65 percent, worth 8.4 billion US Dollars are sourced from African countries.¹⁶ Oil import from African increased from 3.6 trillion US Dollars in 2000 to 13.2 trillion US Dollars in 2005.¹⁷

¹¹ . Wright, C. (2004). Tackling conflict diamonds: the Kimberley process certification scheme. *International Peacekeeping*, 11(4), 697-708

¹². David-Barrett, Elizabeth, and Ken Okamura. "Norm Diffusion and Reputation: The Rise of the Extractive Industries Transparency Initiative." *Governance* (2015).

¹³ . Haufler, Virginia. "Disclosure as governance: The extractive industries transparency initiative and resource management in the developing world." *Global Environmental Politics* 10.3 (2010): 53-73.

¹⁴. Mohr, Steve H., Gavin M. Mudd, and Damien Giurco. "Lithium resources and production: Critical assessment and global projections." *Minerals* 2.1 (2012): 65-84.(World Bank Report).

¹⁵. Averill, Victoria. "Sierra Leone eyes a golden future." *BBC News* 20 (2006).

¹⁶. Field, Matthew, et al. "Kimberlite-hosted diamond deposits of southern Africa: a review." *Ore Geology Reviews* 34.1 (2008): 33-75.

¹⁷. Broadman, Harry G. *Africa's silk road: China and India's new economic frontier*. World Bank Publications, 2006.

If these resources are properly managed, revenue from this export could help alleviate poverty and spur development,¹⁸ in many countries that, despite their wealth, are currently near the bottom of international human development indicator rankings. Unfortunately, many countries with abundant mineral and oil deposits have seen less economic growth or human development than countries without such endowments.¹⁹ Some have experienced decline in competitiveness of other economic sector, macroeconomic vulnerability. Although 80 percent of the known global reserves of coltan²⁰ are found in Africa, for example, few of the countries possessing the resources have the capacity to maximize their export earnings by refining the mineral, a key component in the manufacture of cellular telephone.

The principle means of ensuring sound management at all stages of natural resources exploitation from extraction to collection and expenditure of the revenues is through the adoption of practices that adhere upon standards of accountability and transparency. Countries that have successfully used proceeds from the extractive industries for national development purposes, including Australia, Canada and Norway, have such practices in common.²¹

Irrespective of corporate social responsibility programs, however, resource extraction has often led to conflict between local communities and private sector that highlights broader governance failures.²² In environment where all branches of government are engaged in the management and oversight of extractive industries activities, citizens are therefore likely to channel grievances through formal government institutions rather than take them directly to private companies. When you consider Nigerian's Niger Delta, the international crisis Group (ICG) notes, "when asked why oil

18. Thurber, Mark C., David R. Hults, and Patrick RP Heller. "Exporting the "Norwegian Model": The effect of administrative design on oil sector performance." *Energy Policy* 39.9 (2011): 5366-5378.

19. Davis, Graham A., and John E. Tilton. "The resource curse." *Natural resources forum*. Vol. 29. No. 3. Blackwell Publishing, Ltd., 2005.

20. Mitchell, William J. "DO CELLULAR PHONES DREAM OF CIVIL WAR?" *Inclusion and Exclusion in the Global Arena* (2006).

21. Caves, R. E. (1971). International corporations: The industrial economics of foreign investment. *Economica*, 38(149), 1-27.

22. Franks, Daniel M., et al. "Conflict translates environmental and social risk into business costs." *Proceedings of the National Academy of Sciences* 111.21 (2014): 7576-7581.

23. Courson, Elias. "Movement for the Emancipation of the Niger Delta (MEND): political marginalization, repression and petro-insurgency in the Niger Delta." (2009).

companies should be expected to provide for the communities when it is the government job to collect taxes and offer services and an equitable regulatory frameworks, Many Delta residence rely; government officials are inaccessible, live far away and do not care.²³

1.3: The negative effect of oil and mining wealth in Africa

There is no doubt that oil, gas and mining industries often create temptation for rent seeking behaviour and loss of fiscal discipline.²⁴ Apart from resource curse the negative effects of oil, gas and mining wealth in Africa are the following:

- a) Concentration of power over resources in the hands of a select few, where significant capital investment is required to extract or develop natural resource and only relatively small circle have the authority to grant access to those resources. In the absence of transparency and other controls, profits allow ruling classes to consolidate power through corruption patronage.²⁵
- b) Loss of fiscal discipline: Public officials often lose sight of the need to spend carefully during oil boom times. Loose fiscal policy often leads to large but impractical “prestige projects that quickly become seen a “white elephant’.²⁶
- c) Relationship between government and citizens are undermined. In many instances, political elites become increasingly dependent on revenues from extractive sector and patronage systems to maintain their authority.²⁷
- d) Another negative effect is industries neglect or what we call “Dutch Disease” This leads to cheaper imports creating disincentive for local production. It often leads to public spending.²⁸

24. Drysdale, Jennifer. "Sustainable development or resource cursed? An exploration of Timor-Leste's institutional choices." (2007).

25. Diamond, L. (1987). Class formation in the swollen African state. *The Journal of Modern African Studies*, 25(04), 567-596.

26. Krugman, P. (2004). *The great unraveling: Losing our way in the new century*. WW Norton & Company.

27. Le Billon, P. (2001). The political ecology of war: natural resources and armed conflicts. *Political geography*, 20(5), 561-584.

1.4: Developing sound legal and regulatory frameworks in oil and mining industries

Accountable governments face challenges in determining the policy framework for the exploitation of oil and minerals in their countries.²⁹ They must create climate that attracts private investment, they must address relevant domestic policy issues, such as environmental impact on communities affected by extraction activities.³⁰

Policy or regulatory frameworks and laws governing the exploration, exploitation and management of natural resources are often spread across different pieces of legislation and other government instruments, in most cases constitution specifying formulae for revenue sharing between national and state provincial levels of government.

It is important to know that through their Law making-making functions, legislators can support the passage of laws or other instruments that creates enabling environment for sustainable and accountable management of oil and minerals. Example, recommendation made by Norwegian Parliament helped determine the appropriate management system when large offshore oil and gas deposit were discovered in the late 1960's.³¹

In the most successful economics, the state's role as facilitator of investment is balanced by its role for example, as regulator establishing laws and policies that provides for regional land use planning, ameliorate environment and social impacts, and take advantage of the opportunity to develop roads, schools, and better health care.³²

1.5: Encouraging public accountability and transparency

It is important to know the more governments embrace democratic reforms, uphold standards of transparency and accountability, and demonstrate political will and commitment to building

28. Karl, Terry Lynn. *The paradox of plenty: Oil booms and petro-states*. Vol. 26. Univ of California Press, 1997.

29. Gelb, Alan, Benn Eifert, and Nils Borje Tallroth. "The political economy of fiscal policy and economic management in oil-exporting countries." (2002).

30. Azapagic, Adisa. "Developing a framework for sustainable development indicators for the mining and minerals industry." *Journal of cleaner production* 12.6 (2004): 639-662.

31. Ryggvik, Helge. "A Short History of the Norwegian Oil Industry: From Protected National Champions to Internationally Competitive Multinationals." *Business History Review* 89.01 (2015): 3-41.

32. Mining, and Sustainable Development Project. *Breaking New Ground: Mining, Minerals, and Sustainable Development: The Report of the MMSD Project*. Vol. 1. Earthscan, 2002.

administrative capacity, the more likely that oil, gas and mineral wealth will be used for broader development purposes that improve the lives of citizens.³³ In a country where government capacity is weak, a commitment to reform can be tracked through participation in initiatives such as Extractive Industries Transparency Initiative (EITI).

1.6: Aim and goals of the research.

1.6.1: Aim

The aim and goals of the research is to analyse the global EITI, with its principle aim of transparency and accountability with the goal of sustainable development as defined by Brundtland Commission Report of 1987, against the Nigerian Extractive Industries Transparency Initiative (NEITI) and understand whether it is a “Flagship or a “Pipedream”

1. 6. 2: Goals

The goals of the research are to:

- i. Establish the extent which EITI has/or can foster transparency;
- ii. Establish the role of NEITI in promoting better accountability, governance and development initiatives;
- iii. Ascertain whether NEITI has achieved /or is achieving EITI objectives;
- iv. Establish whether sustainable changes have been realised.

1.7: Research question

The research question in this study is “measured against EITI and NEITI’s broader goals of fostering better governance and accountability, whether the initiative has shown impressive result and whether transparency has led to better governance in Nigerian Extractive Resource sector to be classified as “flagship or “Pipedream of the global EITI. Secondly whether in terms of the framework of the comparative analysis of the flag bearers of EITI, there is sustainable legal framework to deal with non-compliance of the agenda of EITI.

33. League, ANC Youth. "Towards the transfer of mineral wealth to the ownership of the people as a whole: A perspective on nationalisation of mines." *African National Congress Youth League discussion document*. 2010.

1.8: Research methodology.

The research methodology that is used for this study is exploratory research, and the qualitative methodology has been used for the collection of data. Accordingly, the data collection instrument that was used is content analysis. That is a review of existing literature on the problem under study.

1.9: Relevance of the study

This study is significant in that it can help to reveal the factors that have over the decades left the resource rich African countries behind the goals of sustainable development and the role of Extractive industries in partnership with the civil society in making sure that their activities in the extractive commodities is sustainable. It can also help to identify the nature of “resource curse” and the concerns of organizations supported by developed nations, such as putting into place the process of achieving sustainable development through transparency initiative programme.

The study will also be relevance because it will examine whether the success of the programme of all the transparency initiative under the umbrella of EITI such as NEITI have developed the legal imperative to deal with the issue of non-compliance of the agenda of EITI. Indeed, issues relating to taking a closer examination of what constitutes sustainable development value-chain in extractive African countries in relation to Norwegian experience will also be raised in this study.

CHAPTER 2 – BACKGROUND TO THE EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE

2.1: Historical development of extractive industries transparency initiative (EITI).

Introduction

This chapter presents an overview of the current state of transparency practices in the extractive industries. It starts by examining the historical development of Extractive industries transparency initiative (EITI), its principles and standard, policies consideration and requirement and ends with conclusion.

The United Nations conference on the Human Environment met at Stockholm,³⁴ to consider the need for a common principle to inspire and guide the people of the world in the preservation and enhancement of the human environment. This conference is tagged Stockholm conference of 1972. One of the principles of the conference is that natural resources of the earth³⁵ including the air, water, flora and fauna and especially representatives samples of natural ecosystem, must be safe-guarded for the benefit of present and future generation through careful planning or management, as appropriate.

After Stockholm conference of 1972, came the Rio declaration of 1992 tagged declaration on environment and development with the goal of establishing a new and equitable global partnership³⁶ through the creation of new level of co-operation among States, key sectors of societies and people. One of the declarations was the task of eradicating poverty as an indispensable requirement for sustainable development in order to decrease the disparities in the standard of living.³⁷

Before the Rio declaration of 1992, there was a commission set up by former secretary general of United Nations, Mr. Javier Perez de Cuellar with the mission to unite countries to pursue sustainable

34. Seyfang, Gill. "Environmental mega-conferences—from Stockholm to Johannesburg and beyond." *Global Environmental Change* 13.3 (2003): 223-228.

35. Sohn, Louis B. "Stockholm Declaration on the Human Environment, The." *Harv. Int'l. LJ* 14 (1973): 423.

36. Grubb, Michael, and Michael Grubb. "The Earth Summit agreements: a guide and assessment: an analysis of the Rio'92 UN Conference on Environment and Development." *United Nations Conference on Environment and Development (1992: Rio de Janeiro, Brazil)*. No. HC 79. E5. U54 1992. The Royal Institute of International Affairs (London), 1993.

37. Smith, Susan L. "Ecologically Sustainable Development: Integrating Economics, Ecology, and Law." *Willamette L. Rev.* 31 (1995): 261.

development, which commission resulted to what is today known as Brundtland commission report of 1987.³⁸ Thereafter, the Johannesburg Summit of 2002.³⁹

The summit is an agreement that focuses particularly on worldwide condition that pose severe threat to the sustainable development of our people which include; chronic hunger, malnutrition, foreign occupation, armed conflict, illicit drug problem, corruption, intolerance and incitement to racial, ethnic and other hatred. It called on the world for co-operation towards economic development that is sustainable.

Extractive industries transparency initiative was the idea of former British Prime Minister Tony Blair after he outlined the idea of EITI in a speech intended for the world summit of sustainable development in Johannesburg in 2002.⁴⁰

In 2003, the Extractive Industries Transparency Initiative was launched as a voluntary multi-stakeholder initiative for extractive industries,⁴¹ bringing together government, industry and civil society. Its main objective has been to create a global transparency standard⁴² which allows light to be shed on all payments made by extractive –industry companies to governments of resource-rich developing countries, and to cross-check all received by these governments from the industry.

The Extractive industries transparency initiative is a global standard to promote the open and accountable management of extractive resource. It seeks to address the key governance issues in the oil, gas,⁴³ and the EITI standard requires information along the extractive industries value chain from the point of extraction, to how the revenue makes its way through the government to how it benefits the public. This includes how licenses and contracts are allocated and registered, who are

38. Brundtland, Gro, et al. "Our common future ('brundtland report')." (1987).

39. Quental, Nuno, Júlia M. Lourenço, and Fernando Nunes Da Silva. "Sustainable development policy: goals, targets and political cycles." *Sustainable Development* 19.1 (2011): 15-29.

40. Moberg, Jonas, and Eddie Rich. "Beyond governments: lessons on multi-stakeholder governance from the Extractive Industries Transparency Initiative (EITI)." *Commonwealth governance handbook* 14 (2013): 103-107.

41. La Viña, Antonio GM, Gretchen Hoff, and Anne Marie DeRose. "The outcomes of Johannesburg: Assessing the world summit on sustainable development." *SAIS review* 23.1 (2003): 53-70.

42. Corrigan, Caitlin C. "Breaking the resource curse: Transparency in the natural resource sector and the extractive industries transparency initiative." *Resources Policy* 40 (2014): 17-30.

43. Venables, Anthony J. "Using natural resources for development: why has it proven so difficult?." *The Journal of Economic Perspectives* 30.1 (2016): 161-183.

the beneficial owners of the operations, what are the fiscal and legal arrangements, how much is produced, how much is paid, where those revenues are allocated, and what is the contribution to the economy including employment.

The word transparency has been defined by 'Ignatius Adeb' as a social means of societal support for both private and public organization. In order to achieve that, there is need for providing as much detailed information as possible; furthermore it regarded transparency as public access to information from the view point of the beholder (receiver) and not the sender. That means that transparency is a "means and not an end" and the only way subjects can relate to the world is through "word and text". In consideration of this, there is a need for disclosing as much information to stakeholders as possible.⁴⁴

The EITI is implemented in 51 of the world countries,⁴⁵ and each of these countries is required to publish an annual EITI report to disclose information: contracts and license, production, revenue collection, revenue allocation and social and economic spending and it goes through EITI validation process at least every three years. Validation serves to assess performance and promote dialogue and learning at the countries level. It also safeguards the integrity of EITI implementing country to the same global standard.⁴⁶

2.2: Principles of Extractive Industries Transparency Initiative (EITI)

EITI share a belief that the prudent use of natural wealth should be an important engine for sustainable economic growth that contribute to sustainable development and poverty reduction, but if not managed properly, can create negative economic and social impacts.

EITI affirms that management of natural resources wealth for the benefits of a country's citizen is in the domain of sovereign governments to be exercised in the interest of national development.⁴⁷

44. Currie, Carolyn V. "Towards a General Theory of Financial Regulation: predicting, measuring and preventing financial crises." (2005).

45. Sovacool, Benjamin K., et al. "Energy Governance, Transnational Rules, and the Resource Curse: Exploring the Effectiveness of the Extractive Industries Transparency Initiative (EITI)." *World Development* 83 (2016): 179-192.

46. Eigen, Peter. "Fighting corruption in a global economy: Transparency initiatives in the oil and gas industry." *Hous. J. Int'l L.* 29 (2006): 327.

EITI recognize that a public understanding of government revenues and expenditure over time could help public debate and inform choice of appropriate and realistic options for sustainable development. It is also the duty and responsibility of EITI to underline the importance of transparency by governments and companies in the Extractive Industries and the need to enhance Public financial management and accountability.⁴⁸

The principle recognises that achievement of greater transparency must be set in the context of respect for contract and Laws.⁴⁹ Furthermore it also recognizes the enhanced environment for domestic and foreign direct investment that financial transparency may bring.⁵⁰ It also believes in the principle and practice of accountability by government to all the citizens for stewardship of revenue streams and public expenditure.

EITI is committed to encouraging high standards of transparency and accountability in the public life, government operations and in business. It is also the belief of EITI principles that a broadly consistent and workable approach to the disclosure of payments and revenue is required, which is simple to undertake and use.⁵¹

An EITI principle believes that payment disclosure in a given country should involve all extractive industry companies operating in that country.⁵² EITI believes that in seeking solution, all stakeholders have important and relevant contribution to make including governments and their agencies, extractive industry companies, financial organization, service companies, multinational organizations, investors and non-governmental organizations.

47. Zerk, Jennifer A. *Multinationals and corporate social responsibility: Limitations and opportunities in international law*. Vol. 48. Cambridge University Press, 2006.

48. Ionescu-Somers, Aileen, and Ulrich Steger. "Revenue flow and human rights: A paradox for Shell Nigeria." *Journal of Business Ethics Education* 5 (2008): 247-260.

49. Seay, Laura. "What's wrong with Dodd-Frank 1502? Conflict minerals, civilian livelihoods, and the unintended consequences of western advocacy." *Center for Global Development Paper* 284 (2012).

2.3 How a country can become an EITI candidate- the requirements

A country intending to implement the EITI is required to undertake a number of steps before applying to become an EITI candidate country.⁵³ These steps relate to government commitment, company engagement, civil society engagement, the establishment of multi-stakeholder groups and the agreement on an EITI plan.

2.3.1: Government and company engagement

The government engagement is required to issue an equivocal public statement of its intention to implement the EITI.⁵⁴ The statement must be made by the head of state or government representative. The government is required to approach a senior individual to lead the implementation of the EITI.⁵⁵ The appointee should have the confidence of all stakeholders, the authority and freedom to coordinate action on the EITI across relevant ministries and agencies, and be able to mobilize resources for EITI implementation. The government must be fully, and actively and effectively engaged in the EITI process.⁵⁶

In terms of company engagement, a company must be fully, actively and effectively engaged in the EITI process.⁵⁷ The government must ensure that there is an enabling environment for the company participation with regard to relevant Laws, regulations and administrative rules as well as actual practice in implementation of the EITI. The fundamental rights of company representatives substantively engaged in EITI, including but not restricted to members of the multi-stakeholder's groups, must be respected. The government must ensure that there is no obstacle to company participation in the EITI process.

50. Ravat, Anwar, and Sridar P. Kannan, eds. *Implementing EITI for Impact: A Handbook for Policy Makers and Stakeholders*. World Bank Publications, 2012.

51. Cadman, Tim. "The legitimacy of ESG standards as an analytical framework for responsible invest

52. Seay, Laura. "What's wrong with Dodd-Frank 1502? Conflict minerals, civilian livelihoods, and the unintended consequences of western advocacy." *Center for Global Development Paper 284* (2012).

52. C tment." *Responsible investment in times of turmoil*. Springer Netherlands, 2012. 35-53.

53. Friedman, A. "Operationalizing the Rio principles: Using the success of the extractive transparency initiative to create a frame work for Rio implementation." *U. Botswana LJ* 12 (2011): 73.

54. Aaronson, Susan Ariel. "Limited partnership: Business, government, civil society, and the public in the Extractive Industries Transparency Initiative (EITI)." *Public Administration and Development* 31.1 (2011): 50-63.

55. Schouten, Esther MJ, and Joop Remmé. "Making sense of corporate social responsibility in international business: experiences from Shell." *Business Ethics: A European Review* 15.4 (2006): 365-379.

2.3.2: *Civil society engagement*

In accordance with the civil society protocol: The civil society must be fully actively and effectively engaged,⁵⁸ in the EITI process. The government must ensure that there is an enabling environment for society participation with regard to relevant laws, regulations and administrative rules as well as actual practice in implementation of EITI. The fundamental rights of civil society substantively engaged in the EITI including but not restricted to members of the multi-stakeholders group, must be respected.

The government must ensure that there are no obstacles to civil society participation in the EITI process. The government must refrain from actions which result in narrowing or restricting public debate in relation to implementation of the EITI. Stakeholders, including but not limited to members of the multi-stakeholder groups must be able to speak on transparency and natural resource governance issues, be able to engage in the design, implementation, monitoring, and evaluation of EITI process and ensure it contribute to public debate. The civil society must also be to communicate, operate freely and express opinion about the EITI without restraint, coercion or reprisal.⁵⁹

2.3.3: *Multi-stakeholder group*

The government is required to commit to work with civil society and companies,⁶⁰ and establish a multi-stakeholder group to oversee the implementation of the EITI. In establishing the multi-stakeholder group, the government must; ensure that the invitation to participate in the group is open and transparent. Ensure that the stakeholders are adequately represented. This does not mean that they need to be equally represented numerically.

The multi-stakeholder group must comprise appropriate stakeholders, including but not necessarily limited to: The private sector, civil society, including independent civil society groups such as the media and unions, and relevant government entities which can also include parliamentarians. Each stakeholder group must have the right to appoint its own representatives bearing in mind the desirability of the pluralistic and diverse representation. The members of the multi-stakeholder group should undertake effective outreach activities with civil society groups and

56. Lehrer, Mark, and Christian Delaunay. "Multinational enterprises and the promotion of civil society: The challenge for 21st century capitalism." *California Management Review* 51.4 (2009): 126-147.

57. Desai, Deval, and Michael Jarvis. "Governance and Accountability in Extractive Industries: Theory and Practice at the World Bank." *Journal of Energy & Natural Resources Law* 30.2 (2012): 101-128.

groups and companies and communicate to the stakeholders of EITI of central role of companies and civil society.

2.4: Approval of work plan, EITI reports and annual progress reports

The multi-stakeholders groups is required to approve annual work plans,⁶¹ the appointment of the independent Administrator, the terms of reference for the independent Administrator, EITI reports and annual progress reports. The Multi-stakeholder group should oversee the EITI reporting process and engage in validation.

2.4.1: Internal governance rules and procedures

The EITI requires an inclusive decision making process⁶² throughout implementation with each constituency being treated as partners. Any member of the multi-stakeholder group has the right to table an issue for discussion.⁶³ The multi-stakeholder group should agree and publish its procedures for nominating and changing multi-stakeholder group representative decision-making, the duration of the mandate and the frequency of the meetings. There should be sufficient advance notice of meeting and timely circulation of documents prior to their debate and proposed adoption.⁶⁴ The multi-stakeholder group must keep written records of its discussion and decisions.⁶⁵

2.4.2: Work plan

A country intending to become the EITI implementing country must maintain a work plan in terms of the rules of (EITI).⁶⁶ The multi-stakeholder group must maintain a work plan aligned with the reporting and validation deadlines established by the EITI Board.⁶⁷ The plan must set EITI

58. Carbonnier, Gilles, Fritz Brugger, and Jana Krause. "Global and local policy responses to the resource trap." *Global Governance* 17.2 (2011): 247-264.

59 .Schouten, Esther MJ, and Joop Remmé. "Making sense of corporate social responsibility in international business: experiences from Shell." *Business Ethics: A European Review* 15.4 (2006): 365-379.

60. Isaksen, Jan, Inge Amundsen, and Arne Wiig. *Budget, State and People. Budget Process, Civil Society and Transparency in Angola*. Chr. Michelsen Institute, 2007.

61. Kaner, Sam. *Facilitator's guide to participatory decision-making*. John Wiley & Sons, 2014.

62. Ravat, Anwar, and Sridar P. Kannan, eds. *Implementing EITI for Impact: A Handbook for Policy Makers and Stakeholders*. World Bank Publications, 2012.

63. EITI, TOC. "The EITI Principles: an underlying Theory of Change." (2012).

implementation objectives that linked to the EITI principles and reflect national priorities for extractive industries reflect the result of consultation with key stakeholders' and be endorsed by multi-stakeholder group. The work plan must include measurable and time bound activities to achieve the agreed objectives.⁶⁸

The scope of EITI implementation should be tailored to contribute to desired objectives that have been identified during consultation process.⁶⁹ The work must; assess and outline plans to address any potential capacity constraint in government agencies, companies and civil society that may be an obstacle to effective EITI implementation. This includes addressing technical aspects. It will also identify plans to deal to any potential legal or regulatory obstacles to EITI implementation.⁷⁰ The plan must identify domestic and external source of funding and it must be made available to the public for example, publish on the national EITI website, relevant ministry or print media accessible to the public.⁷¹ The work plan must be reviewed and updated annually. In reviewing the work plan, the multi-stakeholders group should consider extending the details and scope of EITI reporting including addressing issues such as revenue management and expenditure.⁷²

2.5: The extractive industries transparency initiative (EITI) value chain

2.5.1: Legal and institutional framework, including allocation of contract and licenses

The EITI requires disclosure of information related to the rules for how the extractive sector is managed,⁷³ enabling stakeholders to understand the laws and procedures for award of exploration and production rights, the legal , regulatory and contractual framework that apply to the extractive sector, and the institutional responsibilities of the state in managing the sector. The EITI requirement related to a transparent legal framework and award of extractive industry right, include

64. Sovacool, Benjamin K., and Nathan Andrews. "Does transparency matter? Evaluating the governance impacts of the Extractive Industries Transparency Initiative (EITI) in Azerbaijan and Liberia." *Resources Policy* 45 (2015): 183-192.

65. Petrie, Murray, and Jon Shields. "Producing a Citizens' Guide to the Budget: Why, What and How?." *OECD Journal on Budgeting* 2010): 75.

66. Araki, Laura, et al. "Review of Best Practices for Multi-Stakeholder Initiatives: Recommendations for GIFT." (2012).

67. Ruggie, John Gerard. "Business and human rights: the evolving international agenda." *The American Journal of International Law* 101.4 (2007): 819-840.

legal framework and fiscal regime, license allocation, register of licenses, contracts, beneficial ownership, state participation in the extractive sector.

2.5.2: Legal framework and fiscal regime

Implementing countries must disclose a description and fiscal regime governing the extractive industries.⁷⁴ This information must include a summary description of the fiscal regime, including the level of fiscal devolution, an overview of the relevant laws and regulations and information on the role and responsibilities of the relevant government agencies. When government is undertaking reforms, the Multi-stakeholders group is encouraged to ensure that these are documented. Implementing countries are required to disclose information related to the award or the transfer of license pertaining to the companies covered in the EITI report during the accounting year period covered by EITI report. A description of the process for transferring or awarding the license should include information about the recipient of the license that has been transferred or awarded, including consortium members where applicable.⁷⁵

Implementing countries are encouraged to publicly disclose any contract and license that provide the terms attached to the exploitation of oil, gas and mineral.⁷⁶ It is a requirement that report document the government policy on disclosure of contract and licenses that govern the exploration and exploitation of oil, gas and minerals. This should include relevant legal provisions, actual disclosure practices and any reforms that are planned or underway.

2.5.3: Beneficial ownership

EITI recommends that implementing countries maintain a publicly available register of the beneficial owners of the corporate entities that bid for, operate or invest in extractive assets,⁷⁷ including the identities of their beneficial owners, the level of ownership and the details about how ownership or

68. Van Alstine, James, and Nathan Andrews. "Corporations, Civil Society, and Disclosure: A Case Study of the Extractive Industries Transparency Initiative." *The Palgrave Handbook of the International Political Economy of Energy*. Palgrave Macmillan UK, 2016. 95-114.

69. Dodd, Samantha, et al. "Measurement and Reporting of Performance of Social Investment in Oil, Gas and Mining Companies." (2015).

70. Vines, Alex. *An Uncertain Future: Oil Contracts and Stalled Reform in São Tomé E Príncipe*. Human Rights Watch, 2010.

71. Ospanova, Saule, et al. *EITI and sustainable development: Lessons and new challenges for the Caspian region*. International Institute for Environment and Development, 2013.

control is exerted. Where possible, beneficial ownership information should be incorporated in existing filing by companies to corporate regulators.

It is required that the EITI report documents the government policy and multi-stakeholder group's discussion on disclosure of beneficial ownership. This should include details of the relevant legal provisions, actual disclosure practices and any reforms that are planned or underway related to the beneficial ownership disclosure.

It is the requirement of the EITI that information about the identity of the beneficial owner should include the name of the beneficial owner, the nationality, and the country residence, as well as identifying and politically exposed persons. It is also the recommendation of the EITI that the national identity, date of birth, residential or service address and means of contact are disclosed.

2.5.4: State participation

Where state participation in the extractive industries gives rise to material revenue payment,⁷⁸ implementing countries must disclose:

a) An explanation of the prevailing rules and practices regarding the financial between the government and state-owned enterprise", for example the rules and practices governing transfers of fund between state-owned enterprises and the state retained earnings, reinvestment and third-party financing for the purpose of EITI reporting. Based on this, the multi-stakeholder group is encouraged to discuss and document its definition of state-owned enterprise taking into account national laws and government structures.

b) Disclosure from the government SOE(s) of their level of ownership in mining, oil and gas companies operating within the country's oil, gas and mining sector, including those held by SOE subsidiaries and joint ventures and any changes in the level of ownership during the reporting period. This information should be including details regarding the terms attached to their equity stake, including their level of responsibility to cover expenses at various phase of the project cycle, e.g., fully-paid equity, free equity, carried interest where there have been changes in the level of government and SOE(s) ownership during the EITI reporting period the government and SOE(s) are expected to disclose the terms of the transaction, including details regarding valuation and revenue.

72 . Kolstad, Ivar, and Arne Wiig. "Is transparency the key to reducing corruption in resource-rich countries?" *World Development* 37.3 (2009): 521-532.

Where the government and SOE(s) have provided loans or loans guarantees to mining, oil and gas companies operating within the country, details on this transaction should be disclosed.

2.5.5: Exploration and production

EITI requires disclosures of information related to the exploration and production, enabling stakeholder to understand the potential of the sector.⁷⁹ The EITI requirements related to a transparency in exploration and production activities include information about exploration activities, production data and export.

Implementing countries should disclose an overview of the extractive industries, including any significant exploration activities. Implementing countries must disclose production data for the fiscal year covered by the EITI report, including total production volumes and the value of production by commodity, and when relevant, by state region. This could include sources of the production data and the information on how the production volumes and values in the EITI report have been calculated.

2.5.6. Revenue collection and allocation.

An understanding of company payment and government revenue can inform public about the governance of the extractive industries. The EITI requires a comprehensive reconciliation of company payments, and government revenue from the extractive industries. This includes comprehensive disclosure of taxes and revenue of state share production.

The EITI require disclosure of information to revenue allocations enabling stakeholder to understand how revenue are recorded in the national and where applicable⁸⁰ sub-national budgets. The EITI requirement related to revenue allocations include, distribution of revenues, sub-national transfers and revenue management and expenditures.

2.5.7: Social and economic spending

The EITI requires disclosures of information related to social expenditures and the impact of the extractive sector on the economy,⁸¹ helping stakeholders to assess whether the extractive sector is

73. Jenkins, Heledd, and Natalia Yakovleva. "Corporate social responsibility in the mining industry: Exploring trends in social and environmental disclosure." *Journal of cleaner production* 14.3 (2006): 271-284.

74. EITI, TOC. "The EITI Principles: an underlying Theory of Change." (2012).

75. Frynas, Jędrzej George. "Corporate social responsibility and societal governance: Lessons from transparency in the oil and gas sector." *Journal of business ethics* 93 (2010): 163-179.

leading to the desirable social and economic impacts and outcomes. The EITI requirements related to social and economic spending include social expenditures by companies, SOE quasi-fiscal expenditures and overview of the contribution of the extractive sector to the economy.⁸²

2.5.8: Outcomes and impact

Regular disclosure of extractive industry data is of little practical use without public awareness understanding of what the figures means, and public debate about how resource revenue can be used effectively.⁸³ The EITI, requirements related to outcomes and impacts seeks to ensure that stakeholders are engaged in dialogue about natural resource revenue management. EITI reports leads to the fulfilment of the EITI principles by contributing to wider public debate.⁸⁴ It is also vital that lesson learnt during implementation are acted upon, that discrepancies identifies in EITI report are explained and if necessary, addressed, and that EITI implementation is on a stable, sustainable footing.⁸⁵

2.6: Compliance and deadlines for implementing countries

This section outlines the time frames established by the EITI Board for publication of EITI report, annual progress report, and validation. It outlines the consequences of non-compliance with the deadlines and the requirement for EITI implementation. It also explains the possibility and criteria for countries to apply for adopted implementation and extension.

2.7: Consequences of compliance

Where validation verifies that a country has made satisfactory progress on all of the requirements, the EITI Board will designate that country as EITI compliant.⁸⁶ EITI compliant countries must maintain and adherence to the EITI principles and requirements in order to retain compliant status.

76. Vogel, David. *The market for virtue: The potential and limits of corporate social responsibility*. Brookings Institution Press, 2007.

77. Eigen, Peter. "Fighting corruption n a global economy: Transparency initiatives in the oil and gas industry." *Hous. J. Int'l L.* 29 (2006): 327.

78. Sovacool, Benjamin K., and Nathan Andrews. "Does transparency matter? Evaluating the governance impacts of the Extractive Industries Transparency Initiative (EITI) in Azerbaijan and Liberia." *Resources Policy* 45 (2015): 183-192.

79. Burton, Eli G. "Reverse the Curse: Creating a Framework to Mitigate the Resource Curse and Promote Human Rights in Mineral Extraction Industries in Africa." *Emory Int'l L. Rev.* 28 (2014): 425.

80 . Abutudu, Musa, and Dauda Garuba. "Natural resource Governance and eiti implementation in Nigeria." (2011).

Where a country has become EITI complaint, but concerns are raised about whether its implementation of the EITI has subsequently fallen below the required standard, the EITI Board reserves the right to require the country to undergo a new validation. Stakeholders may petition the EITI Board if they consider that compliant status should be reviewed. This request may be mediated through a stakeholder's constituency representative on the EITI Board. The board will review the situation and exercise its discretion as to whether to require an earlier validation subject to the findings of that assessment; the EITI Board will determine the country's status. Where a compliant country is being re-validation concludes that the country has not met all EITI requirements, the consequences are set out below:

2.8: Consequences of non- compliance

A country must achieve satisfactory progress on the following four requirements in order to avoid suspension,⁸⁷ government engagement, company engagement, civil society engagement, and timely EITI reporting. Where a country achieves less than meaningful progress on data quality, and data comprehensiveness the MSG will be required to disclose a time-bound action.⁸⁸ With regards to the other EITI requirements, the consequences of non-compliance depend on the Board assessment of overall progress.⁸⁹ No progress, the country will be delisted, inadequate progress; the country will be suspended and requested to undertake corrective actions until the second validation. For the suspension to be lifted, the country must in its second validation demonstrate at least meaningful progress.⁹⁰

81. EITI, TOC. "The EITI Principles: an underlying Theory of Change." (2012).

82. Brockmyer, Brandon, and Jonathan A. Fox. "Assessing the evidence: the effectiveness and impact of public governance-oriented multi-stakeholder initiatives." (2015).

83. Börzel, Tanja, and Jana Hoenke. "From compliance to practice: mining companies and the voluntary principles on security and human rights in the Democratic Republic of Congo." (2010).

84. Esmati, Parwiz. "Can Afghanistan Live up to the Expectations of the Extractive Industries Transparency Initiative's Expectations and Achieve Compliant Status to Help Improve Good Governance in Its Natural Resource Sector." *Ky. J. Equine Agric85* .

2.9: Conclusion.

In this chapter we have dealt with the background of Extractive industries transparency Initiative (EITI), its historical development from Stockholm conference of 1972, its principle guideline, to the Rio Declaration of 1992. It is important to note that the decision of this conference together with the Brundtland commission report of 1987 defines for the first time the renowned concept of sustainable development. The success of this concept is dependent on remedial actions which compiles the stakeholders, the government, the extractive companies, civil society and other stakeholders to work together to achieve the goal of sustainable development.

However, its sustainability will largely depend on compliance mechanism that will foster greater transparency and accountability. This will ultimately involve policy considerations, legal frameworks and some implementing strategy to accomplish the goal of sustainable development.

Therefore, Extractive Industries Transparency Initiative (EITI) a global initiative was formed to provide guideline on how to achievement this strategic goal of sustainable development through its principles and compliance strategy. In the next chapter the development of Nigerian Extractive Industries Transparency Initiative (NEITI) will be examined under the global EITI.

We have seen how global effort to consolidate on the socio-economic development of resource rich countries by making sure that the use and management of natural resource of a sovereign state leads to sustainable development. The Stockholm conference of 1972, the Rio Declaration of 1992 and Johannesburg submit of 2002, will go in history as the egg that hatched into new social order towards the goal of sustainable development.

It also reviewed how the Extractive Industries Transparency Initiative was the brain child of the former British Prime minister, Tony Blair. This new social order, EITI, has been one attempt among many others⁹¹ to enhance transparency and accountability in the governance of natural resources(oil, gas and mining) in developing countries and thus to mitigate the adverse effect of what is commonly referred as a” resource curse.”

Relying on robust international political backing, UN General Assembly, G8, G20, European Commission, African Union as well as well financial and technical support (World bank) IMF, Regional development bank and industry, the EITI has evolved into a widely recognised soft law minimum transparency standard, but one so far mainly applied in the developing world. It has been recently

been complemented by US (and EU) hard law focusing on publicly listed (and large unlisted) extractive companies. The EITI has governance structure and standard, with its corporate headquarters in Oslo, Norway. The EITI is financed by supporting companies and governments including the Norway which are also donors to the Multi-Donor Trust Fund that provides technical and financial support to developing countries implementing the EITI standard.

You will note also how EITI is built on the rational that the more payment/revenue flows are publicly disclosed, the less scope there is for corruption and the better the government can be held accountable by the civil society for management of revenues. It is also noted that the standard consist of ten principles, agreed in 2003 which are the EITI founding tenets, (general statements about the commitment to citizens ownership of resources , transparency and accountability), its purpose of internationally accepted transparency standard in the oil, gas and mining sector) and objectives (full publication and verification of the company payments and government revenue from oil ,gas and mining , to foster sustainable development and poverty reduction) .

The implementation of EITI standard at country level, its requirements of creating Multi-Stakeholder group (MSG), consisting of government, Industry and civil society representatives as well as an EITI national Secretariat was also discussed. In the next chapter the development of Nigerian Extractive Industries Transparency Initiative, a subset of the global EITI will be discussed and it will also examine how the NEITI subscribed to the principles of EITI.

CHAPTER 3 - THE DEVELOPMENT OF NIGERIAN EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE (NEITI)

3.1: Introduction:

In the previous chapters we saw both the nature of the natural resource endowments in Africa and how over the years the expectation of its contribution towards socio-economic development of the states is not parallel to the revenue generated over the period. We have also seen how international law has developed to place a duty to the state to manage the resources on behalf of its citizens.

It is important to know that the success of this expectation is not the sole responsibility of the government, hence the active participation of the citizens in consultation of all other stakeholders to make sure there is transparency and accountability⁹² towards the goal of sustainable development.

In this chapter the development of Nigerian Extractive Industries Transparency Initiative, a subset of the global EITI will be discussed, also how the NEITI subscribed to the principles of EITI.

“Mining and oil is not a sunset industry in Africa.⁹³ On the contrary, the sector holds a great future promise, where Africa enjoys a considerable comparative advantage vested both in its store of mineral wealth and its human capital. This advantage can be realized only with the right set of policies which aim to encourage long term generational investment; legislative certainty, the provision of reliable services including water and power, a reliance on administrative regulation rather than political discretion and honest and competent officials: overall, a new narrative of the value of the industry to Africa is necessary however, one not defined by conspiracy and mistrust but instead by shared dialogue dependency and endeavour, and under by a clear belief that government needs investors and Vice versa.”⁹⁴

The interpretation of the above statement re-emphasizes that the success of any investment in extractive sector depends on the stakeholders their co operations, this include the government, the corporations , the civil society and other external stakeholders to work together in a manner that

85. Stasavage, David. "Transparency, democratic accountability, and the economic consequences of monetary institutions." *American Journal of Political Science* 47.3 (2003): 389-402.

86. Noman, Akbar, and Joseph E. Stiglitz. "Strategies for African development." *Good growth and governance in Africa: Rethinking development strategies* (2012): 3-47.

87. Bratspies, Rebecca M. "Regulatory trust." *Ariz. L. Rev.* 51 (2009): 575.

will be accountable, transparent in various stages of the operations. This is peremptory goal of Extractive Industries Transparency Initiative, a principle under which the Nigerian Extractive Industries Transparency Initiative (NEITI) operates.

3.2: Nigeria's extractive industries

Oil and gas dominate the Nigeria extractive sector. According to British Petroleum (BP) statistical review; Nigeria holds 2.2 percent of the world's crude reserve and 2.7 percent of gas. Nigeria is the largest oil producer in Africa and the 10th largest in the world.⁹⁵ The sector generates about 95 percent of the total export revenue and 80 percent of the National Income. In addition, it expends about 8 billion US dollar annually in servicing its operations. As Africa's leading crude oil producer, Nigeria accounted for 26 percent of Africa and 2.7 of total world crude oil production in 2012 (source African outlook) . According to 2012 EITI oil and gas report, Government revenue from petroleum sector was 62.9 billion US dollars in 2012, an 8 percent drop compared to 68 billion US dollars reported in 2011.

The current lower oil price is affecting the government revenue. The sector is dominated by a joint venture operation between Nigerian government and six Major international oil companies,⁹⁶ shell, mobile, chevron, Agip, Elf and Texaco. Nigerian reserve of natural gas –an estimated 179 trillion cubic of proven reserves are among the ten largest in the world, but gas production in Nigeria is less significant economically. The government holds all mineral rights and is responsible for issuing exploration and development licenses.⁹⁷ It is noted that the minerals and mining Act of 2007 and Petroleum Act of 1969 form the legal basis for exploration and production activity in the mineral sector. According to the 2012 EITI mineral report, the mining industry has high potential but would require stronger regulatory incorporated and monitoring system to flourish.

88. Duruigbo, Emeka. "World Bank, Multinational Oil Corporations, and the Resource Curse in Africa, The." *U. Pa. J. Int'l Econ. L.* 26 (2005): 1.

89. Idemudia, Uwafiokun, and Uwem E. Ite. "Corporate–community relations in Nigeria's oil industry: challenges and imperatives." *Corporate Social Responsibility and environmental management* 13.4 (2006): 194-206.

90. Ejobowah, John Boye. "Who Owns the Oil?: The Politics of Ethnicity in the Niger Delta of Nigeria." *Africa Today* 47.1 (2000): 28-47.

In terms of the Nigerian Constitution, oil revenue is divided between the three tiers of the government: federal, state and local government. The federal government normally gets half of revenues, the 36 states government about a quarter and 774 local government about a fifth.⁹⁸ The rest flows to special fund Account).

Allocation to state and local governments from the federal Account is heavily distorted by a 13 percent share of derivation⁹⁹ from locally produced naturals (almost wholly oil and gas paid to the states where these resources are produced. Data published on finance ministry website (2008) showed that –rich River State with a population of about 5.5 million received monthly allocation of 150 million US dollars and Lagos state with a population of about 18million received 75 million US dollars monthly. Yet poverty rates are generally higher and infrastructure is poorer in the oil-rich states prompting many Nigerians to wonder where all the money goes.¹⁰⁰ Nigerians are rather cynical about their oil industry, and rightly so despite several hundred billions in budget revenues from oil sector in past decades, Nigeria GNI per capita is below the sub-Sahara, according to the World Bank.¹⁰¹

3.3: Nigerian Extractive Industries Transparency Initiative (NEITI) - historical development

Reflecting on the quote at the beginning of this chapter, you will recall that NEITI came to prominence in Nigeria from the end of 2003 and achieved a surprising level of political support amid a period of reformist led by Former President, Olusegun Obasanjo and a few reformers. Nigeria Extractive Industries Transparency Initiative (NEITI) was a flagship of the reform programme and is still considered a flagship of the global EITI. NEITI set itself a highly ambitious agenda, far beyond the requirement of the global EITI.¹⁰²

91. Ekpo, Akpan H. "Fiscal federalism: Nigeria's post-independence experience, 1960–90." *World Development* 22.8 (1994): 1129-1146.

92. Budina, Nina, and Sweder van Wijnbergen. "Managing oil revenue volatility in Nigeria: The role of fiscal policy." *Africa at a turning point? Growth, aid and external shocks* (2008): 427-59.

93. Akpan, Nseabasi S. "From agriculture to petroleum oil production: What has changed about Nigeria's rural development?" *International Journal of Developing Societies* 1.3 (2012): 97-106.

94. Crowe, Heather. *The Impact of Political Corruption on Social Welfare in the Federal Republic of Nigeria*. Diss. University of Central Florida Orlando, Florida, 2011.

95. Shaxson, Nicholas. "Nigeria's extractive industries Transparency initiative." *Just a Glorious* (2009).

The willingness of Nigerian government to commit to EITI in 2003 and then subsequently launched in 2004 can be attributed to internal and external factors.¹⁰³

The external factors include global actors and discourses that pushed transparency issues to the forefront of global policy response to the resource curse by highlighting the negative impact of corruption on social, economic and political development in Africa. For example, Transparency International consistent ranking of Nigeria as one of the most corrupt countries in the world presented the new civilian regime in 1999 with an opportunity and challenge. The challenge was the need to address the negative international reputation of Nigeria, and the opportunity was the 'war on corruption' that provide a useful mobilisation tool for the new administration to gain legitimacy. For instance, the war on corruption was instrumental to the ability of the Obasanjo's regime to secure some \$18 billion debt relief from Paris Club creditors¹⁰⁴ as well as gain some local support given that election that brought the regime to power was also marked with fraud.

The internal factors were largely driven by populist disenchantment with decades of military rule that saw not only the embezzlement and mismanagement of public resources but also the institutionalisation of corruption to the detriment of national development goals.¹⁰⁵

The interaction of these two factors is reflected in a background paper on NEITI which noted that, "The federal government has recognised that improvements in the transparency of petroleum revenue data are needed for the effective management of public resources and to improve the image of Nigeria at home and abroad".¹⁰⁶ The NEITI Act was passed into law in 2007 and its governing body is the National Stakeholder Working Group (NSWG) that consists of representatives from civil society, government, oil companies, representatives' communities from the six geo-political zones, and the media. The primary objectives of NEITI are:

96. Idemudia, U. "The extractive industries transparency initiative in Nigeria: sifting rhetoric from reality-resource governance." *The challenges of change: Improving resource governance in Africa* (2010): 12-19.

97. Callaghy, Thomas M. "7 The Paris Club, debt, and poverty reduction." *Global Governance, Poverty and Inequality* 43 (2010): 162.

98. Idemudia, Uwafiokun. "The quest for the effective use of natural resource revenue in Africa: beyond transparency and the need for compatible cultural democracy in Nigeria." *Africa Today* 56.2 (2009): 2-24.

a) To ensure due process and transparency in the payments made by extractive industry companies to the federal government and its agencies; to ensure accountability in the revenue receipts of the federal government from extractive industry companies;

b) And to eliminate all forms of corrupt practices in the determination, payments receipts and posting of revenue accruing to the federal government from extractive companies.

3.4: Sustainable development and transparency imperative

The goal of sustainable development is to meet the needs of the present generation without compromising the ability of the future generations to meet their own needs.¹⁰⁷ As key forces in society, organizations of all kind have an important role to play in achieving this goal including the NEITI under the global EITI towards sustainable development in extractive sector.

Though in this era of unpredictable economic growth, achieving this goal can be seen more of aspiration than reality.¹⁰⁸ As economies globalize, new opportunities to generate prosperity and quality are arising through trade, knowledge sharing and access to technology. However, these opportunities are always available for an increasing human population, and accompanied by new risk to the stability of the environment.

While statistic demonstrate improvement in the lives of many, people around the world are counter-balanced by alarming information about the state of the environment and the continuing burden of poverty and hunger on millions of people. This contrast creates one of the most pressing dilemmas for 21st century.¹⁰⁹ One of the key challenges of sustainable development is that it needs new and innovative choices and ways of thinking,¹¹⁰ while development in knowledge and technology are contributing to economic development; they also have the potential to help resolve the risks and threat to the sustainability of our social relations, environment and economies. New knowledge and innovation in technology, management, and public policy are challenging organizations to make new

99. Mebratu, Desta. "Sustainability and sustainable development: historical and conceptual review." *Environmental impact assessment review* 18.6 (1998): 493-520.

100. Elliott, Lorraine. "The global politics of the environment." *The global politics of the environment*. Macmillan Education UK, 1998. 242-257.

101. Adams, Michael, Gbolahan Osho, and Quonna Coleman. "The politics and political implications of oil and gas exploration in Africa: An analysis of American oil corporations in Nigeria." *International Business & Economics Research Journal (IBER)* 7.12 (2011).

102. Kemp, René, and Pim Martens. "Sustainable development: how to manage something that is subjective and never can be achieved?." *Sustainability: Science, Practice, & Policy* 3.2 (2007).

choices in the way their operations, products services, and activities impact the earth, the people and economies.

The urgency and magnitude of risk and threats to our collective sustainability, alongside increasing choice and opportunities will make transparency about, economies, environmental and social impacts a fundamental component in effective shareholder relations, investment decisions, and other market relations, To support this expectation, and communicate clearly and openly about sustainability, an initiative is needed to fulfil this need by providing a trusted and credible framework for sustainable development.¹¹¹

Transparency about the sustainability of the organizational activities is of interest to diverse range of stakeholders,¹¹² including multinational corporations, labour, non-governmental organization, investors' accountancy and others. This is why the Nigerian Extractive Industries Transparency Initiative under the umbrella of EITI relies on the collaboration of a large network of experts from all these stakeholders' groups in consensus seeking consultation. This arrangement has been driving force and success of NEITI under EITI principles aim to strengthen governance by improving transparency and accountability in the extractive sector.

3.5: The workings of Nigerian Extractive Industries Transparency Initiative (NEITI) under EITI

As mentioned earlier, the NEITI set itself a hugely ambitious agenda far beyond the requirement of the global EITI. This agenda and drivers behind it are: The technical aspect, including a look at the all important audit report.

3.5.1: NEITI technical and procedural context

The National stakeholder working Group¹¹³ (NSWG) is the governing body of NEITI and formulates policies, programs and strategies for implementing NEITI mandate. It brings together stakeholder from different sectors, notably oil sector, the federal and state governments, and civil society. In view of these objectives, NEITI undertook the first financial, physical and process audit in the

103. Kates, Robert W., Thomas M. Parris, and Anthony A. Leiserowitz. "What is sustainable development?" *Environment* 47.3 (2005): 8.

104. Wheeler, David, Heike Fabig, and Richard Boele. "Paradoxes and dilemmas for stakeholder responsive firms in the extractive sector: Lessons from the case of Shell and the Ogoni." *Journal of Business Ethics* 39.3 (2002): 297-318.

105. Caspary, Georg. "Practical steps to help countries overcome the resource curse: The extractive industries transparency initiative." *Global Governance: A Review of Multilateralism and International Organizations* 18.2 (2012): 171-184.

country. NEITI has also been able to boast government oil revenue earnings by ensuring that proper payment is made by oil companies. It is noted that the transparency initiative effort both local and international to address resource curse through transparency and accountability have yielded some benefits, and continue to face some serious challenges. One can also say that the real danger lies in the fact that the present approach seems to be also diverting attention away from that political, economic and social constraints enabling the manifestation of the resource curse in Nigeria. Regrettably it is these underlying political, economic and social structures that inform the governance failure complex during the full manifestation of the resource curse in Nigeria.

3.5.2: NEITI: deconstructing its assumption and sifting rhetoric from reality

As indicated at the beginning of this chapter, NEITI has been regarded by many actors or observers as the global flagship programme or one of the foremost national chapters of EITI.¹¹⁴ Whilst there is no doubt EITI in Nigeria has opened a new space of engagement along different stakeholders, and offers new possibilities for the demand for accountability,¹¹⁵ it however suffers from some inherent shortcoming that undermines the effectiveness as a vehicle for making accountability work for sustainable development.¹¹⁶ Whether NEITI is a “flagship or a pipedream is subject to debate.

NEITI’s shining success consists of the audit report of oil sector accounts.¹¹⁷ This reports which are publicly available, contributed to significantly better transparency in Nigeria oil industries collecting and publishing an array of detailed and useful information for the first time.¹¹⁸ Nothing remotely like this has been done before, let alone publishes. These report went far beyond the basic core requirement of the global EITI,¹¹⁹ it produced not raw data on the industry and on tax and on fiscal

106. Pies, Ingo. "Sustainability in the petroleum industry: Theory and practice of voluntary self-commitments." (2010).

107. Idemudia, Uwafiokun. "The Extractive Industry Transparency Initiative and Corruption in Nigeria: Rethinking the Links between Transparency and Accountability." *Access to Information in Africa*. Brill, 2013. 127-148.

108. Haufler, Virginia. "Disclosure as governance: The extractive industries transparency initiative and resource management in the developing world." *Global Environmental Politics* 10.3 (2010): 53-73.

109. Uzoigwe, Michael Uchenna. *Exploring multi-stakeholder initiatives for natural resource governance: the example of the Nigerian Extractive Industries Transparency Initiative (NEITI)*. Diss. University of Birmingham, 2012.

matter especially physical flow of oil giving that very large volume of oil are being diverted before they reach the export terminals, thereby financing violence in the Niger Delta and flowing into general convert financing for well-connected political interests, which in turn provide cover for the bunkerers (those stealing the physical oil.) Estimates of losses in this 'bunkering industry range between 100,000 and 500,000 barrels per day,¹²⁰ but it also provided crucial and useful insight into processes involved in the industry that have helped may insiders and outsiders to see the oil sector in over-view for the first time. This is an attributed of the success of NEITI.

Some Advocates for example the civil society, is of the view that EITI and NEITI, did not drive reforms in Nigeria. They argue that NEITI was allowed to flourish, temporarily, amid the reformist political climate from 2003-2006. Although their view is that NEITI did not drive reforms, it did shape some of the outcomes- notably the audit reports-of the process of the reform. Therefore when measured against EITI's and NEITI's broader goal of fostering better governance and accountability, the rhetoric fades away on the basis that the initiative has not shown impressive result,¹²¹ and so far as it is hard to see how better transparency has led, in turn better transparency has led , in turn better governance in Nigeria.

The reason for this belief is based on the fact that the civil society is supposed to be a key end use of EITI report,¹²² but NEITI has performed poorly in this respect. This is because NEITI's attempts to build capacity in civil society have shown meagre result; although it has informed civil society, it is hard to find evidence that it has significantly empowered or energized it,¹²³ or enable it in any serious way to call Nigeria's rulers to account as some have put it. This cannot be achieved simply by providing civil society with information-including the publication of a popular audit to make otherwise hard-to understand audit report comprehensible to a much broader audience. Some non-government actors have expressed that this is as a result of not putting enough effort and resource into supporting civil society:

110. Obi, Cyril. "Nigeria's Niger Delta: Understanding the complex drivers of violent oil-related conflict." *Africa Development* 34.2 (2009).

111. Mroß, Karina. "Fighting the Curse by Lifting the Curtain—How Effective is Transparency as an Instrument to Escape the Resource Trap?" *Schriftenreihe des Politikwissenschaftlichen Instituts der Universität Duisburg-Essen, Tectum Verl* 20 (2012).

112 Amakoromo, Mark Kuro. " Abroad approach to transparency in fighting the resource curse under the eiti standard 2013.

One might argue that the problems involved are deeper and more structural and will not be overcome simply without more effort in support of civil society initiative, therefore a “pipedream of the initiative”

3.6: NEITI as a flagship of EITI

Nigerian Extractive Industries Transparency initiative has been regarded by many actors or observers as the global EITI flagship programme because of the following reasons: Transparency and anti-corruption, NEITI adopted and implemented EITI programme. NEITI moved beyond EITI and problem sector to publish revenue from sources at all tiers of government. Again NEITI commitment to G8 anti-corruption and transparency initiative, its reviews of the public procurement process and institution of due process mechanism in public contracts, aiming to promote an open tender process with competitive bidding for government contracts; Creation of economic and financial crisis commission and its aggressive use to root out certain corrupt political figures.

3.6.1: Public sector and expenditure reforms

One of the reforms achieved under the NEITI, is the development of several government offices to better monitor official revenue and expenditure in the extractive sector of the economy. The pension fund reforms by shifting from a pay as you go which is defined as benefit British –style system towards a ‘Chilean model based on individual saving accounts privately managed by pension fund administrator.

3.6.2: Macro –economic stability, Governance and institutional strengthening

Adoption from 2004 of an oil-price based fiscal rule, constraining spending and leading to surpluses saved (this led to the November 2007 fiscal responsibility, Bill sign by Late President of Nigeria, Yaradua in November 2007). Implementation of the national empowerment and development strategy, which is a local economic programme targeted at poverty reduction, employment generation and wealth.

3.7: Accelerated privatization and liberalization, achievement of NEITI

One would argue that one of the achievements of NEITI is accelerated privatisation and liberalisation. Consolidation of the banking sector, these were integrated into Nigerian’s policy support instrument (PSI) with the IMF. The PSI approach was a way for Nigeria’s leaders to be able to say that they were implementing a ‘home –grown reform programme incorporated into national economic empowerment strategy, this enabled the receiving of the seal of IMF endorsement which is a helpful signal for foreign investors, and for Nigerian effort to secure a Paris-Club debt reduction

deal.¹²⁴ This is a result of the reforms brought by implementing the EITI principles of transparency and accountability in extractive sector. This could be the reason why NEITI is regarded as a 'Flagship of EITI or even the reputational boast that came with it and the broader reform programme brought great benefits; some commentators are of the view that it signalled to international markets that Nigeria was safer to invest than it really was some years ago.

If you consider the quality of life of the people has not improved,¹²⁵ and when this action of transformation does not translate into bettering the lives of ordinary citizens, then the rhetoric will change to reality hence "Pipedream" This means the ability to empower civil society is a generic feature of mineral-rich countries including Nigeria. Mineral wealth provides rulers with the tool to neutralize all forms of opposition, including civil society, through divide and rule tactics, clientelism politics, and outright repression, and it is hard to see how better transparency automatically overturns these brutally one-sided power relationships.

3.8: Remediation

The NEITI reports produced a series of conclusions and recommendations for improvement and changes-remediation. The recommendations are numerous. See the main audit reports brief summaries,¹²⁶ and a 'popular audit' in March 2009¹²⁷ for more details. NEITI outlines five key areas:

113. Löwenheim, Oded. "Examining the State: A Foucauldian perspective on international 'governance indicators'." *Third World Quarterly* 29.2 (2008): 255-274.

114. Muhammad, Zayyanu. "Improving Quality of Life through Community-based Participatory Development in Nigeria: Explanatory Factors for Success and Failure." *Procedia-Social and Behavioural Sciences* 222 (2016): 151-159.

115. Luqman, Saka, and Fatima Motunrayo Lawal. "The political economy of oil and the reform process in Nigeria's fourth republic: successes and continue challenges." *Researchers World* 2.2 (2011): 59.

116. Uzoigwe, Michael Uchenna. *Exploring multi-stakeholder initiatives for natural resource governance: The example of the Nigerian Extractive Industries Transparency Initiative (NEITI)*. Diss. University of Birmingham, 2012.

117. Löwenheim, Oded. "Examining the State: A Foucauldian perspective on international 'governance indicators'." *Third World Quarterly* 29.2 (2008): 255-274.

118. Luqman, Saka, and Fatima Motunrayo Lawal. "The political economy of oil and the reform process in Nigeria's fourth republic: successes and continue challenges." *Researchers World* 2.2 (2011): 59.

Developing revenue–flow interface among government agencies, improving Nigerian oil and gas metering infrastructure, developing uniform approach to cost determination, building human and physical capacities of critical government agencies and improving overall governance of oil and gas sector. The recommendation is seen as cogent and useful, but the question is the problem of implementation.

3.9: Conclusion

Conclusively, the historical development of Nigerian Extractive Industries Transparency Initiatives underpins the reasons why it committed or subscribes to the global Extractive Industries Transparency Initiative (EITI). We have seen within the space of launching NEITI, Nigeria was the first country to publish its audit report from 1999-2005, which includes the physical, process and financial report. We saw for the first in the history the interactions of the various stakeholders under the umbrella of National Stakeholder working group (NSWG) which is a product of the statutory provision of NEITI Act of 2007. Overall we saw the extent of its success in terms of the global principle and standard of EITI and why some school is of the view despite its celebrated success as one of the foremost chapters of EITI; there is still a debate whether NEITI is a “flagship or Pipedream” of the global EITI. In the next chapter the evaluation of Nigerian Extractive industries Transparency Initiative (NEITI) under the global Extractive Industries Transparency Initiative will be discussed.

119. Uzoigwe, Michael Uchenna. *Exploring multi-stakeholder initiatives for natural resource governance: The example of the Nigerian Extractive Industries Transparency Initiative (NEITI)*. Diss. University of Birmingham, 2012.

CHAPTER 4 - EVALUATION OF NIGERIAN EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE (NEITI) UNDER THE GLOBAL EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE

4.1. Purpose of the evaluation

The overall aim of this evaluation is to document, analyse and assess the relevance and effectiveness of NEITI in the context of EITI principles and its contribution, through improved governance and accountability of the extractive sector towards sustainable development and poverty reduction.¹²⁸

The relevance and effectiveness also relates to the extent to which the NEITI in the context of the global EITI is achieving its main objective of increasing transparency over payments and revenues in the extractive sectors.¹²⁹ It is expected that the evaluation answers the following questions: What are the results of NEITI in the context of EITI and what impact the NEITI is having?

The evaluation should provide a better comprehension of the precise benefits of NEITI through a combination of its contribution to improving the understanding of the sector, identifying actions and wider reforms required to improve the management of the sector in the context of EITI principles.

The evaluation will also address some key questions in other to analyse whether in terms of the debate that a balance could be drawn to say that Nigerian Extractive Industries Transparency Initiatives is a 'flagship or a Pipedream of the global EITI. Therefore, the following questions need to be answered.

To what extent has the Nigerian Extractive Industries Transparency initiative, NEITI, under the global Extractive Industries Transparency initiative EITI has foster better transparency. What other reform, if any did it drive. Has NEITI led to better accountability, governance and development outcome? Whether the NEITI achievement match what is ostensibly set out to do in terms of the Principle of the global EITI. Another question that needs an answer in this regard is whether NEITI has since its inception brought some changes and whether such changes are sustainable. Finally, it will consider what broad conclusion can be drawn for NEITI and the wider EITI process. It is important before answering or addressing these critical questions for one to recap the historical formation or

120. Ospanova, Saule, et al. *EITI and sustainable development: Lessons and new challenges for the Caspian region*. International Institute for Environment and Development, 2013.

121. Ravat, Anwar, and Sridar P. Kannan, eds. *Implementing EITI for Impact: A Handbook for Policy Makers and Stakeholders*. World Bank Publications, 2012.

adoption of the global Extractive Industries Transparency Initiative, agenda, its principles and what it intends to achieve towards sustainable development goal in extractive sector of the economy.

Nigerian Extractive Transparency Initiative (NEITI) was established as part of a larger government effort to improve public sector management and reduce corruption, especially in petroleum sector of the economy. When the then president of the Republic was re-elected in 2003, he moved ahead with an ambitious agenda for public sector reforms including in the field of public finance management. The fight against corruption was an important part of this, and in line with demands from large parts of civil society. NEITI was thus launched in 2004 as part of this larger reform effort.

Nigeria has been an early innovator in key field.¹³² Nigerian was the first country to establish a legal basis for its EITI implementation when then National Assembly passed the NEITI Act in 2007. Nigerian was the first and so far only country carrying out a broad-based reconciliation exercise (audit) covering financial, physical and process dimension of the petroleum sector, where the first report covered the six years 1999-2005 (even before the birth of EITI) thus providing a long historical record of the industry at the same time. Nigeria is to carry out a value for money of the sector beginning from 2011. This will go backwards in the value –chain to provide a review of the cost-structure of the petroleum industry allowing the authorities a more independent assessment of the level of taxable revenue generated.

In this vein, one could say it has driven reforms other than the standard of and the principles of EITI in the sense that it has a reconciliation exercise which is broad-based, that is audit covering, financial, physical and process of petroleum sector, where the first report recorded the six years from 1999-2005 even before the global formation of EITI, therefore it can be argued in consideration of this innovation, NEITI is a ‘flagship’ of the global EITI principle.

Nigeria has reached compliance status, but with bumps on the road.¹³³ It will be noted that 1999-2005 audit was presented in December 2006. The audit report for 2005 and 2006-2008 was subsequently produced and published, but with much delays. The country’s validation exercise began in December 2009, the draft report presented in February 2010, with the EITI Board conferring ‘close to complaint status in October. After successfully completing a six –point remedial

122. Haufler, Virginia. "Disclosure as governance: The extractive industries transparency initiative and resource management in the developing world." *Global Environmental Politics* 10.3 (2010): 53-73.

123. Dykstra, Page. "Learning from Success and Challenges, EITI 2011 Briefing." *New York: Revenue Watch Institute* (2011).

action plan over the following six months, Nigeria was then declared a complaint country in March 2011. This in itself is an achievement of the NEITI and could in this regard in terms of the context of the global EITI, be regarded as a 'flagship' of EITI.

A Legal framework is in place and highly ambitious: In terms of the output delivered, the NEITI Act established NEITI as an autonomous self-accounting body reporting to the president and National Assembly, NEITI is to ensure transparency in payments made by extractive industry to the government, the full recording and accounting for the application of this revenue by government; and eliminate all forms of corrupt practices surrounding collection and application of these resources. It is to assess the capacities of public bodies at federal, state and local levels to implement these responsibilities, and suggest remedial actions where it is necessary. To certain extent, to foster transparency and accountability in the extractive sector of the economy.

National Stakeholder Working Group (NSWG) is in place but with question: The 15-member NSWG-NEITI Board- represents defined stakeholder groups as mandated by the NEITI Act, but all must be constituted, that is approved by the president. Six represents the country's geographical zones, reflecting the need to address regional concerns over equitable access to oil revenues. The others represent government bodies, civil societies and the private sector, where the three civil society members represent civil society organization; media and labour sector union. One member is nominated as NEITI's executive secretary to serve one-five-year term. Stakeholder group selection of own representatives is not specified so representatively and independence of the Board is questioned. Participation at NSWG meetings has been uneven, especially with regard to the private sector representatives. Hence it is considered that it has not lead to what NEITI ostensibly set to achieve in terms of equal participation of all stakeholders in equal footing in line with the principles of the global EITI, hence one could consider the initiative in this regard as a 'pipedream of the global EITI.

Enlarged secretariat is in place though missing skill: A 50-person secretariat ensures that it has key sector-technical, communications and administrative skills. Given NEITI's broad mandate, it should in principle also be able to cover public finance management and organization development field. This in itself reflects a dilemma NEITI needs to address over time; how to tackle the extremely ambitious NEITI Act agenda, because some tasks overlap with mandates of other public bodies.

Reconciliation Report is comprehensive, illuminates a number of new and strategic issues, but is irregular and sometimes late.¹³⁴ There is no doubt that NEITI is in the forefront in commissioning audits that covers financial, production and organizational dimensions of the oil industry. The thorough report reports provide detailed data and considerable insights in a sector which till then had been opaque.

While the financial reconciliation have in fact documented a high degree of compliance with audited payments, they uncover incomplete and in unsystematic recording of revenue streams, insufficient oversight and regulatory actions by public bodies and insufficient cooperation among them.¹³⁵ The audits have been irregular , covering six, one and three years respectively, with the last two report experiencing long delays in completion and publication so their importance to policy discussion and analyses were reduced. They are furthermore limited since they must take the audited company statements as the point of departure for reconciliation. The only account verification is against reported quantities produced where these data themselves are contested. It should be noted that it is only planned value for money studies will NEITI be able to critically review the costing principles and practices behind the accounts. This means there is need for improvement hence a ‘pipedream’ of the EITI principles.

Communication has improved but remain largely supply-driven: Dissemination of information has improved with a pro-active communication department that has put more user-friendly version of the audits into the public domain- press coverage has increased, NEITI publishes more materials, reaches out to media but focus has been on marketing NEITI and its achievements rather than addressing identified information among key stakeholder groups. There has so far not been an outreach programme to the academic community to ensure more in-depth and critical use of NEITI data. This in itself negates the principles of all stakeholders’ access to the working of NEITI in terms of the goal of the global EITI principles of stakeholder’s participation and access to information for all concerned groups. One will infer that there is need for improvement hence a ‘pipedream’ of the global EITI.

124. Ian Acosta, Mej.”A 2013” The impact and effectiveness of accountability and transparency initiative: The governance of natural resources,” Development Policy Review 31: s89- 105.

125 . Scanteam, Analyst and Advisers Report 2011; see www.scanteam

4.2: Outcome produced by NEITI

The Tripartite nature of the NSWG is a model for collaborative approach to addressing contentious societal issues,¹³⁶ though others also exist: The Bureau of public procurement established in 2007, has a national council similar to the NSWG , as does the Bayelsa expenditure and income transparency (BETI) at state level. This in itself is realization that the concept of sustainable development cannot be achieved at central level of the government without the state, local sphere incorporating them into the working of their governments towards the principle of accountability and transparency in their governance structure and in all stages of socio-economic development agenda. One can then say to the extent of this acceptance of the global principles of EITI to the level of national and states participation is in a way a thing to be commended to hence, the standard a ‘flagship’ in itself.

Trust and Dialogue between stakeholders have improved noticeably in the NSWG. NSWG members according to a source,¹³⁷ and how NEITI audit reports produced dramatically improved informational setting for discussion and sharing of views on the petroleum sector, leading to a better informed debate and possibilities for agreements across stakeholder boundaries. This is a good reform in its direction.

The range of issues open to discussion has vastly expanded. Because the audit included quantities produced as well as revenue paid, the analyses have raised issue of completeness of assessment of revenue, the extent to which the public sector is carrying out its regulatory and oversight functions fully, and identified instruments, staff and procedures for executing their mandate properly. The public discourse thus is addressing a wide range of issue and more profound problems than simply transparency of revenue payments moving the reform agenda forwards.

The enhanced NSWG dialogue has spilled over into the public discourse though appears on urban classes. Media and civil society organization access to data and audit analyse has improved the information-contents as the basis for public debate since the adoption of NEITI of the global EITI principles. The depth and reach of public discussion may remain limited, for two reasons: one is, it seems to focus on the dissemination of the NEITI information rather than critical assessment of data and results. On the dissemination side, NEITI is reaching out through a number of channels –

126. Adeyeye, Adefolake. “Universal standard in CSR: are we prepared?” Corporate Governance: The International journal in society 11.1 (2011) : 107-119.

127. Ovadia, Jesse. “Measurement and implementation of local content in Nigeria- a framework for working with stakeholders to increase the effectiveness of local content monitoring and development.

newspapers, magazines, radio, TV, internet but there is currently not known what different audiences have picked up and what, if any impact has been produced.

Capacity development is taking place but appears insufficient against ambitions,¹³⁸ civil society organization and media representatives noted useful NEITI trainings attended but insufficient against their need for better understanding of the audit data and the information needs of the public and in particular how to extract data that could be useful for holding the public sector more accountable for revenue utilization.

Public agencies have, to varying extent taken actions to address weakness identified in the audits: The federal Inland Revenue Services has adjusted its capacity development programme in line with audit recommendation; the Central Bank Of Nigeria and other office of the Accountant –General have strengthen staff training tools and procedures for recording oil revenue data; the Department of Petroleum Resources and the three agencies have strengthen their collaboration and sharing among other things.

Increased transparency is embraced by the oil industry.¹³⁹ The international oil companies have moved from resistance (first reconciliation exercise) to full acceptance and in some cases also support for the detailed reporting demanded by audit reports. This is in part because this ensures that all actors must adhere to the same reporting standard, including the smaller national actors, entering the scene as well as Nigeria national Petroleum Corporation. This is a huge reform in petroleum sector of Nigeria economy in terms of their acceptability of the agenda of the NEITI under the EITI mandate.

4.3: Societal impact of NEITI

NEITI societal impact remains elusive but potentially important. NEITI has an extremely broad mandate, and against that has delivered only within the petroleum sector. This is a strategic part of the economy, this in itself is important. What may be more important are spill-over effects to other societal areas, but this requires strategic partnership with other social actors.

128. Tijjani, Ghani Mustapha, "An empirical investigation of the regulatory governance practice of Nigeria downstream petroleum sector." (2014).

129. Hilson, Gavin. Corporate social responsibility in the extractive industries: Experiences from developing countries" Resource policy 37.2 (2012) :131-137.

NEITI standards concerns are having wider impact,¹⁴⁰ the key Petroleum Industry Bill (PIB) that was passed by National Assembly in 2011 was influenced by NEITI audit reports and recommendations. These views have been supported by civil society actors in their interactions with the National Assembly, reflecting how linkages in the NSWG are having spill-over effect in larger societal debates.

This is an important expansion of democratic space that in oil-rich Nigeria is a critical political right. However, international indicators of civil and political rights have not changed much over the period. Whether in particular civil society organization are able to use the NEITI Act as leverage to promote such fundamental rights further is unclear but is a possibility.

Public Finance management (PFM) reforms are pushed in the direction, though slowly and without strong links to overarching process: Skills, tools and procedures of key PFM institution at Federal level have improved though the net contribution of NEITI is seen as limited. Collaboration for quantitatively better oversight and control of oil revenue has been strengthening due to the NEITI audits. Much remains, however, as audit standards and actual capacities and controls in place appears woefully inadequate when compared with the tens of billions of Dollars in revenue involved. The lack of a systemic link between NEITI activities and approaches to larger PFM reform is a serious weakness.

NEITI audits are creating a more level and transparent playing field: By demanding more detailed intrusive and better documented production and account data. NEITI is raising the bar also for national actors towards the standards international oil companies must adhere to. This enhanced transparency makes it more attractive for serious national actors to enter the sector, and give international actors' greater assurance that proposed legislation that requires higher national content/ participation in the sector will occur through open and competitive processes. This trend will further enhanced if and when value for money audit is in fact carried out.

Indicators of government/anti-corruption and public sector accountability do not show change related to NEITI activities.¹⁴² In societal areas where NEITI should be expected to be a relevant force in terms of corruption and accountability, there are no documentable links to NEITI performance. The perceived corruption level in the country has improved somewhat, with apparent deterioration.

130. Nigerian Extractive Industries Transparency Initiative. "Nigerian Extractive Industries Transparency Initiative: Audit of the period 1999-2004 (popular version)." (2006).

131 .Bature, Bashir. "Transparency and Accountability: Adaptation and implementation of Extractive Industries Transparency Initiative (EITI) principles in Nigeria.

But this cannot be attributed to NEITI since there is nothing in any of the activities undertaken, and in particular in the audits that identifies corruption or suggest steps to address corruption.

Legally protected democratic space has been expanded but general political and civil rights have not improved. The NEITI has enshrined transparency and debate of petroleum sector revenues as legitimate areas for public debate. This is an important expansion of democratic space that oil rich Nigeria is a critical political right. However, international indicator of civil and political right has not changed much over the period. Whether in particular civil society organization are able to use the NEITI Act as leverage to promote such fundamental rights further is unclear but is a possibility.

4.4: Evaluation of overall achievement of NEITI against EITI as a global transparency initiative

When you evaluate the achievement of EITI as a global transparency initiative you find out that EITI has built international reputation that is attracting new members and support. The evidence of this rapid expansion during recent years includes, EITI stakeholder early on agreed on a set of principles that identifies goal related to governance, development and poverty reduction as the highest aspiration. This is in line with the sustainable development agenda and this aspirations make-up an important part of the EITI global brand.

Since the beginning, key global actors, individuals and organization have endorsed EITI principles and criteria. This global network has ensured continuous support to the EITI agenda in a vital economic and politically sensitive sector. The EITI established a tripartite partnership as the guiding principle for governing the initiative; the approach has built broad-base political support and credibility both at national and global levels. Good governance principles were made operational through a consensus in a focused and targeted area which is the extractive industry sector. The focus was manageable to promote, represented an acceptably low risk for the implementing countries and was possible to put into practice.

The operational approach, although limited, allowed for a rapid demonstration of tangible result in the form of financial reconciliation reports, the viability of tripartite governance institutions, the realism in demanding and delivering more transparency and information-based and participatory debate.

4.5: Critical perspectives on Extractive Industries Transparency Initiative.

In almost everything there should be benefit as well as a shortcoming.¹⁴³ In relation to the EITI, analyses have been made by scholars, who view the initiative at different perspectives. 'It is argued that, EITI can identify the problems but may not solve them.¹⁴⁴ In addition, EITI can only complement and not substitute for the national and international legislations. Further, they highlight future consequences of the EITI process on whether it may lead to accountability.¹⁴⁵ Similarly, indicators of the World Bank's worldwide governance revealed that corruption control in EITI implementing countries was not as good in non-EITI resource-rich member nations.

This assertion relates to the Revenue Watch Corruption perception index scores with regard to EITI implementing countries including Nigeria, which indicates that the level of corruption in some EITI member's countries are still high (Revenue Watch Index, 2011). Although, Transparency international report (2012) indicates that, there is a progress of revenue transparency in some EITI member countries. This means that overtime EITI member countries may do better and would be able to reduce the corrupt practices and also improve transparency in the oil and gas revenue management.¹⁴⁶ That would also generate debate and leads to better application of the resources' revenue. It is suggested that, transparency practices will assist to reduce secrecy in the extractive industries" activities and improve oil and gas revenue generation.

"Some scholars have contributed on issues, relating to transparency and accountability practices in the Nigeria oil and gas industry".¹⁴⁷ They made an assessment of how lack of transparency and accountability practices in the oil industry affect the country socio-economic and political activities,

132. Bature, Bashir Gafai. "An empirical study of the Nigerian Extractive Industries Transparency Initiative (NEITI) (2014).

133. Kolstad, Ivar, and Arne Wiig. "Is transparency the key to reducing corruption in resource-rich countries?" *World Development* 37.3 (2009): 521-532.

134. Caspary, Georg. "Practical steps to help countries overcome the resource curse: The extractive industries transparency initiative." *Global Governance: A Review of Multilateralism and International Organizations* 18.2 (2012): 171-184.

135 .Ganesan, Narayanan. "Worsening Schisms in Thai domestic politics" *Japanese Journal of political science* 11.01 (2010) :125-147.

136. Abutudu, Musa, nd Dauda Garuba. "Natural resource Governance and eiti implementation in Nigeria" (2011).

peace and social justice. They deployed the methods of interviews and observations that led them to the conclusions that, lack of transparency and accountability practices in the activities of Nigeria's oil and gas industry and its related government agencies, have a negative effect on revenue generation to the government.

Palley (2003) describe corruption as the enemy of both free market and democracy, as corrupt government promotes corrupt business and corrupt business promotes corrupt government. This inevitable logic means that citizens and investors everywhere have a public and private interest in making effort to combat corruption by increasing transparency and accountability practices. For instance, when extractive industries fail to disclose revenue payments to the Government, it will be easier for government officials to misappropriate the revenue and more difficult for citizens to hold officials accountable. Likewise, the governments and oil companies may be benefitting from categorisation of disclosure, as they consider some items of their interest to be voluntary or mandatory in favour of themselves.

4.6: Evaluation of NEITI achievement

Appropriate core governance structure and NEITI procedures are in place and functioning, although aspect of representativity merits attention. Multi-stakeholder groups are a legitimate arena for dialogue, disagreement and clarification amongst groups that historically have had little or no interaction. National secretariat is in place and servicing the Multi-stakeholder groups well, but the capacity varies considerably and is a serious constraint on the quality of actions that can be undertaken.

NEITI's focus on financial reconciliation has been successful strategic entry-point into a key sector of the economy. It has been possible to build and strengthen consensus around greater democratic insight and control resources, strengthen the voice and legitimacy of the civil society in this process, and provided a major contribution to factual, verifiable knowledge in the public domain. Quality of data, regularity, timeliness and comprehensibility vary across countries and need to be addressed.

The reconciliation report also showered that weak institutional capacity and systems on the government side represents a major challenge, though the identification of legislative, regulatory and institutional weakness have allowed government to target remedial action. There are indications that NEITI programme are so far having impact on dimension such as governance, corruption, poverty reduction or other objectives.

While transparency has improved, accountability does not appear to have changed much, in part because necessary political, legal and institutional improvement have in most cases not been put in place.¹⁴⁸

Some critics noted that following the launch of the Extractive Industries Transparency Initiative the results of its effects were strange in some of its member's nations, and it is the extent that does not "on average" improve the perception of corruption levels in those countries.¹⁴⁹

4.7: The challenges of EITI

A fundamental challenge is that EITI does not have a detailed theory of change (causality chain) that explains how it is to contribute to societal transformations. Such a chain would allow for more careful specifications of the choices made to reach the end result. The fundamental flaws in this is that the selection of intervention supported by EITI were not identified based on most probable contribution to such societal changes, but instead were agreed to as those operational interventions all the parties could agree to. EITI is also a very recent global phenomenon. The kinds of societal changes hope for are the result of many interventions over long time. Expecting any quantifiable impact from interventions that are only a few years old is in any case not realistic.

Country context matters. Since the situation in EITI implementing countries vary a lot, aggregating to global level runs the danger of 'washing out' performance in some countries that may in fact be quite good. Rather than try to identify aggregate (global) measures of EITI impact, the organization should for the time being focus on identifying the good results at national level. There is thus a need for a better, more comprehensive and consistent results framework for achievements at national levels, and for building a global knowledge management system around this.

4.8: Strategic options and future directions

The main recommendation is that the EITI move towards a more broad-based standard in line with EITI principles with a revised certification scheme based on scaling system that provides performance incentive.

137. Lindstedt, Catharina, and Daniel Naurin. Transparency is not enough: Making transparency effective in reducing corruption." *International political science review* 31.3 (2010) 301-322.

138. Majone, Giandomenico. "From the positive to the regulatory state: causes and consequences of changes in the mode of governance." *Journal of public policy* 17.02 (1997): 139-167.

Furthermore, developing comprehensive results frameworks for tracking EITI performance at national and at international level is recommended. Such result frameworks should include more rigorous theories of change that can justify the indicators included. The secretariat should help countries and build the basic capacity needed to use them, including through guidance materials.

It is also recommended that the EITI Board assess the existing strategies related to use the use of external partners and outsourcing and also consider the option of building more in-house capacity for support to countries and standard setting and management. This will require more resources, and one question will be which task the organization will wish to maintain as direct responsibilities and which can be out sourced. More in House capacity will strengthen the EITI international knowledge management.

Having analysed both achievements of NEITI and EITI against the principles of the global initiative EITI, it is important to come to conclusion whether NEITI is a 'flagship of the global EITI principles or a 'pipedream of the initiative. It is important to note that NEITI does have some significant successes to its name, but do not match up to its or EITI core mandates and goals, and it is hard to argue that it has delivered sustained better governance or better lives for ordinary Nigerians.

The most important purely macroeconomic benefits that compare favourably with the last oil boom can be said to stem most substantially from the oil-based fiscal rule, rather than EITI. The most important achievements include robust economic growth, especially in the non-oil sector, which significantly strengthen fiscal and external positions, improved confidence in the economy. This is because prudent policies contributed to the securing of these gains: the political accord for the oil price fiscal rule was the key factor.

Again revenue was still being saved in the excess crude account after the main reform period. However, there has been some tension between state between some state government and the centre, with the former reluctant to save the money and keen to spend it; cautious negotiation since 2007 have seen the states agreeing to save a minor portion and being allowed to spend the rest.

Nevertheless, it is probably fair to say that NEITI, and specifically the intrusive NEITI audit process, has provided a useful entry point into the difficult area of oil sector governance. Yet this has been a consequence, rather a driver of a reform process that was happening anyway. By providing many policy-makers for the first time with an overview of the system, or at least of a part of the system, NEITI helps inform policy. But it has not provided to any significant degree the political will for reformers to further.

Whether NEITI is a ‘flagship’ or ‘pipedream’ is subject to argument. Yes, one can say that it’s a successful institution and have achieved the principles of the global EITI agenda hence a ‘flagship’ of EITI principles yet another school of thought could criticize it as being a ‘revisionist approach. The reason being that the original goals of EITI were to improve accountability and governance; over time, in the face of embedded realities, these objectives appear to have been rather whittled down, and those operating within NEITI are setting themselves more modest goals. The above comment may be fair one, but that does not absolve NEITI from the charge of a broader failure to be able to drive a major and sustained advances in transparency, to empower citizens and to tackle corruption and poverty-all of which have been goals from the outset.

4.9: NEITI a flagship or a pipedream of the global EITI principles

The critical analysis of the above statement is argued from two schools of thought. The first School of thought is of the view that NEITI under the global EITI principles did not drive reform in Nigeria. Instead the initiative flourished for a time in a reformist climate, and helped influence the form that it took and has flagged since this reformist space hence a ‘pipedream’ of the EITI principles.

Another school of thought will argue that publication of 1999-2004 audits is NEITI crowning achievement under the global EITI. They were unprecedented in scope and details. One of the most important aspects of the audits’ success was holistic approach: seeking to view all aspects of Nigeria’s oil industry through a financial audit, a process audit, and a physical audit, and then joining the dots. It could also be argued that NEITI has informed, but has not meaningfully empowered and significantly energized civil society.¹⁵⁰

An essential premise of EITI has been that transparency would help citizens to ‘call their rulers to account; leading to better accountability and governance. It is hard to see how NEITI has caused this to happen in any meaningful way. Civil society has not been influential in calling Nigeria’s rulers to account, even with access to significantly improved data and analysis from NEITI. The inference is that NEITI is still a ‘pipedream of the global EITI principles towards sustainable development in extractive sector of that economy. It is also hard to demonstrate that better transparency has led to better developmental outcomes.

It is not certain that more capacity-building and work will overcome the fundamental problems faced by the civil society. We all know what is currently happening in Niger Delta. This appears to be

139. Idemudia, Uwafioku, and Uwem E Ite. “Corporate –community relation in Nigeria’s oil industry : Challenges and imperatives.... “Corporate social Responsibility and environmental management 13.4 (2006) 194-206.

the result of structural factors linked substantially to Nigeria's dependence on mineral revenues, which enables rulers to 'ignore' their citizens to a large degree.

Again the most strategic consumers of NEITI information may have been elite groups of technocrats and policy-makers, who have gained tools from NEITI to understand the Nigerian oil and gas sector better. This may prove useful in current efforts to get a petroleum industry reform bill through parliament. There are also signs that record-keeping in some relevant department is now – up to a point- better than before the audits and the recommendations were published.

The tiny discrepancies discovered by the NEITI audits show that the reconciliation exercise, which is taken to be one of the most fundamental parts of the EITI exercises, did not appear to home in on the core of the problem (though valuable in itself). Instead the main benefits from the audits consisted in providing a picture showing for the first time how important parts of the industry worked and how they interacted with each other and with the various parts of government.

The global EITI concept of transparency, hitched to build a multi-stakeholder approach, did penetrate into Nigeria policy-making. One important reason for EITI's (limited success was that as a global initiative it represented a diffuse, undirected source of influence or pressure-rather than (as would be the case with, for example, IMF conditionality) direct, specific pressure, which is often explicitly rejected. The assumption is that if a country is implementing EITI, then 'reform' is being done. Governments, industry players and civil society actors, sometimes driven by vested interest in keeping EITI process going, have all but made EITI the sole focus of the transparency/governance/rights agenda. It might also be argued that NEITI is probably the most 'flagship for global EITI but weak in terms of delivering real reforms, which suggests that other approaches need to be considered.

4.10: Conclusion:

It is important to note that other mainstream prescription in 'resource curse toolbox, notably oil funds and diversifying the economy partly by building infrastructure , do nothing directly to encounter what are arguably the two central features that the poor governance outcomes of the 'resource curse': first, that rulers tax mineral/oil companies, not citizens, disempowering the latter; and , second, that mineral revenues foster the politics of patronage, involving fragmentation of society and the political system.¹⁵¹ It had been hoped that transparency would be different that it

140. Mehlum, Halvor, Karl Moene, and Ragnar Torvik. "Institutions and the resource curse

would directly counteract both tendencies. The evidence however suggests that transparency fails to do this convincingly. The only other solution that theoretically could address these two features directly is to distribute revenues directly to citizens of countries concerned, then tax them back. This has been dismissed out of hand by many analysts, though without any serious research to back their arguments. Along this lines, one will also remember that that EITI does not publish overtly a 'political number'- that is, a single number that describes starkly how much of the share of each barrel sold accrues to government as budget revenue each year. Some felt that doing this could open a new arena for engagement between rulers, companies and citizens.

141. Shaxson, Nicholas. "Oil for the People: A Solution to the 'Resource Curse.'" *Paper Presentation at the Conference: Tax Justice, Transparency and Accountability. Essex University. 2008.*

CHAPTER 5: CONCLUSION AND RECOMMENDATION

We have seen how permanent sovereignty over natural resources (PSNR) has awakened the spirit of the citizens of the states which are endowed with natural resource, and how International Law has placed a duty on the state to manage the resource for the benefit of its citizens. African as a continent has been endowed with huge potential deposit of natural resources and for many decades it has been a source of power and wealth for the continent ruling elites and corporations and less often for African themselves.

Control of revenue from these natural resources has fuelled cycle of corruption, conflict and poverty impairing opportunities to spur economic growth and social development. It is expected that Revenue from oil, gas and mining should spur economic growth and social development in developing economies like African continent. The truth of the situation, is that economies that are overly dependent on oil and mineral wealth have often encouraged authoritarian rather than democratic form of government, particularly in countries with weak legal or regulatory frameworks. As we have seen in recent times, profit from natural resources gives the ruling elites the opportunity to consolidate power through patronage systems, while revenue mismanagement may fuel devastating spiral of corruption, conflict and poverty leading to ‘resource curse’ syndrome.

We have also seen how competition for control over natural resources has led to armed conflict in countries like Democratic Republic of Congo (DRC), Nigeria, Liberia, Sierra Leone just to mention but a few. Despite these challenges, there has been effort of various organizations to promote greater transparency in the management of their countries’ natural resource wealth. Most of this initiatives targets oil and mining companies, government and international financial institutions as their crusade effort. Majority of the world’s diamond are sourced to African and if these resources are carefully and properly managed, revenue from these exports could help alleviate poverty and spur development. But despite this huge deposit of natural resource, many countries are currently near the bottom of international human development indicator ranking. The question is how this perennial problem can be solved, because it has been a global concern.

The concept of sustainable development arose as a result decade of concerns and meeting of the United Nations tracing from the Stockholm meeting of 1972, Rio declaration of 1992 and finally the plea of the global community to implement the goal of sustainable development as defined by Brundtland commission Report of 1987 at Johannesburg summit of 2002.

Having identified, analysed the risk profile in extractive sector of the economy, some mitigating factors was put in place to guide against decades of revenue mismanagement and lack of transparency and accountability in extractive industries countries. It was this concern that gave birth to Extractive Industries Transparency Initiative, EITI. This is a global initiative aimed at addressing the issue of transparency, accountability in extractive sector of the economy with the principles and belief that the prudent use of natural resource wealth should be an important engine for sustainable economic growth that contributes to sustainable development and poverty reduction.

In seeking solution, it is the principle of EITI that all stakeholders have important and relevant contribution to make- including the government and their agencies, extractive industry companies, service companies, multilateral organizations, financial organizations, investors and non-government organizations. The aim is to recognize the principle of international Law that the natural resources in a particular jurisdiction belongs to the sovereign right of the people which requires their active participation, and also places a duty to the state to manage such resource for the benefit of its citizen.

The Nigerian Extractive Industries Transparency Initiative (NEITI) is a subset of the global EITI and was established in 2004 shortly after the birth of the global EITI in 2003. The aim of the initiative was part of larger government effort to improve public sector management of natural resources and reduce corruption. It is important to note that NEITI has been an early innovator in key fields and this include the following:

Nigeria was the first country to establish a legal basis for its EITI implementation when the National Assembly passed the NEITI Act in May 2007. Nigeria is the first and so far the only country with a broad-based reconciliation exercise (“audit”) covering financial, physical and process dimension of the petroleum sector, where the first report covered the six years 1999-2005, thus providing a long historical record of the industry at the same time. In consideration of these achievements there is a debate as whether NEITI is ‘flagship or ‘pipedream of the global EITI principles.

The critical analyses of the both the achievement of NEITI under the global EITI principles and the challenges provides us space for this debate. Yes, there are achievements in terms of audit report financial, physical and process dimension of the petroleum sector for a period of six years beyond the standard of EITI (1999-2005). The question is whether NEITI has indeed attained that status to be regarded as ‘flagship’ of EITI. After analysing the success and challenges of NEITI under the global EITI, it is my inference that NEITI is a ‘pipedream of the EITI because of the following reasons:

NEITI under the global EITI did not drive reforms in Nigeria, yes NEITI has informed, but has not meaningfully empowered the civil society. An essential premise of EITI has been that transparency would help citizens to 'call their rulers to account; leading to better accountability and governance. Civil society has not been influential in calling Nigeria's rulers to account, even with access to significantly improved data and analysis from NEITI.

It is also hard to demonstrate that better transparency has led to better developmental outcomes, and the most strategic consumer of NEITI information may have been the elite groups of technocrats and policy-makers, who have gained tools from NEITI to understand the Nigeria oil and gas sector better.

Reforms were temporary, and have since faltered. You will note that all meaningful reforms happened before the audit was published; the publication itself was arguably the key reform of NEITI, and reforms and the NEITI process faltered badly soon after the audits were published.

The tiny discrepancies discovered by the NEITI audits show that the reconciliation exercise, which is taken to be one the most fundamental parts of the EITI exercise, did not appear to home in on the core of the problem. Instead the main benefits from the audits consisted in providing a picture showing for the first time how important parts of the industry worked and how they interacted with each other and with various parts of the government. In terms of the analysis therefore, one would conclude that though there is a sign improvement in terms of disclosure requirement however that does not qualify Nigeria as a 'flagship of EITI, rather it is a 'pipedream'.

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