

**NIGERIA EXTRACTIVE INDUSTRY
TRANSPARENCY INITIATIVE BILL
2004**

A Bill for

An Act to make provision for the establishment of the Nigeria Extractive Industry Transparency Initiative (NEITI) and for other matters connected therewith

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Commencement

BE IT ENACTED by the National Assembly of the Federal Republic of Nigeria as follows:

Enactment

1. (1) There is hereby established a body to be known as the Nigeria Extractive Industry Transparency Initiative, hereinafter in this Act referred to as "NEITI".

Establishment of the Nigeria Extractive Industry Transparency Initiative

(2) The NEITI shall be an autonomous self-accounting body, which shall report to the President.

(3) The NEITI may acquire, hold and dispose of real and personal property.

2. The primary objectives of the NEITI are –

Objectives

(a) to ensure due process and transparency in the payments made by extractive industry companies to the Federal Government and its agencies;

(b) to ensure accountability in the revenue receipts of the Federal Government from extractive industry companies;

(c) to eliminate all forms of corrupt practices in the determination, payments, receipts and posting of revenue accruing to the Federal Government from extractive industry companies.

3. For the purpose of realizing its objectives under this Act, the NEITI shall perform the following functions –

Functions

(a) to develop a framework for transparency in the reporting and disclosure by extractive industry companies of revenue due to or paid to the Federal Government;

- (b) to evaluate the practices of extractive industry companies regarding acquisition of acreages, budgeting, contracting, materials procurement and production cost profile in order to ensure due process and transparency;
- (c) to ensure transparency in the management of the investments of the Federal Government in extractive industry companies;
- (d) to request, as may be deemed necessary, from any company in the extractive industry an accurate record of the cost of production and volume of sale of oil, gas or other minerals extracted by the company at any period;
- (e) to request from any company in the extractive industry, or from any relevant organ of the Federal, State or Local Government, an accurate account of money paid by and received from the company at any period, as revenue accruing to the Federal Government from such company for that period;
- (f) To ensure that all payments due to the Federal Government from extractive industry companies, including taxes, royalties, dividend, bonuses, penalties, levies and such like, are duly made;
- (g) to identify weaknesses and undertake measures that will enhance the capacity of any relevant organ of the Federal, State or Local Government having responsibility to monitor revenue payments by extractive industry companies to the Federal Government;
- (h) to disseminate by way of publication of records, reports or otherwise, any information concerning the revenue of the Federal Government from extractive industry companies, as it may consider necessary;
- (i) to promote or undertake any other activity related to its functions and which, in its opinion, is calculated to help achieve its overall objectives.

4. (1) The NEITI shall in each financial year appoint an independent auditor for the purpose of auditing the total revenue which accrued to the Federal Government for that year from extractive industry companies, in order to determine the accuracy of payments and receipts. *Appointment of Independent Auditor and Publication of Report*
- (2) The independent auditor appointed under subsection (1) shall be engaged on such terms and conditions as the governing body of the NEITI may approve.
- (3) Upon the completion of an Audit Report, the independent auditor shall submit the Report to the NEITI, which shall cause same to be published for the information of the general public.
5. (1) The governing body of the NEITI shall be the National Stakeholders Working Group, hereinafter in this Act referred to as "the NSWG". *The NSWG*
- (2) The NSWG shall be responsible for the formulation of policies, programmes and strategies for the effective implementation of the objectives and the discharge of the functions of the NEITI.
- (3) Without prejudice to subsection (2), the NSWG shall have power to approve the annual budget and work-plan of the NEITI, as well as ensure the periodic review of programme performance by the NEITI.
6. (1) The NSWG shall be appointed on a part-time basis by the President and shall consist of a Chairman, Secretary and at least 7 other members, provided that there shall be no more than 15 members at anytime *Composition of the NSWG*
- (2) In making appointments into the NSWG, the President shall, as much as possible, include extractive industry experts, the civil society and members of labour unions in the extractive industry

- (3) The NSWG appointed by the President before the commencement of this Act shall remain valid as if appointed under this Act.
7. A person appointed as member of the NSWG shall hold office for five years and shall be eligible for reappointment. *Tenure of office of the NSWG*
8. The members of the NSWG as well as any person appointed to any of its Special Committees under section 11 may be paid such allowances out of the funds of the NEITI as the President may approve. *Allowances to be paid to the NSWG*
9. (1) The NSWG shall ordinarily meet for the dispatch of business at such times and places as it may determine, but not less than four times in a year. *Meetings of the NSWG*
- (2) At every meeting of the NSWG at which he or she is present, the Chairman shall preside and in his or her absence, a member of the NSWG appointed by the members present from among themselves shall preside;
- (3) Questions proposed at a meeting of the NSWG shall be determined by a simple majority of members present and voting and, in the event of an equality of votes, the person presiding shall have a second or casting votes;
- (4) The NSWG may at any time co-opt any person to act as an adviser at any of its meetings but no person so co-opted shall be entitled to vote at any such meetings.
- (5) The validity of the proceedings of the NSWG shall not be affected by the absence of any member or by any vacancy among its members or by any defect in the appointment of any of them;
- (6) The Secretary of the NSWG shall prepare and distribute to members all minutes as soon as possible after each meeting.

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| 10. | The NSWG shall fix its own quorum and otherwise regulate its own procedure for meetings. | <i>Procedure</i> |
| 11. | The NSWG may constitute such Special Committees as it considers fit to deal with different aspects of its responsibilities. | <i>Special Committees</i> |
| 12. | <p>(1) The NSWG may engage the services of such staff and consultants, as it may consider necessary.</p> <p>(2) The staff and consultants may be engaged on such terms and conditions as the NSWG may determine and approve;</p> | <i>Other Officers and Staff</i> |
| 13. | <p>(1) The funds of the NEITI shall consist of –</p> <p style="padding-left: 40px;">(a) such sums as may be provided by the Federal Government which sums shall be released immediately they become due for payment.</p> <p style="padding-left: 40px;">(b) such sums as may be paid to the NEITI by way of grants, donations and gifts.</p> <p>(2) The NEITI shall not be obliged to accept any donations or gifts for any purpose unless upon the approval of the NSWG.</p> <p>(3) The funds and resources of the NEITI shall be applied towards the promotion of its objectives as specified in this Act.</p> | <i>Financial provisions</i> |
| 14. | The NSWG shall cause to be prepared annual audited accounts for each period of twelve months ending on the 31 st day of December for each ensuing year. | <i>Accounts</i> |
| 15. | <p>(1) The NEITI shall have a bank account, the signatories of which shall be determined by the NSWG;</p> <p>(2) The account may be opened in such banks as the NSWG may determine;</p> | <i>Bank Account</i> |
| 16. | An extractive industry company which - | <i>Offences</i> |

- (a) gives false information or report to the Federal Government or its agency regarding its volume of production, sales and income; or
- (b) renders false statement of account to the Federal Government or its agency,

resulting in the underpayment of revenue accruable to the Federal Government, commits an offence which is deemed to be an economic and financial crime under the Economic and Financial Crimes Commission (Establishment, etc.) Act 2004, and the provisions of that Act relating to investigation and punishment of offenders, as far as they are applicable, shall apply accordingly.

Economic and Financial Crimes Commission (Establishment etc.) Act, 2004

- 17. The NSWG may make regulations as it may consider expedient for the purpose of giving effect to the provisions of this Act and for regulating any matter that falls within the scope of the functions of the NEITI.

Regulations

- 18. In this Act unless the context otherwise requires –

Interpretation

“Extractive industry company” means

any company in Nigeria that is engaged in the business of prospecting, mining, extracting, processing and distributing minerals and gas, including oil, gold, coal, tin, bitumen, diamonds, stones and such like; and includes any agency or body responsible for the payment of extractive industry proceeds to the Federal Government;

“Federal Government” means The Federal Government of Nigeria;

“President” means the President and Commander-in-Chief of the Federal Republic of Nigeria;

- 19. This Act may be cited as the Nigeria Extractive Industry Transparency Initiative Act, 2004.

Short title