


EITI Global Conference 2023

Finding Common Ground: Connecting Domestic
Legislation to EITI Requirements for communities
in the Niger Delta

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Niger Delta Context

- Decades of oil and gas extraction has left a legacy of poverty, under-development and environmental devastation - a paradox of poverty amidst plenty
- Policies, laws, and state/corporate actions have either overtly (through counter-productive provisions) or covertly (through regulatory lapses) entrenched deprivation, encouraged force, stifled civic space, and triggered conflict and fragility.

Enter the Petroleum Industry Act (PIA) 2021



A critical sector - In 2021, Nigeria earned N4.133 trillion from the oil and gas sector. The sector has on the average been responsible for 95 percent of Nigeria's foreign exchange earnings and 80 percent of its budget revenues.



But poorly regulated - For decades, oil and gas sector was governed by an odd admixture of laws, some too old to be meaningful; many unwittingly allowing corruption and community deprivation to thrive!



The Petroleum Industry Bill was in the works for over 16 years, before it was enacted in 2021, finally providing a clear regulatory framework for the sector



Optimism - Nigerians had expectations, not only for more transparent and accountable governance of the sector, but also for better management of state and company relations with oil and gas rich communities

Landmines in the Law

- Host community to be determined by settlor; already some communities are being lumped together as strange bedfellows; old divide-and-rule tactic has resurfaced. Too much power is wielded by settlor to determine projects to be delivered and who makes decisions (the Board of Trustees). These are potential landmines.
- The PIA obligates companies to contribute 3% of operating expenses to the Host Community Development Trust Fund (HCDTF), but companies do not currently publish this figure, making it difficult for communities to determine if they are getting their due.
- S.79. Licensees' field development plan should include plans for local recruitment and training, decommissioning and abandonment, EMP and local content in accordance with other sections of the Act. The section is a missed opportunity to require gradual skills substitution in the industry,



PETROLEUM
INDUSTRY
ACT 2021

PIA's categories that reinforce EITI requirements

Removes dual, incestuous powers from the state-owned company, the NNPC and transforms it to a commercial limited company, NNPC Limited and provides two new regulators, NUPRC and NMDPRA, each for a section of the industry (EITI Requirements 2.6)

Provide for transparency of contracts, licenses or leases (S.81/EITI Requirement 2.3 and 2.4)

Attempts, for the first time, to create a governing framework for community beneficiation and provides for measurement of flared natural gas

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Provides for compensation for acquisition of land, damage to protected and venerated objects, environmental remediation fund, and S. 101, 102, and 115

Provides for maintenance of a register of beneficial owners of assets by the regulator (EITI Requirement 2.5)

How have we used these provisions to find common ground

- Our analysis of payments show that between 2014 and 2019 the NDDC received more than US \$3.2 billion as 3% annual budget levy from seven IOCs, but the money brought little if any benefits for impoverished communities.
- Working subnational entities - state governments, NDDC etc - and other regulators - such as the Nigeria Oil Spill Detection and Response Agency (NOSDRA), the Federal Ministry of Environment etc - to close regulatory gaps which reduce the pressure on the new regulators created under the Act
- Trainings on managing IOCs divestment during which we trained community members on advocacy skills and the companies' obligations regarding relinquishment, decommissioning, and abandonment and the guidelines for dispute resolution - including arbitration.
- Support at least two dozen communities to establish their HCDT, trained them on community needs assessment, and facilitated roll-over of pre-existing social and environmental expenditure commitments from GMOUs into the HCDT framework, in line with EITI Requirement 6.1 and 6.2.

