



## 2014 ANNUAL ACTIVITY REPORT

**NEITI** Nigeria  
Extractive  
Industries  
Transparency  
Initiative



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AAR	Annual Activity Report
ANEEJ	African Network for Environment and Economic Justice
CBN	Central Bank of Nigeria
CGT	Capital Gains Tax
CLSD	Centre for Leadership and Strategic Development
CISLAC	Civil Society Legislative Advocacy Center
DFID	Department for International Development (UK)
DPR	Department of Petroleum Resources
EFCC	Economic and Financial Crimes Commission
EITI	Extractive Industries Transparency Initiative
FAAC	Federation Account Allocation Committee
FASD	Fiscal Allocation & Statutory Disbursements
FGN	Federal Government of Nigeria
FIRS	Federal Inland Revenue services
FOSTER	Facility for Oil Sector Transparency & Reform
GIZ	German Development Corporation
HSE	Health safety & Environment
IATT	Inter-Agency Task Team
IMTT	Inter-Ministerial Task Team
IA	Independent Administrator
JVs	Joint Ventures
MMSD	Ministry of Mines & Steel Development
MSG	Multi Stakeholders Group

NEITI	Nigeria Extractive industries Transparency Initiative
NNPC	Nigeria National Petroleum Corporation
NRGI	Natural Resource Governance Institute
NSWG	National Stakeholders Working Group
OPTS	Oil Producers Trade Section
PENGASSAN	Petroleum & Natural Gas Senior Staff Association of Nigeria
PIB	Petroleum Industry Bill
PPMC	Pipeline & Product marketing Company
PPT	Petroleum Profit Tax
PPRA	Petroleum Product Pricing Regulatory Agency
PSC	Production Sharing Contract
PTDF	Petroleum Technology Development Fund
RMAFC	Revenue Mobilization Allocation & Fiscal Commission
SGF	Secretary to the Government of the Federation
SP	Strategic Plan
TUGAR	Technical Unit on Governance & Anti-Corruption Reform
UNODC	United Nation Office on Drugs & Crime
WB	World Bank

## **ENABLING ENVIRONMENT FOR THE IMPLEMENTATION OF THE EITI.**

This is NEITI's Annual Activity Report for 2014 and it is produced in compliance with Requirement 7.2 of the EITI Standard.

The implementation of the EITI in Nigeria is closely guided by the:

### **The Nigeria Extractive Industries Initiative Act 2007 (Act)**

The Act was enacted in June 2003 to achieve sustainable development and poverty reduction in Nigeria resource-rich countries by promoting transparency and accountability in the management of revenues accruing from extractive industries.

*Under the Act, the NEITI is "charged with the responsibility for the development of a framework for transparency and accountability in the reporting and disclosure by all extractive industry companies of revenue due to or paid to the Federal Government of Nigeria".*

### **EITI Standard**

The President of the Federal Republic of Nigeria declared Nigeria's acceptance of the principles and criteria of the EITI and the Federal Government's decision to implement the Initiative by the inauguration the Multi-Stakeholder Group (MSG known National Stakeholders Working Group NSWG) on the 16<sup>th</sup> February 2004 and eventually with the enactment of the Act to implement the EITI in Nigeria.

Nigeria is therefore obliged to adhere to the EITI Standard which are a body of requirements for sustaining membership of the EITI. Nigeria has made giant strides in the implementation of EITI crowned by the award of the "Best EITI Implementing Country" in 2013.

### **NSWG Strategic Plan (SP) 2012-2016** (available on the NEITI website)

The NSWG took up the task immediately after inauguration in August 2012 of creating more awareness of the objectives and functions of NEITI and the implementation of the EITI principles. A four year Strategic Plan (SP) for 2012-2016 was established to guide the NEITI. The objectives of the SP were aligned to the requirements of the NEITI Act 2007 and EITI Rules (Standard).

This NEITI SP sets out the vision, goals, objectives and main lines of activity which NEITI is committed to pursue in the next 4 years from 2012.

The SP is broken down into three (3) Strategic Goals, which taken together and fully implemented, will lead to NEITI impacting strongly on transparency and accountability in the extractive sector.

NEITI operations are therefore tailored to achieve the 3 broad **goals** namely:

**GOAL 1- Achieve Operational Excellence in Regulation and Enforcement across the Extractive Industries:** To develop an effective comprehensive framework for the delivery of effective Audit, continuous Monitoring and Evaluation, stronger regulation, enforcement and compliance management.

**GOAL 2 - Attain Optimum Stakeholder Development in Extractive Industries Transparency and Accountability:** To develop a Robust Multi-Stakeholder Communication and Mobilization Strategy/Framework for effective stakeholder relationship management, collaboration and cooperation

**GOAL 3 - NEITI Capacity Building:** To develop Organizational and Funding Capacity to achieve the NEITI Mandate, Vision and Strategy

The Work Plans from 2012 to date were in alignment with the SP.

## **BROAD HIGHLIGHTS OF ACTIVITIES IN 2014**

During the 2014, NEITI focused on the omnibus essence of the SP: to progress from concentration on improving the transparency of the extractive industries, and notably of the oil and gas sector through the annual audits and the identification of areas requiring remediation, to a deeper engagement oriented towards achieving full and meaningful accountability in the extractive sector.

NEITI also focused on the rendering of its EITI Reports in good time for both Oil & Gas and Solid Minerals sectors of the extractive industry. The purpose was to catch up on the backlog of reports so that NEITI would eventually be within the time frame for all its reports starting from 1999. Early into 2015 NEITI was able to achieve this for both the Oil & Gas and the Solid Minerals reporting deadlines for all EITI reports.





Deziani Alison-Madueke Minister of Petroleum Resources (seated middle), NSWG Members & Stakeholders at the 2012 Oil & Gas Template workshop in Lagos.

NEITI published the 2012 Oil & Gas Report in March 2015 after an extension was granted by the EITI Secretariat. NEITI intends to publish the 2013 Oil & Gas report by 31<sup>st</sup> December 2015

The Solid Minerals Report 2012 was published before the deadline of 31<sup>st</sup> December 2014. NEITI is now within the EITI reporting deadline for solid minerals.

The above activities were all followed by necessary dissemination of the reports and findings. The activities were heightened with emphasis on accountability most particularly in light of various (other) reports in the Oil & Gas sector in Nigeria.

Meetings were held on recommendations made in the reports. Remediation was pursued with the involvement of the President of the Federal Republic of Nigeria. He inaugurated a new high level IMTT to implement the recommendations arising from the respective reports.

General awareness programmes were conducted with civil society organisations under the sponsorship of various donors and budget from the Government of the Federation. Extensive outreach programmes including dissemination of the EITI Reports were done.

Simplification and translation of the 2006-2008 Oil & Gas report into three of the major languages in Nigeria was also concluded

NEITI continues to look for ways to push the EITI beyond the necessary EITI. The FASD conducted in 2013 was a resounding success and prelude to sub national report in the new EITI Standard.



NEITI has started the process of conducting a new FASD for 2010-2013 to cover the whole of the Federation.

A lot of capacity building was conducted during 2014 for stakeholders specifically on the new EITI Standard: to equip and educate them for enhanced implementation of the EITI.

These activities were overseen by the NSWG in alignment with the work plan for 2014 based on EITI Standard guidelines.

Some very serious challenges were encountered such as lack of funds, automation, lack of effectual cooperation, etc.

### **WORK PLAN (WP) 2014**

A consultative approach was used in developing the 2014 work plan. The NSWG consulted the civil society organisations, covered entities in the extractive industry and other relevant stakeholders in the preparation of the WP. Objectives and priorities were based on the NEITI Act 2007, EITI Standard and the SP

In implementing the SP and 2014 WP, the under-listed key stakeholders and prime targets were involved:

1. The Civil Society and the Media
2. The Legislature,
3. Covered Entities (Government Agencies and companies covered by the Act).
4. Government Executives (key government officials).
5. Opinion and Community Leaders.

### **Core Objectives of the Work Plan**

The 2014 core objectives of the WP were prioritised to include amongst other things:

1. To ensure legal compliance with the NEITI Mandate
2. To provide adequate corporate governance of NEITI and deepen stakeholder's engagement & corporate relationship.
3. To conduct and report on extractive sector audits in line with the NEITI Act and the EITI standard.
4. To coordinate and ensure implementation of remedial issues arising from the reports
5. To source and efficiently manage resources required for the implementation of NEITI mandate and SP in 2014.
6. To support on-going activities in the anti-corruption and governance environment with empirical data

## Key activities of the work plan

Some of the key activities which supported the achievement of the core objectives for 2014 WP were:

- Automation of the Industry Audit process in order to ensure regular and timely reporting of the audits: continuous receipt of audit data from all covered entities through the year thus reducing the time for data collection.
- Delivery of the 2011 Solid Minerals Audit.
- Conduct of the 2012 Solid Minerals Audit
- Conduct of the 2012 Oil and Gas Audit
- Dissemination of the audit reports
- Industry audit monitoring and analysis
- Development and implementation of Remediation Plan of audit reports
- Carry out study on Transparency and Accountability frameworks
- Simplification of audit reports
- Roundtable discussions of audit reports with stakeholders
- Organize seminars for stakeholders on key sector issues
- Outreach programmes to create awareness
- Establish and automate revenue flow interface
- Metering System Review
- Costs Benchmarking (RP – Realizable Price and OSP – Official Selling Price).
- In-depth review and analyses of the various audit Reports
- Develop guidelines for improvement of templates for proper post evaluation with covered entities.

## **WORK PLAN EVALUATION REPORT (ASSESSMENT OF PERFORMANCE AGAINST TARGETS AND ACTIVITIES SET OUT IN THE WORK PLAN)**

**PLEASE SEE Annexe 1**

### Activities conducted outside of the work plan 2014

ACTIVITY	OBJECTIVES
Visit to the President of the Federal Republic of Nigeria by the EITI Chair	Enhance the commitment of the Federal Government of Nigeria in the EITI process
Advocacy visits to very senior government officials such as: <ul style="list-style-type: none"> <li>• Secretary to the Government of the Federation</li> <li>• Minister of Finance</li> <li>• Minister of Petroleum Resources</li> <li>• Minister of Mines &amp; Steel Development</li> <li>• Executive Secretary Petroleum Technology Development Fund (PTDF), etc.</li> </ul>	Create awareness of NEITI reports and to have the buy-in of Government: generation of policies on extractive industry matters
Meetings with various donors most specifically: <ul style="list-style-type: none"> <li>• World Bank (MTDF)</li> <li>• Forster –DFID</li> <li>• GIZ</li> <li>• UNODC,</li> <li>• Embassies, etc.</li> </ul>	Seek for sources of funds to implement the EITI.
Attended House of Representatives public hearing on Supply, Distribution and Subsidy on Kerosene	Enlightenment of legislators on findings of NEITI reports and constructive engagement of the public in proffering solutions to the findings
Attended Senate hearing on \$49.8 billion unremitted funds to the Federation Account	Enlightenment of legislators on findings of NEITI reports and constructive engagement of the public in proffering solutions to the findings
Attended the PENGASSAN (senior staff association in Nigeria Oil & Gas industry) 4 <sup>th</sup> National Delegates Conference	Improve public understanding of the management of natural resources and public availability of data

Attended Department of Petroleum Resources Conference on Health, Safety and Environment	HSE as a tool in the management of natural resources
Held dissemination forum on transparency and accountability in the Oil and Gas sector with Centre for leadership and strategic development (Centre LSD)	Provide better awareness of the EITI process in Oil & Gas
Remediation Roundtable organized by Natural Resource Governance Institute (NRGI)	Encourage harmonization of remedial issues raised by NEITI reports in relation with reports by other bodies in Oil & Gas. Craft a strategic approach to address challenges to the remediation plan and the solutions moving forward
Workshop on Data Automation and meeting with stakeholders on Data Information Management in Oil & Gas respectively	Create a more efficient base for data collection
Training for the NSWG members on public procurement guidelines for the procurement of independent administrator to conduct the EITI report	To understand the relevant legal enactments in the procurement of an independent administrator: to conclude timely production of EITI reports
Training for Economic and Financial Crimes Commission (EFCC) staff on the use of NEITI report as a tool for investigating economic crimes in the extractive industry	Create a Memorandum of Understanding for the engagement of the EFCC in the EITI process.
Organised workshops with Publish What You Pay, CISLAC and FORSTER on the dissemination of the FASD Report (2007-2011)	Generate opportunities for discourse and productive engagement of stakeholders in the FASD (dissemination)
Attended Workshop on the Review and benchmarking of Nigeria Oil & Gas Sector	Provide a base for better understanding of the Oil & Gas sector in Nigeria.
Collaborated with African Network for environment and economic justice (ANEEJ) and held forum "Stop Impunity in the fuel subsidy management.	Create opportunities for dialogue and constructive engagement in finding solutions to corrupt practices in importation of petroleum

	products
Held Capacity building program for civil society organization's and the Media on new EITI standards on 22nd May 2014	Create a better understanding of the EITI Standards for civil society organisations
Participated at the 35th Kaduna international Trade Fair Forum.	Provision of an avenue for education and public enlightenment and the dissemination of NEITI's reports
Hosted the Kenyan delegation on media and civil society on learning mission to NEITI on 5th March 2014.	Peer learning to further understand the implementation of EITI in other countries
Delta State Beyond Oil	Encourage diversification of the Economy to increase sustainable growth
Crude Oil Theft Committee (NSWG Chairman)	Provide solutions to the incessant problem of crude oil thefts identified in the NEITI reports
Beneficial and Contract Transparency Workshop by Open Oil	Improve NSWG members and stakeholders understanding of ownership structure and contract terms in extractive industry for better accountability.
Invitations to various functions to speak on the EITI process and NEITI reports.	Create opportunities for dialogue and constructive engagement in the EITI process for better appreciation and understanding
Inter-Agency: NEITI conducted training for the Economic and Financial Crimes Commission (EFCC) on the principles of EITI.	Provide increase awareness on the deployment of EITI process as a tool to prosecute economic crimes in the extractive industry.

## ASSESSMENT OF PERFORMANCE AGAINST EITI STANDARD (REQUIREMENTS)

Requirements	Progress:
<p><b>Standard 1:</b> The EITI requires effective oversight by the multi-stakeholder group</p>	<p>The resolve of the Federal Government of Nigeria in the implementation of the EITI remains unequivocal, not only through the NEITI Act but also through various public statements by senior members of the Federal Executive Council, reiterating government's full commitment to constantly implement the EITI. At the inauguration in December 2013 of the new IMTT on remedial issues flagged by NEITI reports, SGF stated on behalf of Mr. President that <u>"President Jonathan fully supports and endorses the carrying out of regular NEITI audits as well as the prompt implementation of the remedial issues therefrom. Government considers them as vital tools in the committed task of accelerating the much needed reforms in the extractive sector of the economy. This is indicative of government's firm belief that transparency would definitely impact positively on other sectors, thereby limiting wastage, significantly reducing corruption, as well as increasing overall revenue"</u></p> <p>This commitment was repeated on several other occasions in 2014</p> <p>The MSG otherwise known as the NSWG is chaired by the prominent and world known civil society proponent in the person of Ledum Mitee who has the confidence and authority of all stakeholders to implement the EITI process.</p> <p>The composition of the NSWG is statute based and is comprised of 15 members of which three are from the civil society including the Chair. Others are from companies, extractive industry (experts) and government representatives. The activities of the NSWG are governed by a Board Charter and it operates without restraint or coercion in the implementation of the EITI.</p> <p>The NSWG had the statutory meetings in each quarter of the year ( see annex 2)where important decisions were taken to approve and implement the following :</p>

	<ul style="list-style-type: none"> <li>• An fully costed WP for 2014 (on website)</li> <li>• The appointment of Independent Administrators</li> <li>• Terms of Reference for the Independent Administrators</li> <li>• EITI reports and annual activity reports</li> </ul> <p>The NEITI NSWG has ensured continuous oversight of the EITI reporting process</p>
<p><b>Standard 2:</b> The EITI requires timely publication of EITI Reports</p>	<p>The NEITI concluded and published on its website the 2012 Solid Minerals Report before the deadline of 31<sup>st</sup> December 2014.</p> <p>The 2012 EITI Oil &amp; Gas Report was not ready in time to meet the EITI deadline of 31<sup>st</sup> December, 2014. However, upon a request from the NSWG for extension of time to publish the report, the Board of the EITI International granted an extension to 31<sup>st</sup> March 2015 for publication.</p> <p>The 2012 Oil Gas EITI was published on the 30<sup>th</sup> March 2015.</p> <p>The conduct of the FASD for 2011 to 2013 covering subnational transfers is seriously hampered by the lack of funds</p>
<p><b>Standard 3:</b> The EITI requires EITI Reports that include contextual information about the extractive industries</p>	<p>The NSWG approved the contextual information in both the 2012 EITI Oil &amp; Gas and 2012 Solid Minerals reports to contain:</p> <ul style="list-style-type: none"> <li>• Summary description of legal framework and fiscal regime</li> <li>• Overview of the extractive industries</li> <li>• Extractive industry contribution to the economy</li> <li>• Production data</li> <li>• State participation in extractive industries</li> <li>• Revenue allocation and sustainability</li> <li>• Licence register and licence allocation and</li> <li>• Beneficial ownership</li> </ul> <p>On contract disclosure, NEITI is doing all that is presently possible to encourage contract disclosure by covered entities. NEITI intends to organise a workshop for covered entities in 2015 on contract disclosure.</p>
<p><b>Standard 4:</b> The EITI requires the production of comprehensive EITI</p>	<p>At the onset of both the 2012 Oil &amp; Gas and 2012 Solid Minerals reports, NSWG in its Terms of Reference (ToR) to the respective independent administrators identified the:</p>



<p>Reports that include full government disclosure of extractive industry revenues and disclosure of all material payments to government by oil, gas and mining companies</p>	<ul style="list-style-type: none"> <li>• Streams of revenue to be disclosed and</li> <li>• Materiality levels for such disclosures.</li> <li>• Companies and government agencies to be reported.</li> </ul> <p>Both reports considered and reported (where applicable) on:</p> <ul style="list-style-type: none"> <li>• Sale of the state's share of production or other revenues collected in-kind (where applicable)</li> <li>• Infrastructure provisions and barter arrangements</li> <li>• Social expenditure</li> <li>• Sub national transfers</li> </ul> <p>However, the 2012 Oil &amp; Gas report could not provide any data on transportation because NIMASA which is the government agency superintending the Cabotage Act 2003 refused to provide data because of various litigations with some of the covered entities on the interpretation of Floating Production Storage Offloading vessels in marine transportation in the Oil &amp; Gas sector.</p>
<p><b>Standard 5:</b>The EITI requires a credible assurance process applying international standards</p>	<p>The appointment of IA for both reports for 2012 EITI were endorsed by the NSWG after a vigorous procedure set up by the Nigerian Public Procurement Act 2007 for their respective engagements: the IAs were perceived to be credible, trustworthy and technically competent</p> <p>The NSWG also agreed with the IAs on the</p> <ul style="list-style-type: none"> <li>• Terms of Reference</li> <li>• Reporting templates at an organised workshop</li> <li>• Audit and assurance process in companies and government entities</li> <li>• Confidentiality agreement for safeguarding data provided by the covered entities</li> <li>• Level of disaggregation</li> </ul> <p>Furthermore, an assurance process was put in place to ensure that the report complied with all laws, statutes and regulations for the time being in operation in Nigeria.</p> <p>The engagements were undertaken in accordance with the International Financial Reporting Standards (IFRS) on Related Services applicable to agreed-upon procedures</p>

	<p>engagements.</p> <p>The final reports from the IAs contained assessments recommendations, weakness, refusal of some companies to comply with the EITI process, etc.</p> <p>The Reports were duly endorsed by the NSWG prior to publication.</p>
<p><b>Standard 6:</b> The EITI requires EITI Reports that are comprehensible, actively promoted, publicly accessible, and contribute to public debate.</p>	<p>During the period under review the dissemination activities of the reports were held with positive impacts on NEITI's mandate. The NSWG ensured that paper and electronic copies of the reports were produced, widely distributed and publicized: carried by the media and placed on the NEITI website.</p> <p>Executive Summaries of the reports were also produced.</p> <p>Simplified version of the 2008-2011 Oil &amp; Gas and the 2007-2011 Fiscal Allocation and Statutory Disbursement were produced and disseminated.</p> <p>These have attracted and encouraged vibrant public debate.</p> <p>Brief summaries and power point presentation of the reports were produced both in hard copies and electronic form.</p> <p>Capacity building was also encouraged with the civil society in the use of the respective reports to engage Government for improved accountability.</p>
<p><b>Standard 7:</b> The EITI requires the multi-stakeholder group to take steps to act on lessons learnt and review the outcomes and impact of EITI implementation</p>	<p>Various discrepancies and like-issues were identified in both reports. These have been subsumed under the umbrella of the Remediation Programme being superintended by the IMTT to tackle issues raised in the reports.</p> <p>These remedial issues have been captured and classified, and a remediation action plan involving all the entities from both the government and companies is in place to ensure, effective and efficient tackling of the issues identified going forward.</p> <p>The President of the Federal Republic of Nigeria reconstituted the IMTT in December 2014 with instructions that attendance</p>

	<p>by members shall be at the decision making level of each member. This was to ensure that decisions of the IMTT are quickly implemented by those who have the authority to do so.</p> <p>Please see chapter on remediation for a more comprehensive reporting of the remediation drive</p>
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## REMEDIATION

The FGN established the IMTT: a group of government, petroleum, mining and financial department heads to address the sector lapses identified in NEITI audit reports over the years. The IMTT is to ensure that remedial issues are adequately addressed by taking responsibility for the custody, management, monitoring and regulation of extractive industries revenues with the primary mandate of developing an efficient interface framework to address remedial issues.

In late December 2013, the President of FGN re-constituted the membership of the IMTT to include department heads of key institutions that would enable the issues raised to be treated at the highest decision level of government. It includes amongst others high ranking government officials, Chief Economic Adviser to the President of Nigeria, Permanent Secretary Ministry of Finance. This was to ensure that decisions of the IMTT were quickly implemented by those who had authority to do so.

The IMTT met on the 13<sup>th</sup> February 2014 and 5<sup>th</sup> August 2014 to discuss the issues listed below especially in the Oil & gas Sector.

A roundtable discussion was also organized by the NRGI on the 26<sup>th</sup> May 2014, to discuss remedial issues from reports on Oil & Gas. It was attended by relevant stakeholders including high ranking legislative officers, executive government officials companies, civil society, etc.



Cross section of participants at a round table discussion on remediation of the NEITI 2012 Oil & Gas Report

<b>a. Oil &amp; Gas remedial issues concluded</b>			
<b>S/N</b>	<b>REMEDIAL ISSUE</b>	<b>REPORT FINDINGS (RECOMMENDATION)</b>	<b>ACTION/PROGRESS</b>
1	EDUCATION TAX	Ensure the collection of education tax from covered entities: Federal Inland Revenue Service (FIRS). FIRS assessed the amount of \$540,989,604.37 as against the audits findings of \$667.8million.	The sum of \$ 355,293,274.07 was collected and the sum of \$184,572,673 was set off by the companies against PPT as Section 10 deductions.
2	ACCOUNTING FOR IN-KIND TRANSACTIONS - PSC	Previous NEITI audit reports noted unresolved accounting issues for In-kind transactions.	FIRS and Department of Petroleum Resources (DPR) have addressed the issue by opening separate accounts in 2007 for Tax and Royalty proceeds and monthly reconciliation meetings are held to ensure smooth implementation of the resolutions.
3	SIGNATURE BONUS	DPR collects signature bonus whilst	DPR has started

		NNPC executes the PSC agreement. However, NNPC does not inform DPR of the date of signing of each PSC to ensure collection of the signature bonuses. This created difficulties in obtaining reliable and comprehensive information on the arrears of signature bonus.	implementing an appropriate accounting system to manage all signature bonus commitments entered into by companies.
4	PETROLEUM PROFIT TAX (PPT)	Collection of under assessed PPT from Chevron and Mobil	The sum of \$62,960,401 has been collected.
5.	SALES OF GOVT CRUDE	NNPC ought to pay for domestic crude allocation within 90 days of the bill of lading, but does not.	A monitoring framework has been developed jointly by Office of the Accountant General/RMAFC and NNPC to ensure that payments are made by NNPC as at when due.
<b>b. Oil &amp; Gas ongoing remedial issues</b>			
S/N	<b>REMEDIAL ISSUE</b>	<b>REPORT FINDINGS (RECOMMENDATION)</b>	<b>ACTION/PROGRESS</b>
1	BID ROUNDS	Some oil blocks are subjects of court litigation in relation to DPR's right to offer the blocks e.g. (OML 13, 16, & 69). This has created delays in the allocation of the blocks with attendant setbacks in production and income loss to the Federation,	DPR has initiated an out of court settlement and IMTT has also written to the Minister of Petroleum Resources to resolve the issue.
2	RIGHT OF FIRST REFUSAL	In the 2007 licensing round, the 'Right of First Refusal' was introduced with preference to bidders offering to construct downstream processing projects and infrastructure. Litigation and other issues arising from the bids have affected the takeoff of the projects.	IMTT is in the process of setting up a working group to propose a draft guideline on how future bidding process can be carried out on right of first refusal for the future.
3	PPT VALIDATION	Dispute as to the use of Realisable Price (RP) or the Official Selling	Awaiting the outcome of a ministerial

		Price (OSP)for PPT fiscal value led to an underpayment of \$690,104.000	committee set up to look into the matter of fiscal values (OSP and RP).
4	PPT AND CARRY AGREEMENTS	NNPC has carry agreements with some of its Joint Venture partners. Some significant amount of PPT under assessment was noticed by the audits in this arrangement	Updated status report from FIRS is been expected on the current reconciliation exercise with the companies.
5	ROYALTY VALIDATION	An estimated sum of US\$ 2,333 million was under assessment of royalty payments for the 2006-2008 due to inappropriate application of price variable in the determination of fiscal value for royalty calculation. DPR has done reconciliation from 1990 to 2012.	Progress has been made in modifying the price methodology by both parties.
6	NON FINANCIAL FLOWS	Disputes on the 1993 Production Sharing Contract (PSC) on Cost, Capital allowances, PPT and Royalty Liabilities between NNPC and the contractors persists.  These disputes are presently before an arbitration panel. Several arbitral wards have been given against NNPC: total potential contingent liability against the NNPC currently stands at USD9 billion with annual increase of USD3 billion if the adverse ruling are not reversed	Government was advised to renegotiate the terms of the 1993 PSCs with the companies
7	DIVIDEND FROM NLNG TO NNPC	NEITI audit reports have confirmed that the sum of \$8.836 billion has been received by NNPC but not remitted into the Federation account required by law. IMTT Resolution: Resolve issue between NNPC and the Government is required: Ensure NNPC pays the funds into the	Government has been advised to ensure that NNPC remits the funds to the Federation account

		Federation account	
8	REPLACEMENT OF THE 2000 MOU	A new MOU is required to determine the fiscal regime relating to the dispute between RP and OSP	This has been taken care by its inclusion in the PIB containing a new fiscal regime.
9	PRODUCTION SHARING CONTRACT (GAS TREATMENT)	The PSCs do not make any provision for the treatment gas available for commercial exploitation, other than the parties should execute separate agreements. Such agreements have not been expected.	Government was advised to ensure the signing of these agreements
10	MEASUREMENT OF CRUDE OIL FOR PAYMENT OF ROYALTY	The industry has no uniform and consistent practice regarding the point at which production is measured for royalty purposes	DPR is to provide a uniform basis for measurement of crude oil  DPR has proposed a new measurement guideline which was meant to take effect in the Q3 2014
11	MANAGEMENT OF REFINED PRODUCT IMPORTATION AND DISTRIBUTION	The method of measuring and recording refined products by Petroleum Pipelines Marketing Company (PPMC) and DPR are fragmented, out dated, and paper based, therefore subjected to error.	PPMC has embarked on the conversion of the loading meters in the depots from Analogue to Digital. The conversion project has already commenced at some depots nationwide.
12	PIPELINE MOVEMENTS AND LOSSES OF PETROLEUM PRODUCTS THROUGH THEFT AND SABOTAGE	A lot of pipeline theft and sabotage was identified by the report arising from obsolete/defective equipment, and vandalization The report observed a loss of 529.422 million litres of PMS (equivalent of over =N= 34.4 billion) in the Mosimi area alone.	NNPC is collaborating with the relevant security agencies to minimize losses. It is also reviewing various proposals on hi-tech option to minimise vandalism. The Chairman of the IMTT belongs to the presidential task team on crude oil theft and is



			the team is working assiduously to curb this practice.
13	MEASUREMENT PROCESS	It was discovered that metering and measurement process for upstream and downstream were lacking in terms of access, reliability and quality controls among others things. Measurement guidelines not updated by DPR.	DPR is to ensure the measurement process is according to international standards.
14	PIONEER STATUS FOR COVERED ENTITIES	Some covered entities that have long been existence should not be enjoying pioneer status with benefit tax waivers.	The covered entities are still enjoying pioneer status. The Federal Ministry of Finance is reviewing the pioneer status.
15	DEDUCTION OF SUBSIDY FROM DOMESTIC CRUDE REVENUE	NNPC should be stopped from continuing to pay domestic crude allocations less subsidy claims into the Federation Account without legal backing and authority to make such deductions.	The practice continues pending the resolution of the PPPRA Act and the NNPC Act. This is in progress.
16	EXCHANGE RATES USED FOR CONVERSION OF US\$ INTO NAIRA FOR DOMESTIC CRUDE ALLOCATIONS.	The dollar/ naira foreign exchange rate used by the NNPC to pay for domestic crude oil allocation into the Federation Account is lower than Central Bank of Nigeria (CBN) advised rates. NNPC should apply the CBN exchange rate in invoicing domestic crude allocation	NNPC, CBN, RMAFC to settle the issue as soon as possible.
17	PRODUCT EXCHANGE AND IMPORTATION ARRANGEMENTS	The 2009-2011 report identified that this process is not cost efficient. NNPC is advised to discontinue these arrangements. NNPC should resort to exportation of crude oil and importation of refined petroleum products only and not a mixture of both.	Government has been duly informed that this process is fraught with transparency and accountability issues and should be stopped immediately

18	FISCAL REGIME USED BY ADDAX IN ROYALTY COMPUTATIONS	<p>In computing their respective royalties, production volumes were graduated by Addax and Agip in tranches (apparently based on their interpretation of a side letter) rather than absolute production level as required in section 6 of PPTA (Sec 6 LFN 2004) , Sec 63( LFN 2004), and Sec 61 (4) of the Petroleum (Drilling and Production) Regulations. The effect of this deviation by Addax alone is in the sum of \$449,602,975, counting as a loss to the Federation for the period under review and this figure is increasing each year.</p>	<p>The matter is now in the Supreme Court for final adjudication.</p> <p>Government is advised look into the issue of Side Letters and its implications.</p>
<b>c. Solid Minerals (2007 – 2012)</b>			
S/N	REMEDIAL ISSUE	REPORT FINDINGS (RECOMMENDATION)	ACTION/PROGRESS
1	ROYALTY PAYMENTS	<ul style="list-style-type: none"> <li>• Royalty payments were made by the companies without adequate details of quantity produced or mined.</li> <li>• No known Solid Minerals Industry Tax Policy documentation being followed by the companies.</li> <li>• Revenue leakages in the export of minerals e.g.15.2 m (FOB) of Ore was exported without payment of royalty. Estimated Revenue loss arising from these lapses sum up to =N= 70.3m</li> </ul> <p>Audit Recommendation:</p> <ul style="list-style-type: none"> <li>• Develop reporting framework making it mandatory for disclosure of production quantities.</li> <li>• Compute royalty on the basis of bill of quantities submitted by companies.</li> <li>• Review of the present industry fiscal regime by providing a</li> </ul>	<p>The MMSD has set up a committee to address all recommendations of the NEITI audit reports from 2007-2012. The committee's work is almost done and IMTT awaits the submission of the report.</p>

		<p>dynamic and industry wide simplified method of calculating royalty payments on solid minerals.</p> <p>An effective framework to be produced by MMSD, CBN and other relevant agencies for the payment of royalty.</p>	
2	PRICING	<p>Royalty payments are based on price schedule prepared by the MMSD in 2002 as against the current price. The audit revealed that royalty payment for granite for example was based on tonnage price of ₦800 as against ₦2000 to ₦3000 during the audit period. This has the effect of reducing the federation revenue collections from royalty to the tune of ₦4.048 billion</p> <p>Audit Recommendation; The MMSD needs to review price list as a policy to ensure the present market rates are used.</p>	<p>The MMSD has set up a committee to address all recommendations of the NEITI audit reports from 2007-2012. The committee's work is almost done and IMTT awaits the submission of the report.</p>
3	EXPORT/ILLEGAL MINING ACTIVITIES	<p>The Nigerian Minerals and Mining Act 2007 require that any exporter of solid minerals must request for permit to export. No evidence of a request for a permit or permit was provided.</p> <p>Audit Recommendation</p> <ul style="list-style-type: none"> <li>• MMSD to interface with the Ministry of Trade and Investment and other relevant agencies to ensure that no Solid Minerals is exported without authorization.</li> <li>• The establishment of boarder market at strategic boarder points across the country to bring about flexible market control and provide a means of monitoring solid minerals sold in the international market.</li> </ul>	<p>The MMSD has set up a committee to address all recommendations of the NEITI audit reports from 2007-2012. The committee's work is almost done and IMTT awaits the submission of the report.</p>

4	ENVIRONMENT ISSUES	<p>The report observed wide spread environmental hazards that were caused by artisanal (ASM) and small scale miners</p> <p>Audit Recommendation: Encourage adherence to the provisions of the mining and other relevant laws affecting the environment. Enhance site monitoring during commissioning and decommissioning of mines to ensure compliance with the relevant provisions of the Mining Act.</p>	<p>The MMSD has set up a committee to address all recommendations of the NEITI audit reports from 2007-2012. The committee's work is almost done and IMTT awaits the submission of the report.</p>
5	CGT)	<p>Some covered entities operating in the solid minerals sector do not pay CGT.</p>	<p>FIRS has commenced work to recover outstanding tax liabilities on CGT</p>
6	PRODUCTION DATA	<p>The production data provided by the Mines Inspectorate Department was based on self-declarations submitted from the extractive companies. Some of the quantities reported by the Mines Inspectorate Department do not match the corresponding royalty amounts</p> <p>Audit Recommendation on Production data: Develop procedures and systems to collect and control production data</p>	
7	GOVERNANCE ISSUES	<ul style="list-style-type: none"> <li>• Lack of adequate mapping of the solid minerals landscape and adequate infrastructure to encourage investment</li> <li>• 13% derivation payment to solid minerals producing states was not paid.</li> <li>• Lack of framework for segregating different types:</li> </ul>	<p>The MMSD has set up a committee to address all recommendations of the NEITI audit reports from 2007-2012. The committee's work is almost done and IMTT awaits the submission of the report.</p>

		<p>companies that are engaged in both quarrying and construction/manufacturing operation do not differentiate the revenues earned from each activity. Consequently measurement of such activities against relevant legislations/regulations may be difficult in view of the operational complexities.</p>	
<p><b>d. Fiscal Allocation and Statutory Disbursement (FASD) Audit report 2007- 2011.</b></p> <p>The IMTT is yet to sit on the recommendations of the FASD.</p>			

### Challenges of IMTT

- Lack of adequate funds for the IMTT to meet regularly, continues to be an issue. The IMTT is comprised of 18 agencies with NEITI as the Chair and the Secretariat. The cost of meeting greatly affects the work of the IMTT.
- Representation at the decision making level and consistency in representation (by same staff of the member agencies) continues to stifle prompt settlement of remedial issues
- The political will power to implement the recommendations.

## GOVERNANCE

Details of NSWG membership and attendance of meetings during 2014.

**Please see Annex 2**

### STRENGTHS IN THE IMPLEMENTATION OF THE EITI

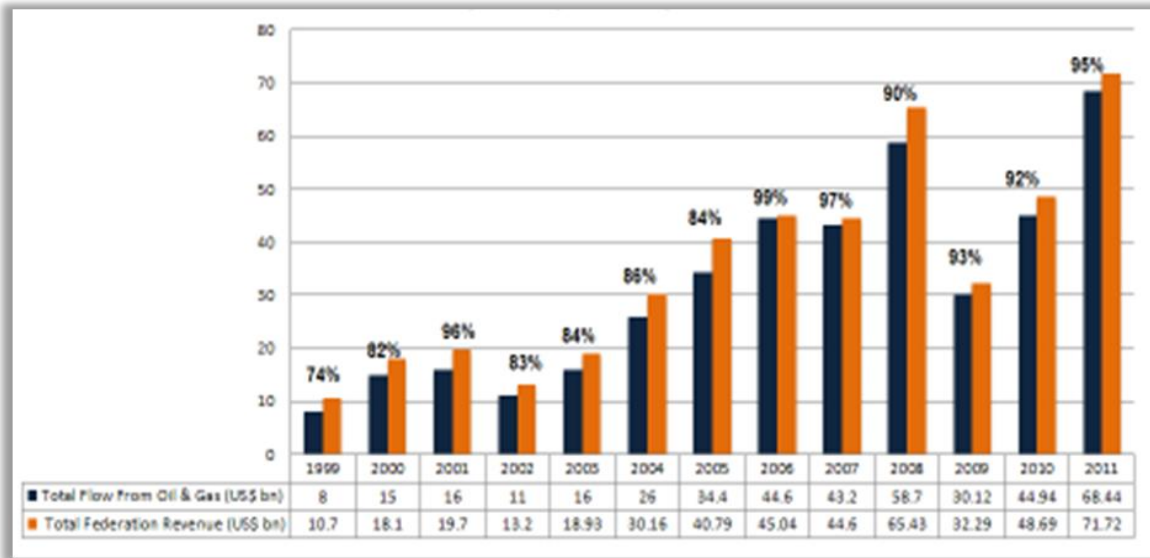
The full impact of the activities of the NEITI is reflected in the benefits derived by Nigerians from the EITI process. However the full impact can only be well appreciated after the necessary reforms (recommendations) envisaged by the reports are implemented.

Nonetheless the EITI process in Nigeria has been able to establish serious impact in the following areas:

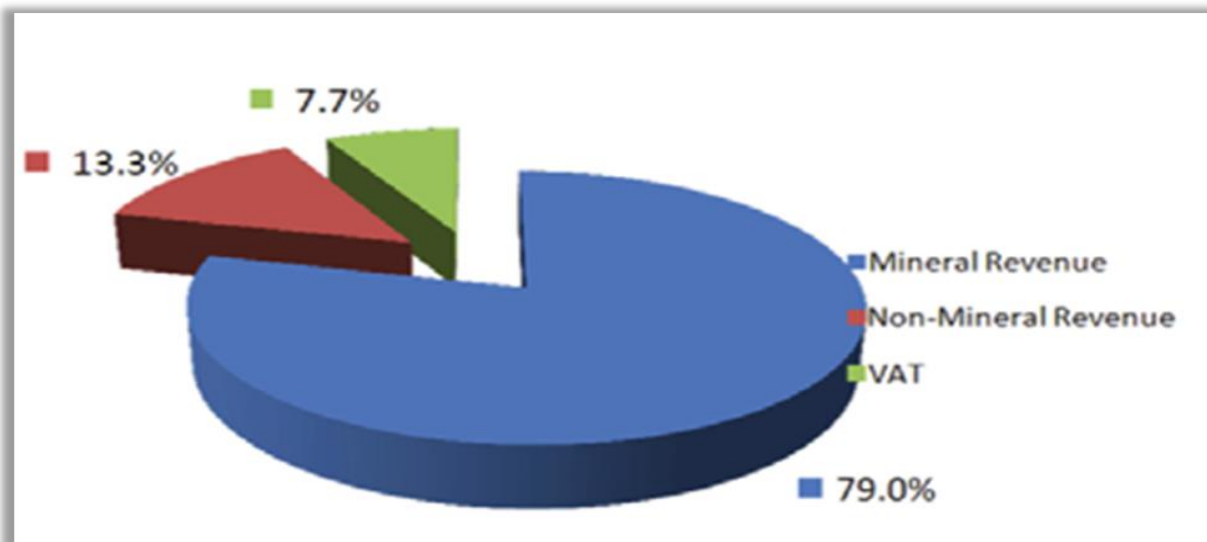
## The Economy

The NEITI reports have clearly pointed the way on how to increase the revenue accruing to the Federation Account. As citizens become more aware of the issues on transparency and accountability in the payment and receipts of revenue from the extractive industry, so also has the revenue going to government and investment prospect for foreigners in the Nigerian economy have increased. Payment received into the Federation Account through the work of the IMTT has also boosted the revenue to the Government further.

### Percentage of Oil & Gas Revenue Inflow into the Federation Account 1999 - 2011



### Mineral Revenue Contributions to the Federation Account 2007-2011



### Recovery through implementation of NEITI Audits

From the inception of the NEITI Oil & Gas report in 1999 to 2011, have revealed a total revenue loss of \$9.8bn. However, NEITI working with some government agencies have recovered a total of \$2.4bn during the period 1999 to 2011. The breakdown is as follows:

1994 – 2004 Report	→	→	→	→	→	→	→	<b>\$1bn</b>
2005 Report	→	→	→	→	→	→	→	<b>\$550m</b>
2006 - 2008 Report	→	→	→	→	→	→	→	<b>\$447m</b>
2009 - 2011 Report	→	→	→	→	→	→	→	<b>\$416m</b>

### Public Awareness

NEITI reports have taken a totally different dimension in the psyche of Nigerians in the last couple of years. From not knowing the name “NEITI” to not knowing what NEITI does, NEITI has become a household name in transparency and accountability in the extractive industry. The increasing public awareness and education has further resulted in massive public demands for reforms in the Oil and Gas sector. For instance the Oil & Gas report of 2009-2011 also brought out many issues, such as fuel subsidies payments, petroleum profit tax under assessment, crude oil allocation, etc. to public limelight. By placing data and information in the public domain, NEITI empowers Nigerians to demand for accountability in the revenues derived by the government.



Participants at the capacity building program for the Media & the CSO in Abuja (L. Mitee Chairman NSWG in the middle)



All other recent major reports in the Oil & Gas sector in Nigeria have taken their foundation from the NEITI reports. Such reports are:

- KMPG audit report on NNPC ( September 2010)
- House of Representatives Ad-hoc Committee Report on Fuel subsidy regime ( April 2012)
- Aig-Imoukhuede led Technical Committee report on Payment Subsidy Claims (2012)
- Kalu Idika Kalu led Task Force report on National Refineries (August 2012)
- Nuhu Ribadu led Petroleum Revenue Special Task Force report
- Senate Committee Report on the alleged unremitted US\$49.8 billion Oil Revenue by NNPC (2014)
- PricewaterhouseCoopers (PwC) 2015.

The findings of these reports are in consonance with the NEITI's reports.

### **Improved Accountability**

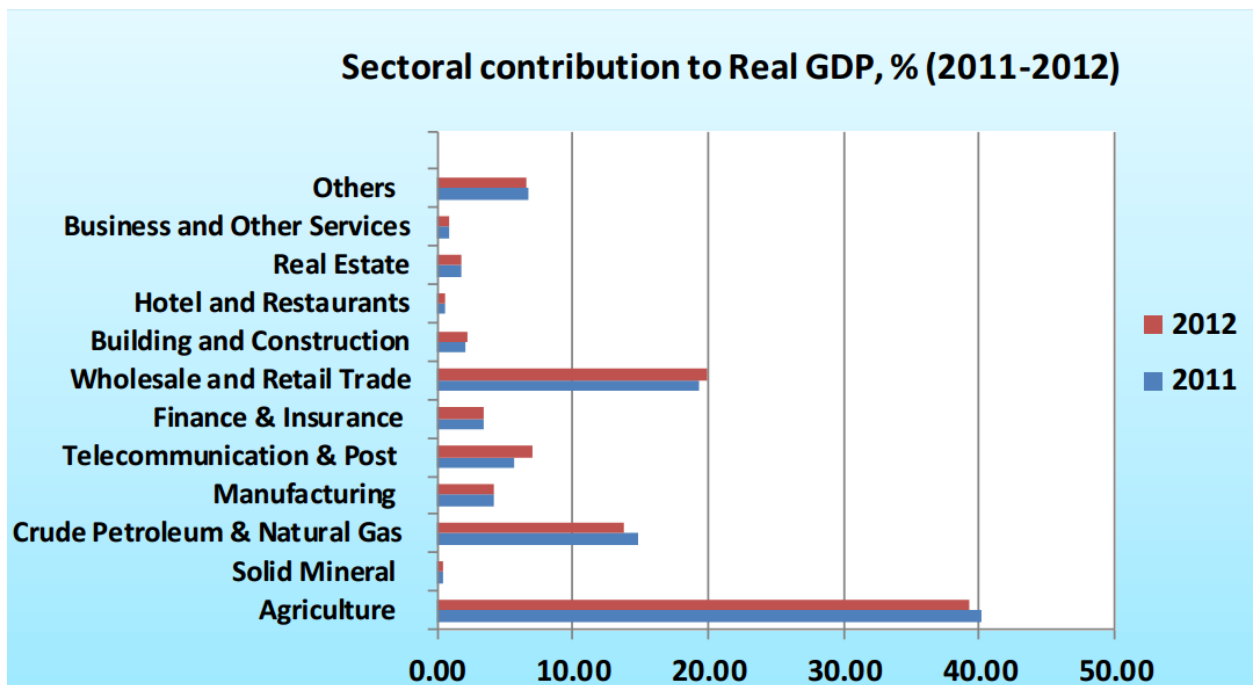
NEITI's reports have led the widening acceptance of the necessity for due process. There is growing acceptance of the imperative of promoting accountability and ending corruption in revenue payments and receipts in the sector. Citizens' welfare is likely to be maximized when there is an engrained culture of transparency and accountability. Translating the benefits of reform into citizens' welfare has received impetus from the NEITI's programme of empowering civil society through training and other forms of capacity building to hold government to account at every level.

### **Inter-agency collaboration**

NEITI activities have led to greater collaboration between the legislative, civil society, companies and government for better governance in the extractive industry sector especially in Oil and Gas. The Petroleum Industry Bill (PIB) which is presently before the National Assembly is government's response to public demands for reforms in the Oil and Gas sector, is a direct product of NEITI operations in that sector. This is in addition to series of legislative probes and interventions arising from the NEITI process.

### **Solid Minerals as another major source of revenue**

The 2012 Solid Minerals report clearly shows that the solid minerals sector's contribution to the main macro areas of the productive industry is still very minor: employment 0.30%, GDP 0.12% and Exports 0.02% (page 9 of the report)

**Figure 2: Sectoral contribution to Real GDP growth, 2011-2012, in percentages**

Page 18 of the 2012 Solid Minerals Report

However, with the advent of the first Solid Minerals Report of 2007-2010 and subsequent reports thereafter, the expectation for an increase in the investment in solid minerals as a major source of revenue is very bright.

NEITI reports are helping to develop the sector by ensuring that there is a transparent and investor-friendly regulatory framework in place. NEITI has had a lot of enquiries from possible investors in solid minerals as a result of the reports.

The Minister of MMSD has set a Committee to look at the remedial issues raised in the reports as the basis for a better regulatory framework

The trend established in the 2012 report "Government Revenues from the solid minerals sector increased from NGN 26,853 million in 2011 to NGN 30,180 million in 2012" is expected to rise at a faster rate in the future.

#### Internal reforms

This has to do with several ongoing internal reforms among government agencies that are responsible for management of extractive industry revenues as a result of NEITI's operation. For instance NNPC has set up a new unit "Regulatory and Compliance" to promptly expedite action with other agencies as a result of the NEITI reports. Other agencies have also undertaken various tasks especially in computer software to enable quick capture of data required by NEITI.

### Legislative reforms

**Petroleum Industry Bill (PIB).** NEITI's Oil & Gas reports have generated a lot of debate. The earlier reports are the basis of the PIB presently before the National Assembly. The need to eradicate the opacity in the Oil & Gas sector in conformity with the EITI process has long been expressed in all the reports. NEITI presented a strong position paper to the National Assembly on the restructuring of the Oil & Gas industry in 2013. NEITI was also invited in 2014 at different occasions to make presentations on the PIB and reforms needed to remove the opacity. A few highlights of the presentation are:

- i. The EITI process should be applicable to all extractive industry companies and agencies in the oil & gas sector and not only agencies and companies created under the PIB.
- ii. Creation of strong autonomous regulatory institutions that will promote transparency, good governance and management of petroleum resources.
- iii. Creation of a Register of License, contracts, corporate entities that bid for, operate or invest in upstream, including identities of beneficial owners that will be open to the general public
- iv. Conversion of existing Joint Venture operations to Production Sharing Contracts for better efficiency and to eliminate cash calls problems.
- v. Provisions for independently verifiable metering of production.
- vi. All future PSCs should contain price review and negotiation clauses

### Capacity building

Various capacity building programmes were conducted for the NSWG members during the year. Apart from building the capacity of the NSWG members and the NEITI secretariat staff, capacity building exercises were also arranged for professional bodies and government agencies to educate them on the technical aspect of EITI implementation are included in the work plan.

## INNOVATIONS IN THE IMPLEMENTATION OF THE EITI

Given the impact of NEITI's activities on the citizens of Nigeria and the need to maintain international standards of transparency and accountability NEITI continues to create new avenues in order to improve its reports in becoming more encompassing, innovative, reader friendly and efficient as a working tool for creation and maintenance of growth in the management of extractive industry sector . Some of the strengths and innovations that continue to make strides for NEITI in 2014 are:

**IMTT**

The essence of the IMTT as an innovative tools in the implement the recommendations of the reports cannot be over emphasized. With the progression from transparency to accountability as envisaged by the SP, the IMTT plays a pivotal role in ensuring that recommendation are followed, otherwise the full impact of NEITI's reports would not be adequately felt.

**Bid rounds**

NEITI Act 2007 Section 3 (b) states that “ without prejudice to any relevant contractual obligations and sovereign obligations the practices of all extractive industry companies and government respectively regarding acquisition of acreage, budgeting, contracting, materials procurement and production cost profile in order to ensure due process, transparency and accountability”

Nigeria has not had an oil bid round for the past 6 years. Roadshow shows were held in 2014 by the Department of Petroleum Resources for an imminent bid round. NEITI is about to enter a new phase in the implementation of transparency through meaningful evaluation in the award of oil and gas acreage in Nigeria.

**Value for Money Audit (VFM)**

NEITI is also looking eventually to conduct a Value for Money audit. A VFM assesses the effectiveness and efficiency of the utilization of revenues derived from the extractive industry. This is in line of the objective of moving from transparency to accountability.

**Civil Society Steering Committee of the NSWG**

This is a committee of the NSWG comprising of civil society organisations, the media and professional associations. Its main function is on grassroots advocacy on extractive industry. Its operations are governed by an executed Memorandum of Understanding between it and the NSWG.

It is also very involved in the provision of strategic direction on remediation advocacy.

Basically, it is a fast link between the NSWG and the grassroots in the implementation and awareness of the EITI.

**CHALLENGES**

As NEITI plays a stronger and more wide-ranging role in managing in the Nigerian economy through the EITI process, more challenges are been encountered, such as

**Lack of funds**

Funding has been one of the major challenges to NEITI in the achievement of its objectives. The NEITI budgetary allocation from the Federal government is not sufficient to take care of the planned activities of the work plan, and as such NEITI depends on the Donor agencies grants to supplement budgetary allocation.

However, in many cases funds are not accessible due to stringent policies and timing of the donor agencies.

For instance, during the year 2013 the total funds required for the planned activities was **1,349,072,980** but only 673,268,270 was available under federal Government funding. This trend has continued into 2015.

<b>Total Work plan Funding Required (N)</b>	<b>FGN Funding (N)</b>	<b>MDT Funding WB (N)</b>	<b>Shortfall (N)</b>	<b>Remarks</b>
1,349,072,980	673,268,270	75,300,000	602,207,181	

### **The dependence on political will**

This might sound like a paradox because on the one hand EITI requires autonomy from the executive arm of government as much as possible, whilst on the other hand NEITI would need to rely on strong political will from the government to tackle the anomalies in the extractive industries. Political will goes further than just creating the IMTT but also to ensure that:

- constant positive pronouncements are made about the implementation of the EITI and
- recommendations of the NEITI reports are implemented by the IMTT

### **Review of the NEITI Act 2007**

NEITI, besides being an integral part of an International EITI, established by law, which is monitored, supervised, and periodically certificated internationally, is also a municipal legal entity. The operations of the NEITI are guided principally by the NEITI Act 2007 and the EITI Standard. However in spite of the great gains achieved by NEITI since the Act was enacted, the NSWG is desirous of seeking some amendments to the Act to ensure greater impact of the EITI process in the future.

### **Record keeping and automation**

Data collection is very cumbersome and tedious because of the different methods of data generation and record keeping employed by government agencies is a problem. However NEITI through the MDTF is currently working on an automated process for the collection of data which would greatly improve the EITI process.

## **CONCLUSION**

A draft report of the abovementioned activities (AAR) was sent to the Civil Society Steering Committee and the associations representing the respective companies in the

extractive industry for their inputs. The report was further disseminated to their respective members for their comments.

Upon the receipts of their inputs the NSWG met to evaluate and analysis the inputs before incorporation.

The NSWG met on the 18<sup>th</sup> June, 2015 to approve this report.