

REPORT OF THE JOINT COMMITTEE ON PETROLEUM RESOURCES, JUSTICE, SOLID MINERALS, AND FINANCE ON A BILL FOR AN ACT TO MAKE PROVISION FOR THE ESTABLISHMENT OF THE NIGERIA EXTRACTIVE INDUSTRY TRANSPARENCY INITIATIVE (NEITI) AND OTHER MATTERS CONNECTED THEREWITH, 2005

1.0 Introduction

1.1 It will be recalled that the above Bill was referred to the Joint Committee for further legislative action by this Honourable House on Wednesday, 27th July, 2005.

2.0 Objective of the Bill

2.1 This important Bill primarily seeks to make provision for the establishment of the Nigeria Extractive Industry Transparency Initiative (NEITI) and Other Matters Connected Therewith with a view to:

- a. ensuring due process and transparency in the payments made by extractive industry companies to the Federal Government and its agencies;
- b. ensuring accountability in the revenue receipts of the Federal Government from extractive industry companies;
- c. eliminating all forms of corrupt practices in the determination, payments, receipts and posting of revenue accruing to the Federal Government from extractive industry companies.

3.0 Legislative Action by the Committee

3.1 Public Hearing

3.2 Giving the central position of the extractive industry in the Nigeria economy, and with a view to gathering realistic and useful contributions on the Bill from experts, a public hearing was conducted. The hearing was well attended by stakeholders and experts from the extractive industry who contributed meaningfully at the proceedings.

4.0 Observations

4.1 Having analysed and examined the submissions made at the hearing, which were corroborated with the submissions from the Auditor-General for the Federation and the Attorney-General of the Federation; the Joint Committee observed as follows:

- i. That there is no provision for checks and balances in Clause 4(3) of the Bill, i.e. appointment of Independent auditor and Publication of Report;
- ii. That under Clause 6(2) i.e. Composition of the National Stakeholders Working Group (NSWG), the National Assembly members and Ministry of Finance are not included in the appointment of the NSWG;
- iii. That Clause 13(1)(a) – Financial Provisions failed to recognise the National Assembly as the appropriation authority; and
- iv. That it is morally wrong for NEITI to receive grants, donations and gifts from Extractive industries, companies, and bodies.

5.0 Recommendations

5.1 In view of the above observations and the importance of the Bill to the Nigerian economy, the Joint Committee recommends as follows:

- i. That in Clause 4(3) immediately after “upon the completion of an Audit Report”, insert the following “the Auditor-General for the Federation and”;
- ii. That in Clause 6(2), composition of the National Stakeholders working Group. President should consider the appointment of National Assembly Members into the NSWG as follows:
 - a. Immediately after “In making appointments into the NSWG, the President shall as much as possible include” insert “National Assembly members”;
 - b. Immediately after “the civil society”, insert “Federal Ministry of Finance”, and
 - c. Immediately after “unions in extractive industry” insert “n choosing officers of the NSWG, protocol must be respected”.
- iii. That Clause 13(1)(a) should recognise that National Assembly has the power of appropriation. Therefore immediately after “such sums as may be provided by the Federal Government”, insert “and appropriated by the National Assembly” hitherto.
- iv. That 13(1)(b) should be replaced with “The NEITI shall not receive grants from Extractive Industries, companies, and bodies.

6.0 Conclusion

6.1 The Joint Committee hereby enjoins this Honourable House to support this Bill and give expeditious passage into law.

Thank you.

Hon. (Dr.) Cairo Ojougboh

Hon. Alex Nwofe

**A BILL FOR AN ACT TO MAKE PROVISION FOR THE ESTABLISHMENT OF
THE NIGERIA EXTRACTIVE INDUSTRY TRANSPARENCY INITIATIVE
(NEITI) AND OTHER MATTERS CONNECTED THEREWITH**

Clause	PROVISIONS FOR THE PRACTICAL BILL	Joint Committee's Recommendation	House Recommendations
	Commencement. Be it Enacted by the National Assembly of the Federal Republic of Nigeria as follows:-	Retained	
1.	Establishment of the Nigeria Extractive Industry Transparency Initiative. (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" (2) The NEITI shall be autonomous self-accounting body, which shall report to the President. (3) The NEITI may acquire, hold and dispose of real and personal property.	Retained	
2.	Objectives. The primary objectives of the NEITI are: a. To ensure due process and transparency in the payments made by extractive industry companies to the Federal Government and its Agencies;	Retained	

	<ul style="list-style-type: none"> 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. 		
<p>3.</p>	<p>Functions.</p> <p>For the purpose of realising its objectives under this Act, the NEITI shall perform the following functions:</p> <ul style="list-style-type: none"> 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 receive 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 	<p>Retained</p>	

	<p>Federal Government from extractive industry companies, including taxes, royalties, dividend, bonuses, penalties, levies and such like, are duly made;</p> <p>g. To identify weaknesses and undertake measures that will enhance the capacity of any relevant organ of the Federal, State and Local Government having responsibility to monitor revenue payments by extractive industry companies to the Federal Government;</p> <p>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, at it may consider necessary.</p> <p>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.</p>		
<p>4.</p>	<p>Appointments of Independent auditor and Publication of report.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p>	<p>Retained</p> <p><i>(3) Upon the completion of an Auditor Report, the independent auditor shall submit the report to National Assembly, NEITI, the Auditor General of the Federation and cause same to be published for the information of the general public.</i></p>	

5.	<p>The National Stakeholders Working Group.</p> <p>(1) The governing body of the NEITI shall be the National Stakeholders Working Group, hereinafter in this Act referred to as “the NSWG”.</p> <p>(2) The NSWG shall be responsible for the formulation of policies, programmes and strategies for the effective implementation of the objective and the discharge of the functions of the NEITI.</p> <p>(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</p>	Retained	
6.	<p>Composition of the National Stakeholders Working Group.</p> <p>(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.</p> <p>(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.</p> <p>(3) The NSWG appointed by the President before the commencement of this Act shall remain valid as if appointed under this Act.</p>	<p>Retained</p> <p><i>(2) In making appointments into the NSWG, the President shall, as much as possible, include National Assembly members, extractive industry experts, the civil society, Federal Ministry of Finance and members of labour unions in the extractive industry. In choosing officers of the NSWG, protocol must be respected.</i></p>	
7.	<p>Tenure of Office of NSWG.</p> <p>A person appointed as members of the NSWG shall hold office for five years and shall be eligible for reappointment</p>	Retained	
8.	<p>Allowance to be paid to the NSWG.</p>		

	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.	Retained	
9.	<p>Meeting of NSWG.</p> <p>(1) The NSWG shall ordinarily meet for the dispatch of business at such times and places at it may determine, but not less than four times in a year.</p> <p>(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.</p> <p>(3) Questions proposed at a meeting of the NSWG shall be determined by a single majority of members present and voting and, in event of an equality of votes, the person presiding shall have a second or casting votes.</p> <p>(4) The NSWG may at any time co-opt any person to act as an adviser at any of its meeting but no person so co-opted shall be entitled to vote any such meetings.</p> <p>(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.</p> <p>(6) The secretary of the NSWG shall prepare and distribute to members all minutes as soon as possible after each meeting.</p>	Retained	
10.	<p>Procedure.</p> <p>The NSWG shall fix its own quorum and otherwise regulates its own procedure for meetings.</p>	Retained	
11.	<p>Social Committees.</p> <p>The NSWG may constitute such Special Committees as it considers fit to deal with different aspects of its responsibilities.</p>	Retained	

12.	<p>Other Officers and Staff.</p> <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>	Retained	
13.	<p>Financial Provisions.</p> <p>(1) The funds of the NEITI shall consists of:</p> <p>a. Such sums as may be provided by the Federal Government which sums shall be released immediately they become due for payment.</p> <p>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>	<p><i>(1) The funds of the NEITI shall consists of:</i></p> <p><i>a. Such sums as may be provided by the Federal Government and appropriated by the National Assembly which sums shall be released immediately they become due for payment.</i></p> <p><i>b. The NEITI shall by way of grants fro, Extractive Industries, companies and bodies who are stakeholders.</i></p>	
14.	<p>Account.</p> <p>The NSWG shall cause to be prepared annual audited accounts for each period of twelve months ending on the 31st day of December for each ensuing year.</p>		
15.	<p>Bank Account.</p> <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>	Retained	
16.	<p>Offences.</p> <p>An extractive industry company which:</p> <p>a. Gives false information or report to the Federal Government or its agency</p>		

	<p>regarding its volume of production, sales and income; or</p> <p>b. Renders false statement of account to the Federal Government or its agency,</p> <p>Economic and Financial Crimes Commission (Establishment, etc), Act, 2004). 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.</p>		
17.	<p>Regulations. The NSWG may make regulations at 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.</p>		
18.	<p>Interpretation. In this Act, unless the context otherwise require: “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, goal, 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.</p>		
19.	<p>Short Title. This Act may be cited as the Nigeria Extractive Industry Transparency Initiative Bill, 2005</p>		