



# Commonwealth Human Rights Initiative

NGO in Special consultative Status with the Economic and Social Council of the United Nations

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## *Executive Committee*

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## **Senator**

Senate of Nigeria  
National Assembly Complex  
Three Arms Zone  
P.M.B 141, Abuja  
Nigeria

10 February 2006

Maja Daruwala  
*Director*

Dear Senator,

## *Members*

R. V Pillai  
Anu Aga  
K. S Dhillon  
B. K Chandrashekar  
Mool Chand Sharma  
Harivansh  
Bhagwan Das  
Poonam Muttreja  
Sanjoy Hazarika

## **Re: Comments on draft Nigerian Extractive Industries Transparency Initiative (NEITI) Bill 2005**

I am writing from the Commonwealth Human Rights Initiative (CHRI), an international non-government organisation headquartered in New Delhi. CHRI's Right to Information (RTI) Programme works to promote the right to information, in particular by assisting governments to develop strong RTI legislation and to support implementation of new access laws.

CHRI received a copy of the draft Nigerian Extractive Industries Transparency Initiative (NEITI) Bill 2005 from the Civil Society Legislative Advocacy Centre, Nigeria. We understand that the draft Bill was passed by the House of Representatives on 19 January 2006, after the Committees in the National Assembly presented their recommendations on the Bill before the House. It is understood that the Bill will be submitted to the Nigerian Senate for similar approval. Recognising that transparency in the extractive industries sector is key to ensuring the sustainable and corruption-free management and distribution of natural resources CHRI commends the Government on moving forward with the NEITI Bill 2005.

We understand that it is late to be making a submission on the NEITI Bill, considering that it has already been passed by the House of Representatives. However, we have only just received a copy of the Bill and would like to suggest a number of additional recommendations to ensure that the NEITI is able to properly perform the role envisaged for it by the Bill. This Bill is of such crucial importance to promoting transparency and accountability in Nigeria, that we are hopeful that you will still consider this submission and table recommendations in the Senate to strengthen the Bill. The recommendations are largely technical and uncontroversial, but necessary to ensure that the NEITI is strong, independent and fully empowered to discharge its duties.

Topic	Section	CHRI Recommendations
Establishment of the NEITI	1 (2)	Amend to require the NEITI to report to the National Assembly as well as the President.
Functions	3	<p>- Include a new catch-all provision which requires the NEITI to generally “monitor the overall implementation and compliance by the Federal, State or Local Government and extractive industry companies with national laws and transparency standards”.</p> <p>- Include a new provision requiring the NEITI itself to submit an annual monitoring and evaluation report on its own work, which shall be placed before the President, National Assembly and the public.</p>
Appointments of Indep. Auditor & Publication of Report	4	<p>Add a new provision requiring the selection process for the auditor to be transparent and to prohibit the same auditor being used for more than 2-3 years consecutively.</p> <p>Add a new provision requiring that the audit report be completed with 3 months of the end of each financial year and published within 1 month after it is completed.</p> <p>Accept the Committee recommendation that the audit report be submitted to the President, tabled in the National Assembly, and published widely.</p> <p>Add a new provision requiring the Government to produce and publish an “action taken” report in response to the Audit Report within 3 months.</p>
Composition of the National Stakeholders Working Group (NSWG)	6	<p>- Amend s.6 (1) to require the appointment of NSWG members to be done through a transparent and consultative process, involving the National Assembly, public, media, civil society and extractive industry representatives. Consideration could be given to setting up a Selection Committee or at least a Committee of Stakeholders to produce a short list of candidates. An open and participatory process will ensure the NSWG’s independence and autonomy. It is not appropriate that the President control appointments.</p>

		- Amend s.6(2) to provide for a maximum number of members to be appointed from each stakeholder group - extractive industry experts, civil society and members of labour unions in the extractive industries – to ensure there is equal representation of all stakeholders within the NSWG.
Tenure of Office of NSWG	7	Add a new provision outlining the procedure for removal of NSWG members prior to their completion of term, eg. where there are proven grounds of misconduct, corruption or actions that contravene the overall objectives of the NEITI.
Allowance to be paid to the NSWG	8	Add a new provision stating that the allowances of members of the NSWG shall not be varied by the President to the detriment of the NSWG and shall not exceed in amount the salary equivalent of a pre-existing government scale.
Meeting of the NSWG	9	Clarify that at least 4 meetings must be held each year, and there must not be a gap of more than 3 months between each meeting Add a new provision requiring that details of all proceedings, appointments, minutes of meetings, reports etc prepared by the NSWG be proactively published on an official website to ensure maximum transparency and accountability within the NSWG.
Special Committees	11	Add a new provision requiring that the establishment and operations of all Special Committees will be transparent, and at a minimum the terms of reference, membership and any reports produced will be published widely.
Financial Provisions	13	Amend to remove the provision allowing the budget of the NEITI and NSWG to be supported via donations paid to the NEITI <i>“by way of grants, donations and gifts from extractive industry companies or bodies which are stakeholders”</i> . This could significantly undermine the independence and autonomy of the NEITI and compromise its credibility. Add a new provision requiring the NEITI

	<p>Secretariat to submit a Budget to the President and National Assembly, which will provide the basis for the allocation given to the NEITI under the National Budget. This will be required if the audited accounts required under s.14 are to be meaningfully produced.</p>
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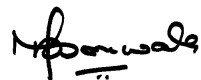
**General Comments:**

CHRI also strongly recommends that the draft NEITI Bill include a general provision requiring all Federal, State or Local Governments and extractive industry companies covered under the NEITI to proactively publish all information pertaining to all payments made or received, including details taxes, royalties, dividend, bonuses, penalties, levies etc. The proactive disclosure of such information via the NEITI to a wide audience is important because it allows citizens' oversight into the NEITI process and an insight into how their resources are being utilised and the manner in which payments are made, invested and spent.

For your information, CHRI's RTI Programme has considerable experience working with governments and civil society throughout the Commonwealth on developing strong access to information laws. Our team has reviewed a number of draft right to information bills throughout, including most recently, Kenya, India, Fiji, Guyana, Cayman Islands, Malawi and Sierra Leone (please view our website at <http://www.humanrightsinitiative.org/> for more). Though, transparency in extractive industries is not CHRI's core business, we have drawn on our international best practice transparency knowledge when considering the NEITI Bill.

If you would like to contact us in regard to this letter, please do not hesitate to contact me on +91 9810 199 745 or +91 11 2685 0523 or via email at [majadhun@vsnl.com](mailto:majadhun@vsnl.com). Alternatively, please contact Ms Charmaine Rodrigues, Co-Coordinator, Right to Information Programme at [charmaine@humanrightsinitiative.org](mailto:charmaine@humanrightsinitiative.org).

Yours sincerely



Maja Daruwala  
Director