

[POLICY BRIEF]

Energy, Development and EITI: Improving coherence of EU policies towards Nigeria

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Introduction:

Nigeria formally became a candidate-country of the international Extractive Industry Transparency Initiative (EITI) in 2004, one of the 25 EITI candidates that committed to addressing natural resource governance problems by creating a structure of transparency and accountability of revenue flows between the government and the private sector. The initiative has brought positive developments in revenue transparency, but it has not had a significant effect on human development and governance reform. International stakeholders in the public and private sectors should be concerned that the Nigeria Extractive Industry Transparency Initiative (NEITI) is being undermined by fundamental incoherencies between unchecked commercial activities in the extractive industries and incongruous development cooperation policies. This Policy Brief argues that in order for the EU to effectively contribute to the economic and political development processes of the NEITI initiative in parallel to Nigeria's own national reform efforts, the problems of skewed economic interests and policy incoherencies must be addresses at international levels. This will require specific action from European Union members to sustain and deepen the gains made through NEITI.

National context: The causes of underdevelopment in Nigeria are rooted in corrupt patron-client relationships between the government and private sector actors at the national and international levels, political instability, as well as a lack of institutional capacities within the Nigerian public sector. Whereas the government neglected previously viable economic activities such as agriculture and solid mineral mining, concentrating on lucrative oil and gas industries, this resulted in the increasing control of national revenue flows by a few state agencies. The intense competition for control of these revenues has resulted in a string of coups, military dictatorships, brutal struggles for political office and corresponding entrenched election fraud. In turn, political and economic disparities between those with and without access to natural resource revenues became painfully clear, fuelling political and social instability. Furthermore, the boom in the energy industry has in no way led to greater energy access for Nigeria's citizens, which is a daily frustration for all but the most privileged.

This policy brief is based on collaborative fieldwork in Nigeria by FRIDE, Oxfam International, and Nigerian civil society coalition CISLAC. This Policy Brief seeks to establish whether the Nigerian Extractive Industry Transparency Initiative (NEITI) is a suitable partner with whom the EU can work with to advance its development goals in Nigeria. It lays out a series of recommendations in terms of its future engagement in the country.

International context: In response to development problems in Nigeria, the international community sponsors aid programmes and maintains strong political relations with the government. The European Commission currently sees no alternative other than to channel much of its aid through the Nigerian government, while aware that much of this aid will not meet its objectives due a lack of capacity and corruption. The EC has also neglected to develop programmes that address the development of the private sector. Europe is not effectively addressing the key issues that could link trade development with good governance and in this way it is favouring short-term energy gain over development.. However, given that international aid represents a small percentage of the nation's revenue in comparison to commercial profits, it does not have the same capacity to generate development as would well-managed extractive industry revenues. For these reasons, the EU and donor communities must improve the coherence of their energy trade policies in relation to their aid policies in order to contribute to sustainable development.

NEITI: The global EITI initiative was adopted in 2004 with the intention of addressing the primary objectives of promoting greater transparency and accountability in the management of natural resource revenues as well as combating corruption between the public and private sectors by calling for the mandatory disclosure of payments from companies to the national governments and declaration of payment received from companies by the governments. Secondary objectives pursued by EITI implementing countries are reducing poverty, creating a climate favourable to economic growth by the improved use of state revenues coming from the extractive industries, and addressing the environmental impacts of the extractive industries. To date Nigeria and international observers can claim only partial success of the initiative. Unless national and EU stakeholders can efficiently address the critical issues analysed in this report, they will continue to block sustainable development.

NEITI failures & their implications

Despite advances on several primary objectives, there remain many serious failures of the NEITI initiative including *audit report failures, low monitoring capacities, and international policy incoherence*.

National level: One of the most fundamental failings of the NEITI initiative is the revelation that the recently released 2005 NEITI audit report¹ reflects most of the same weaknesses that were exposed in the 1999–2004 audit, suggesting that the initiative has not created any significant advances following previous recommendations. Not only does the report reveal staggering financial discrepancies, but also sustained environmental negligence and doubts over its public sector bias.² NEITI's dependence on the public administration seriously impedes its monitoring and sanctioning capacities. The close government oversight of the initiative severely damages NEITI's image as a public sector "watchdog" agency. Instead it has very little power, or desire, to sanction illicit behaviour by public officials.. As a predominantly government-lead initiative under pressure to protect public officials from prosecution, NEITI is more likely to satisfy the internationally standardized requirements of EITI validation rather than honestly address the demands of Nigeria's citizenry to deal with government corruption.

International level: The EU has unwittingly contributed to Nigeria's "resource curse" on several levels. There is a lack of commitment from wealthy nations to adhere to the same guidelines of transparency and accountability that they promote in developing nations. By not requiring that multinational corporations who operate in Nigeria to abide by European legal and social standards, the EU is giving the private sector *carte blanche* on illicit behaviours ranging from direct financial corruption of government officials to severe environmental degradation. Failing to address issues of international business ethics gives rise to serious political unrest, destabilizing Nigerian society by provoking conflicts, endangering foreign investments, and perpetuating the need for international humanitarian aid. This issue must become an international trade and development priority.

International implications of NEITI failures: NEITI has the potential to foster responsible public financial management of extractive industry revenues that would contrib-

1. Nigerian Extractive Industry Initiative (NEITI) Audit Report on Nigeria's Oil and Gas Sector was commissioned by the National Stakeholders Working Group of NEITI in March 2007 and was conducted and compiled by the Hart Group of the United Kingdom and its Nigerian partner, S. S. Afemikhe and Company.
2. Arowosaiye, Jide; "Nigeria Extractive Industries Transparency Initiative releases audit report on the Nigerian oil and gas industry: Critical physical, financial, process and governance issues are brought to the fore." *NEITI Press Release*. Abuja, 8/11/2009.

ute to improved governance, higher levels of human development and reduce endemic poverty in Nigeria. However, the prevalence of non-compliance and confidential financial transactions between the private and public sectors precludes accountability to the Nigerian people and the international community. If private sector issues cannot be addressed a clear commitment from the EU, NEITI risks being exposed as a mere window-dressing programme for the government and multinationals to improve their image in front of international audiences, incapable and unwilling to create necessary conditions for true development progress in human terms.

Policy recommendations³

The following recommendations seek to address policy gaps in natural resource management in the economic, political and social spheres at the local and the EU levels.

Increase accountability to the public: Steps should be taken to ensure the objectivity and independence of NEITI. Public accountability can be increased by decreasing the government's capacity to influence NEITI's actions and audit reports, promoting further involvement of CSO groups and ensuring that national media has the freedom to report information and developments. Increasing international funding to promote greater CSO oversight is likely to improve NEITI's objectivity and increase its independence from the public administration.

Economic diversification: Structural economic changes that foster investment in non-extractive industries will encourage local business development. Economic diversification will reduce national dependence on exports, such as food and manufactured goods that can be produced locally. Greater economic opportunities will discourage capital flight and encourage highly qualified professionals and investors to remain in the country, counteracting what is known as the "brain drain" effect. To support local economic development, the EU must carefully analyze its trade policies to confirm if and how they are negatively impacting the local economy and negotiate solutions with Nigerian stakeholders.

3. Special thanks for policy recommendations from John Onyeukwu Agwara, author of "Resource Curse in Nigeria: Perception and Challenges." *Central European University Center for Policy Studies*. Budapest, 2007.

Improve public financial management: Reducing corruption in the public sector through the NEITI is logically linked to improving public financial management. As the system currently stands, oil and gas producing regions do not get fair compensation for the social and environmental costs imposed upon them. It is essential that responsible public funds management be an integral part of the national development agenda, not just for the sake of supporting NEITI but also for good governance and sustainable socio-economic development in general. The EU can assist Nigeria to promote improved public financial management by applying additional diplomatic and institutional pressure on key government actors, taking enhanced measures to restrict the laundering of stolen revenues in Europe while supporting CSO efforts to enhance transparency.

Strengthen democracy: Improving governance in Nigeria requires greater efforts to strengthen the democratic process. This includes supporting the passage of legislation that furthers the NEITI process such as the Freedom of Information Act and the Petroleum Industry Bill. The CSO component of the NEITI initiative has been key to its demonstrated successes⁴. With continued and increased international support, Nigeria's CSO groups will continue to be a strategic catalyst for progress on extractive industry issues.

Greater EITI commitment from EU stakeholders: For EITI to work in Nigeria and in other developing countries, international stakeholders such as the European Union, OECD countries, and international investors must demonstrate their commitment to EITI principles⁵. While these countries have encouraged EITI in developing nations, they have not yet been willing to participate in the initiative with the exception of Norway. Wealthy nations could follow this example and become candidate countries for EITI. This would facilitate the participation of their multinational companies in NEITI and would create similar transparency demands for the companies at home, encouraging companies to apply stricter standards to their Nigerian operations and thereby creating a more

4. "Strengthening NEITI performance through greater information dissemination; capacity building and advocacy initiative." *Civil Society Legislative Advocacy Centre (CISLAC)*. Abuja, 2009.

5. Itriago, Deborah; Kreisler, Isabel; Machin, Alejandra; "Lifting the Resource Curse: How poor people can and should benefit from the revenues of extractive industries." *Oxfam International Briefing Paper*. New York, 2009.

horizontal structure to the EITI process. Additionally, the international community should strongly encourage the Nigerian government to promote transparency and improve governance by working with international agencies like the IMF and the World Bank, as well as through Nigeria's participation in cooperative initiatives like the African Peer Review Mechanism and the Millennium Development Goals. These indirect platforms provide accessible mechanisms for international actors to compel Nigeria to improve revenue governance in the extractive industries, as well as providing broader venues for the participation of CSO groups and other non-state actors.

Address incoherencies in EU trade and development policies:

The answer to NEITI failings is not to abandon the initiative, but rather to seriously analyse governance problems, illicit commercial behaviours at the local and especially at

the EU level, while supporting greater participation of Nigerian civil society in the political processes of national reforms. Nigeria's public administration must engage with local CSO groups in order to deepen NEITI's effectiveness. At the international level, if business ethics issues are not addressed, major industrial actors will continue to undercut development through unjust industry practices in collaboration with willing public officials, extending the cycle of poor governance and systemic underdevelopment that has long fuelled the need for international intervention. The EU and the international community can effectively promote good governance by fostering ethical business practices within its own companies, which in turn will create a more sustainable and efficient environment for cooperative development projects and sincere multilateral diplomatic relations based on mutual respect for international norms. The proposed multilateral top-to-bottom and bottom-up strategy will further sustainable political and human development progress in Nigeria as well as in other developing countries targeted by EITI.

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