

Nigeria Extractive Industries Transparency Initiative (NEITI) Civil Society Constituency Guidelines

March, 2024

1. Background

Civil society constitutes one leg of the multi-stakeholder tripod upon which the Extractive Industries Transparency Initiative (EITI) is founded, the other two constituencies being the companies and government. This multi-stakeholder framework, often referred to as the “magic triangle”, is unique in the sense that each leg of the tripod is as important and powerful as the other two in the decision-making processes.

Meaningful engagement of civil society organisations is therefore, fundamental to the success of the EITI, and is key to ensuring that the transparency created by the EITI can lead to greater accountability and improved governance of oil, gas and mineral resources.

Recognising the foregoing, civil society organisations engaging with the NEITI process met on August 15, 2023 and voluntarily and unanimously set up a Committee (The Committee) to draw up a comprehensive framework for civil society engagement with NEITI. In developing this framework, hereinafter known as the NEITI Civil Society Constituency Guidelines, The Committee widely distributed the draft document by email and other communications channels among colleagues from Civil Society Organizations, convened two widely publicised meetings of CSOs to discuss the draft, and integrated feedback received into the final draft which was then exposed for adoption by civil society organisations.

2. Sources, content, and basic principles of the CS Constituency Guidelines

2.1. Sources: The foregoing ideas are clearly articulated in the EITI 2023 Standards, the EITI Civil Society Protocol, and the EITI Constituency Guidelines for Civil Society (April 2023). At the domestic level, the work of civil society groups have furthered the mandate of Nigeria’s EITI (NEITI) through their advocacy for increased transparency and the utilisation of NEITI-generated data to hold governments and companies to account. This important role has been amply acknowledged over the years in the inclusion of civil society roles in the NEITI Act 2007, the adoption of the manual - the Role of Civil Society in the NEITI Process in 2012, the adoption of a Civil Society Memorandum of Understanding in 2014 (revised 2022), Policy Guidelines on Appointment/Nomination of Civil Society Representative on the NEITI Board 2018, and the NEITI Civil Society Engagement Framework 2022. The NEITI Communication Strategy 2022-2026 also recommended that NEITI develops a framework that would guide its relationship with the third sector.

The current *CS Constituency Guidelines* draw from the foregoing background documents and seek to provide a framework for the meaningful engagement of civil society organisations in the NEITI process. It documents the work of a Committee that was set up during a meeting of the civil society organisations engaging with the NEITI process on August 15, 2023 to draw up a comprehensive framework for civil society engagement with NEITI.

2.2. Content: The document outlines how the civil society constituency in the Nigeria Extractive Industries Transparency Initiative (NEITI) organises itself at the national level, elaborating the following:

- What is the NEITI Civil Society Constituency?
- Who qualifies to be a member of the NEITI Civil Society Constituency?
- The application and renewal processes for membership
- The management of the NEITI civil society database
- The process for selection of NEITI civil society member(s) in the Multi-Stakeholder Group of NEITI, otherwise known as the Board or National Stakeholders Working Group (NSWG)
- Dispute resolution mechanisms

The document also contains as an appendices, a *Transitional Protocol for selection of Civil Society representative on the NEITI Board* pending full activation of the Guidelines and a full list of members of The Committee.

2.3. Basic Principles

The Guidelines is underpinned by a number of basic principles already articulated in the documents listed in 2.1. above. They include, but are not limited to the following:

- a. Civil society representatives are able to be fully, actively and effectively engaged in the design, implementation, monitoring and evaluation of the NEITI process
- b. Civil society as a constituency has the right to nominate its own representatives to the NEITI multi-stakeholder group through an open, inclusive and independent process
- c. The CS Constituency Guidelines is a future guide for sustainable civil society engagement with the NEITI process in Nigeria. While it contains broad provisions, including some recommendations that are dependent on a review of the NEITI Act which may not be immediately implementable, it also provides Transitional Protocols to guide engagement within the interim until expected reforms are achieved.

3. The NEITI Civil Society Constituency (NCSC)

An associational framework to be known as the NEITI Civil Society Constituency (NCSC), hereinafter referred to as The Constituency, is hereby established to represent the interest of the broad community of civil society organisations (CSOs) engaging the NEITI process in Nigeria. The Constituency will serve as the General Assembly of Nigerian civil society organisations engaged in the NEITI process.

3.1. The civil society representative on the NEITI NSWG will serve as Head of the proposed NEITI CS Constituency.

3.2. The General Assembly: The General Assembly of the NEITI Civil Society Constituency shall meet virtually or physically at least once a year to do the following, among others:

- i. Ratify the decision of the Selection Committee for civil society representative(s) on the NEITI Board, in the event that a Board's tenure would expire within the next one year
- ii. Elect members for any vacant seats on the Civil Society Steering Committee (CSSC), if any
- iii. Review the performance of the civil society representatives on the NSWG for the past year
- iv. Track compliance of public procurement and other governance processes in the extractive sector with international norms and domestic laws/policies, and subsequently collate and provide feedback to NEITI
- v. Discuss the NEITI annual country workplan & Annual Progress Report (APR)
- vi. Plan the implementation of public and community engagement activities in partnership with the NEITI Secretariat
- vii. Identify and respond to capacity building needs of various clusters within the NEITI Civil Society Constituency
- viii. Review and issue a statement on the state of civil society engagement and civic space in the NEITI process
- ix. Review the CSO Constituency Guidelines every 4years review in line with the tenure of the board.
- x. The review should be started 12 months before the expiration of the board, in time to rectify, and bring it to force as the new board is inaugurated.
- xi. Discuss and take decisions on any other relevant issues

3.3. Criteria for CSO Membership of the NEITI Civil Society Constituency

For the purpose of admission into the NEITI Civil Society Constituency and listing on the Constituency Database, a civil society organisation is defined as an organisation duly registered or recognised in Nigeria at the local government, state, or national level, and showing evidence of working in extractives, transparency, accountability, and good Governance, anti-corruption, and any other thematic area recognised in the EITI Standard 2023, that has endorsed the NEITI Civil Society Constituency Guidelines, and is adjudged by the CSSC as having been substantially engaged with the NEITI process.

In order to be admitted into the NEITI Civil Society Constituency, an organisation must fulfill the following criteria:

- i. The organization must be registered in Nigeria with an operational structure
- ii. The organization must be able to provide evidence of contributing to public debate on natural resource governance issues
- iii. The organisation must be working in a thematic area that is relevant to the mandate of the NEITI as outlined in the EITI Standard 2023
- iv. The organisation must be independent of government and/or companies, both operationally and in policy terms
- v. Membership renewal shall be every four (4) years
- vi. Each member organisation will have one representative in the proposed NEITI Civil Society Constituency
- vii. The organisation must endorse the NEITI CS Constituency Guidelines
- viii. Aside individual organisations, a network of organizations, with closely aligned objectives to NEITI principles may also become a member, albeit with a single representation.

4. Protocols for self-selection of Civil Society Representative in the NEITI Board

A review of the NEITI Act 2007 with respect to the composition of civil society in the NEITI Board indicates the need to increase the number of representatives of civil society organisations on the Board from one person as currently provided to three persons. This will ensure more voices for civil society in the multi-stakeholder decision making process. This change can only be given effect through a review of the Act. While efforts are ongoing to review the provisions of the Act, the Committee re-asserts that this provision does not contradict the self-select process for nominating the civil society representative on the NEITI Board which has been historically adhered to by successive Presidents who have often ceded autonomy to civil society by requesting the constituency to self-nominate their representative on the Board.

To strengthen the self-select principle in the nomination of the civil society representative on the NEITI Board, the following process will be adopted:

- 4.1.** The selection process for CSO representative into the NEITI NSWG will begin at least one year before the end of a substantive tenure
- 4.2.** The Civil Society Steering Committee (CSSC) will convene a general meeting of the CS Constituency which will appoint a Selection Committee in an open, independent and transparent process; and the Selection Committee will in turn conduct the election through an open, independent, and competitive process and announce the winner
- 4.3.** Ahead of the expiration of the tenure of the NSWG Board, the President sends a notice to the NEITI Secretariat for civil society to nominate their representative to the next Board
- 4.4.** The NEITI Secretariat communicates this notice to the CSSC, who will in turn notify the members of the NEITI Civil Society Constituency and convene a meeting of same to initiate an open, transparent, and competitive process to nominate and present candidate(s) for the position

4.5. A letter is sent by the NEITI Civil Society Constituency to the President through NEITI Secretariat identifying the nominee of civil society and providing documentary proof of the openness, transparency, and independence of the process

4.6. The selection of a Civil Society representative in the transition period between the development of these Guidelines and the constitution of the next NSWG will be governed by the provisions of the Transitional Protocol provided as Appendix 1 to these Guidelines.

5. Review of the provisions of the NEITI Act 2007

Section 6 of the NEITI Act 2007 provides for the power of the President to appoint all members of the NEITI Board/NSWG. The Committee recommends that this provision is reviewed to strengthen the self-nomination principle and increase the number of representatives of civil society organisations from one to three to address the current lopsidedness and achieve fairness.

6. The Civil Society Steering Committee (CSSC)

The Civil Society Steering Committee, created by the second National Stakeholders Working Group (NSWG) of NEITI was aimed at expanding and deepening civil society participation in the NEITI process and provided a channel for feedback to the wider civil society community. This was an innovation in EITI implementation globally and has now either been adopted or is being considered by several other countries. The Committee proposes the retention of the CSSC as follows:

6.1. The Civil Society Steering Committee (CSSC) will be the coordinating structure of the NEITI Civil Society Constituency, responsible for broad policy making and implementation

6.2. The NCSC shall have a virtual or physical secretariat, depending on availability of funds. If physical, this Secretariat shall be located outside the NEITI Secretariat to foster civil society independence.

6.3. The CSSC will be a clearing house for civil society engagement and a channel for information brokerage between the NSWG and the NEITI Civil Society Constituency

6.4. The CSSC will be made up of at least eleven (11) members comprising the civil society representative on the NEITI Board /NSWG and one representative of each of the following groups, but without alternates as previously structured

- i. Persons With Disabilities (PWDs)
- ii. National CSO or CSO network active in the extractive sector
- iii. Gender-based CSOs

- iv. Host Communities in the mining sector
- v. Host communities in the oil and gas sector
- vi. The Academia
- vii. Labour Union in the extractive Industry
- viii. Youth-led organisation
- ix. The Media
- x. Professional Associations

6.5 The above sectoral/thematic representations will be balanced with geopolitical spread as a key consideration in the nominations and subsequent selection (election) of representatives of the CSSC

6.6. The CSSC will be responsible for recruiting and remunerating an Administrative Secretary, whose responsibilities, shall include but not be limited to:

- i. Day to day administration of the NCSC Secretariat
- ii. Maintaining an up-to-date database of the NEITI Civil Society Constituency (NCSC)
- iii. Preparing and writing agendas, minutes of meetings, and other reports of the CSSC and the NCCC
- iv. Serving as a liaison between the broader NCSC and the CSSC
- v. Maintaining the records, including financial books, of the NCSC

7. Dispute Resolution

- i. Any complaints by a member of the NEITI Civil Society Constituency should first be directed to members of that constituency. If the dispute is not satisfactorily resolved, a written complaint should be made to the CSSC. The CSSC is to within four weeks of receiving such a complaint, investigate and make public its findings to the broader NEITI Civil Society Constituency
- ii. Dispute among members of the CSSC, will be referred to the civil society representative(s) on the NEITI NSWG. The CSO representative(s) on the NSWG will constitute ad-hoc members of enquiry from within the NEITI Civil Society Constituency to investigate the dispute, make public its findings to the broader NEITI Civil Society Constituency and issue resolutions within four weeks of receiving the complaint
- iii. Complaints against the CSO representative(s) on the NEITI NSWG will be addressed to the Chairman of the NSWG. The chairman of the NEITI NSWG and other members of the

board will investigate the complaint, make public its findings and issue resolution within six weeks of receiving the complaint.

- iv. The various levels of dispute resolution may discretionally sanction/reprimand members for wrong doing

APPENDIX 1: The Transitional Protocol

The Civil Society Constituency Guidelines contain broad provisions, including some recommendations that are dependent on a review of the NEITI Act which may not be immediately implementable. To address the expected gap in the governance of The Constituency and its engagement with the NEITI process, particularly the self-selection of the civil society representative on the NEITI Board during this gap period, the following Transitional Protocol is hereby provided to govern the transition process:

A. The Transitional Protocol is hereby provided to guide the governance of The Constituency and its engagement with the NEITI process, particularly the self-selection of the civil society representative on the NEITI Board, during the interim period/transition process until expected reforms are achieved and full implementation of the Guidelines is activated

B. The Committee for the Development of a Harmonized NEITI Civil Society Constituency Guidelines (The Committee) will on the completion of its assignment and on presentation of the Draft Guidelines to civil society organisations for endorsement, issue a call for Adoption of the Draft Guidelines and The Transitional Protocol.

C. As part of the sign up process, organisations will be required to endorse the NEITI CS Constituency Guidelines. An organisation that does not endorse these Guidelines and its Transitional Protocol will be deemed to be unwilling to submit to its provisions and will by that have opted to exclude itself from any decision-making process of the Constituency, including elections.

D. The Committee will issue a call for nominations from civil society into a three-member Selection Committee

E. Members of The Committee will not be eligible to be nominated into the Selection Committee.

F. The Committee will review nominations for the Selection Committee based on its set criteria

G. The Committee will announce the successful members of the Selection Committee and the list of CSOs on the database no later than 72 hours after the deadline for nominations. The Committee will stand dissolved on the inauguration of the Selection Committee

H. The Selection Committee will not later than 48 hours after its inauguration issue a call for online nominations/guidelines for online election of a Civil Society representative on the NSWG

I. The Selection Committee will shortlist nominated candidates based on its set criteria.

J. The Selection Committee will conduct elections to select the Civil Society Representative on the NSWG not later than 72 hours after the call for online nominations/guidelines for online elections are published. Only one representative of each civil society organisation on the NEITI CS Database will be eligible to vote in the elections.

K. The Selection Committee will (i) publish the names of the top three candidates and inform the NEITI Secretariat of the process, scores, names of winners, and providing documentary proof of the openness, transparency, and independence of the process (ii) instruct NEITI to forward the name of the leading candidate to the Office of the Secretary of the Government of the Federation (OSGF) for appointment into the NSWG.

L. On a date not later than two weeks after the inauguration of the Board, the Civil Society representative and the Selection Committee will convene a meeting of the Constituency to, among other things, elect and inaugurate the members of the Civil Society Steering Committee (CSSC). The Selection Committee stands dissolved on the announcement and inauguration of the CSSC.

M. Until the recruitment of an Administrative Secretary, the civil society representative on the NSWG shall appoint a sub-committee within the CSSC to manage the CS data base. The provisional database will be as handed over to the CSSC by the Selection Committee.

APPENDIX 2: LIST OF COMMITTEE MEMBERS

The Committee for the Development of a Harmonised NEITI Civil Society Constituency Guidelines comprised the following members:

1. Tijah Bolton-Akpan (Chairman)
2. Barr. Frank Tietie (member)
3. Bassey Udo (member)
4. Dr. Mina Ogbanga (member)
5. Comrade Taiwo Otitolaye (member)
6. Faith Nwadishi (member)
7. Juliet Alohan (Secretary)

Dr Mina Ogbanga resigned her membership of the Committee on March 11, 2024, a few days before these Guidelines were presented for public endorsement.

ADOPTION

If your organisation is interested in endorsing/adopting these Guidelines and its Transitional Protocol, please complete the form below:

<https://forms.gle/xv6zeAWcqGb2w47q7>