

## NEITI Newsletter - October 2018

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### **Absence of legislations, Limited Understanding, Obstacles to Ownership Transparency**

The Nigeria Extractive Industries Transparency Initiative (NEITI) says limited understanding among citizens and absence of appropriate legislations are part of the challenges confronting implementation of beneficial ownership disclosure in Nigeria.

Executive Secretary of NEITI, Mr. Waziri Adio, made this assertion recently in Abuja while addressing participants at a stakeholders' engagement on implementation of beneficial ownership disclosure in Nigeria.

His words: "limited understanding of beneficial ownership disclosure among the populace and absence of legislations that expressly mandate disclosure of beneficial owners are major challenges to ownership transparency".



*NSWG -Chair of CSO, Mr Kolawole Banwo addressing participants at NEITI Roundtable Workshop on Beneficial Ownership*

The Executive Secretary however, noted that although there are abundant laws in Nigeria that mandate disclosure of legal owners, none expressly mandates disclosure of beneficial owners.

Mr. Adio said while anonymous ownership is not necessarily bad and not illegal in some jurisdictions, it can create a convenient window for lots of illicit activities such as corruption, money laundering, tax evasion and sometimes, terrorism financing.

Emphasizing the importance of massive citizens' awareness on the benefits of ownership transparency, Mr. Adio said: "we need to find an effective campaign strategy to explain to the generality of the people what it is, and its benefits to stakeholders and society".

Commenting on the ongoing efforts to amend the Companies Allies Matter Act (CAMA) to accommodate ownership transparency, he noted that given the length of time it takes to enact laws in Nigeria, other interim measures should be explored.

"If we wait for CAMA and Petroleum Industry Governance Bills (PIGB) to be passed and signed, we may wait for too long. Let's explore executive order and regulations that agencies have the legal backing to make", Adio stressed.

The Executive Secretary informed participants that Nigeria currently has two commitments to implement beneficial ownership disclosure. The first commitment is under the global EITI standards which NEITI is implementing.

Under the global EITI standards, member countries are expected to develop a publicly accessible register of the real owners of companies doing business in the extractive industries latest January 2020.

The second commitment is under the Open Government Partnership (OGP). President Muhammadu Buhari, in May 2016, during the London Anti-Corruption Summit, committed to establishing a register of beneficial owners of all companies operating in Nigeria.

Mr. A.G Abubakar who represented the Registrar General of Corporate Affairs Commission (CAC) at the event, while making his presentation noted that the current provisions on beneficial ownership in CAMA are not sufficient for OGP/EITI requirements.

Mr. Abubakar said CAC is currently working with the legislature to amend and strengthen CAMA. He assured participants that with the level of engagements with members of National Assembly on the bill, it is unlikely that the bill will face resistance.

“Provisions of the CAMA amendment bill currently before the legislature clearly states that any person directly or indirectly holding at least 5% of shares or voting right or directly or indirectly has the right to appoint or remove directors of a company must be disclosed, including shadow directors”, Abubakar informed.

He disclosed that a lot of discussions and engagements have been going on at different forums among different stakeholders including NEITI, OGP Secretariat, legislature, CSOs and companies on beneficial ownership disclosure implementation before the January 2019 deadline.

Participants at the event rose with a resolution that while stakeholders continue to push harder to ensure speedy passage of CAMA and PIGB into laws, there is need to leverage on existing platforms to enforce some of the requirements of beneficial ownership disclosure.

The event was organized by NEITI to improve attention and support for the establishment of beneficial ownership register in the extractive industries, and harmonize positions of stakeholders.

## **Flaws in NEITI Act, Responsible for Slow Pace of Remediation**



*Executive Secretary, NEITI, Waziri Adio (Middle) Chairman, House Committee, Petroleum Downstream, Hon. Joseph Akinlaja, Representative, Godwin Okonkwo representing GMD-NNPC at the Conference on Remedial Actions*

The slow pace of progress in resolving remedial issues in the oil, gas and mining sectors audit reports by the Nigeria Extractive Industries Transparency Initiative (NEITI) over the years has been attributed to insufficient political-will over time and flaws in the agency's enabling law.

Mr. Waziri Adio, Executive Secretary of NEITI stated this at a one-day national conference on "Resolving Remedial Issues in the NEITI Industry Audit Reports" recently organized by the agency in Abuja.

"There is nothing in the NEITI Act that empowers the agency to sanction or take any legal action against anybody for refusing to undertake remedial actions", Mr. Adio said.

He explained that if an issue is identified with NNPC, CBN, DPR or any government agency, NEITI cannot do anything other than call a meeting and persuade them to comply.

"Even when meetings are called, those who have powers to influence action would either not attend, or send lower grade representations that lack authorities to take important decisions on remediation", Adio explained further.

He noted with concerns that despite progress made by NEITI in conducting the audits and communicating findings in the reports, not much progress has been made on resolving remediation issues and bridging the gaps in the audits.

"Sadly, remediation which is the most critical part of our mandate is also the weakest, despite cycles of oil and gas as well as six solid minerals sectors audits, not much progress has been recorded in resolving key remediation issues in the reports" Mr. Adio said.

The Executive Secretary traced the background of remediation to NEITI's first report in 2005, which threw up issues on missing or unremitted monies and those un-reconciled by the audits.

Mr. Adio said the reports also raised issues of processes and governance gaps, and the need for relevant agencies to work together to address the gaps and reconcile the discrepancies identified in the reports.

"That was how remediation started in 2006, even before the NEITI Act of 2007 that provided the legal basis for remediation," he noted.

Mr. Adio further explained that to handle the remediation process, the Federal Government constituted an Inter-Ministerial Task Team (IMTT), with NEITI as its chair and secretariat.

He listed members of the IMTT to include Central Bank of Nigeria (CBN), Nigerian National Petroleum Corporation (NNPC), Office of the Accountant General of the Federation (OAGF), Office of the Auditor General of the Federation (OAuGF).



Other members are: Department of Petroleum Resources (DPR), Federal Inland Revenue Service (FIRS), Revenue Mobilization Allocation and Fiscal Commission (RMAFC), Miners Association of Nigeria (MAN), Oil Producers Trade Section (OPTS), among others.

To strengthen the IMTT to be more effective, Mr. Adio called for inclusion of high ranking government officials, with power to compel actions on remedial issues in NEITI reports.

Dr. Maikanti Baru, Group Managing Director, Nigerian National Petroleum Corporation (NNPC), represented by Mr. Godwin Okonkwo said the Corporation is always prepared to work with NEITI on transparency and accountability in the sector, noting that the issues raised in the NEITI reports are being addressed.

Stakeholders at the Conference resolved that remediation is the most practical way government can demonstrate its commitment to transparency and accountability in the sectors, and sustained public confidence in the EITI implementation

## **Stakeholders endorse NEITI Remedial Plan**



### ***Cross section of participants at NEITI Conference on Remedial Actions in the NEITI Audit Report***

Stakeholders in the extractive industry have called for speedy implementation of the findings and recommendations contained in the NEITI reports if the impact of EITI in Nigeria in areas of poverty reduction, enthronelement of transparency and accountability in the extractive industry would be felt.

This was part of the resolutions taken at a national conference on remedial issues held recently in Abuja.

The stakeholders drawn from companies, government agencies, civil society and the media expressed concern that the slow pace of implementation is capable of eroding the multiple gains of Nigeria's membership of the global EITI targeted at ensuring impactful reforms that should guarantee transparency, accountability and competition in the management of the sector.

Some of the remedial issues identified in the NEITI audit reports include unremitted amounts, underpayments, and inadequate metering infrastructure. Others are management of domestic crude allocation, licensing issues and poor governance of revenues from the industry.

The Executive Secretary of NEITI, Waziri Adio, told the conference that the objective of the conference was to bring these issues to the attention of relevant covered agencies and NEITI partners for a coordinated approach for the benefit of the country. He expressed regret that many of the issues have become recurring decimals in successive NEITI reports.

In his contribution, the Managing Director, NNPC Capital, Mr. Godwin Okonkwo, who represented the Group Managing Director of NNPC at the conference explained that many of the issues being raised by NEITI have either been resolved or are in the process of being resolved.

He called for closer partnership and collaboration between NEITI and all affected covered entities to lay many of the issues to rest in line with NEITI remediation plan.

Members of the civil society, the media and representatives of companies agreed to work together with NEITI and relevant government agencies to develop and implement a coordinated plan that will guarantee sustainable approach to address the issues.

The conference also underlined the need to strengthen the Inter Ministerial Task Team (IMTT) earlier set up by the Federal Government to address remedial issues.

The national conference is part of NEITI's nationwide consultation programme designed to ensure that issues identified in the oil, gas and mining sector are properly addressed as part of the benefits of Nigeria's membership of the global EITI.

## **NEITI Advises Mark Robinson, Incoming Executive Director/Head Of EITI Secretariat.**



***Mark Robinson, New EITI Executive Director***

The Nigeria Extractive Industries Transparency Initiative (NEITI) has advised Mark Robinson, the new Executive Director/Head of Secretariat of the global EITI to consider the peculiarities of implementing countries and focus on impacts.

In a congratulatory letter to Mark Robinson, the Executive Secretary of NEITI, Waziri Adio described his appointment as most deserving and timely at a time the EITI is fast evolving and expanding its mandates.

“As you assume your new role, please consider the challenges, opportunities, prospects and peculiarities of EITI implementing countries especially in sub-Sahara Africa. Also note the increasing public demand for impacts of EITI by citizens in implementing countries including Nigeria”, Adio wrote.

NEITI’s Executive Secretary assure Mr. Robinson that as a key member of EITI, Nigeria looks forward to work closely and support him to succeed in his new assignments and improve on the numerous achievements by his predecessor, Mr. Jonas Moberg.

Mark Robinson, a British national is coming to EITI with extensive experience spanning over 30-year international career. He has held numerous leadership and management roles at World Resources Institute's (WRI) Governance Center, the Department for International Development, the Institute for Development Studies, the Ford Foundation, and the Overseas Development Institute.

Commenting on his appointment, the Chair of the EITI Board, Fredrik Reinfeldt described Mr. Mark Robinson as a widely respected figure in the international development community, spanning the worlds of policy-making, research and philanthropy.

Robinson is currently concluding his assignments as global director of WRI Governance Center, and chair the board of directors for the Open Government Partnership Secretariat. He is expected to assume his new position at the EITI secretariat by the end of November 2018.