



# EITI GUIDE FOR LEGISLATORS

How to Support and Strengthen Resource Transparency

## **A Guide for Legislators**

Extractive Industries Transparency  
Initiative

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Someone once said that “sunshine is the best disinfectant,” and the sunshine of transparency is certainly needed on our extractive industries. In too many resource-rich countries citizens, and even their representatives, are left in the dark when it comes to the income generated from their national resources.

We cannot see how much wealth is generated from oil, gas and mining or where it goes. As a result, money that could be used to help our citizens escape the trap of poverty, obtain the education they need to build a better life and get the health care services they need, is mismanaged or siphoned off through corruption.

As legislators, we ought to insist on knowing what the extractive industries pay and what our governments receive, and the Extractive Industries Transparency Initiative (EITI) can help. EITI is a simple idea that can shed light on the income generated from oil, gas and minerals. In EITI, companies disclose the payments they make to governments, and governments reveal the income they receive. Identifying discrepancies between the two can be a powerful deterrent to corruption and a vital step toward accountability.

Legislators can play several critical roles in making sure EITI is established and works effectively, and this guide shows how. It has two objectives. The first is to introduce the EITI process. The second is to offer specific suggestions about how a legislator may contribute to the EITI process in your country.

As your fellow legislator, I am fully alive to the volume of work that confronts you on a daily basis from your multi-faceted roles and responsibilities. You constantly have to balance the demands of the legislature, the constituency, the party, and family and friends. You may wonder why you should consider taking on an additional responsibility in the EITI, or indeed why you should take the trouble of reading this guide. But if you come from a nation like mine that depends so heavily on an extractive industry, you may do well to spend some of that precious time to read this guide and to participate in EITI. Your involvement, and that of your fellow legislators in EITI, shall certainly be an important precursor to the poor of the world receiving their fair share of our common wealth. It will be an important contribution to making this a better and safer world for us all.

Welcome aboard!

Hon. Given Lubinda  
Chairman, Economic Affairs Committee  
National Assembly of Zambia



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## EXECUTIVE SUMMARY

- Do you know how much companies are paying your government for the oil, gas and minerals they extract in your country?
- Do you know how much your government claims to receive and where in government it goes?
- Is such information publicly available in your country?
- Are you a leading voice in fighting for better governance in your country?

If your answer to the first three questions above is no, the Extractive Industries Transparency Initiative (EITI) could help improve the management of oil, gas and mining revenues in your country. Such revenues offer huge potential for growth and development, but they often fail to fulfill this potential. A cloak of secrecy hides how much is received, where it goes and for what purposes it is used.

The Extractive Industries Transparency Initiative (EITI) is a global standard for transparency in revenues from oil, gas and mining industries. EITI centers on two core mechanisms. First, it requires that companies disclose their payments made to governments and governments disclose their revenue received from companies. Second, it requires that an independent administrator reconcile these figures under the management and supervision of a multi-stakeholder committee.

EITI programs can help strengthen budget monitoring and oversight efforts, reinforce anti-corruption and good governance agendas, and improve a country's investment climate. The increased transparency that often flows from the implementation of an EITI program helps build public trust in democratic institutions, and ultimately ensures that a greater portion of revenues from natural resources are used for the public good. Legislators who are active on EITI can help their country to achieve these goals, and in the process establish themselves as credible and relevant leaders on good governance and transparency issues.

A legislature effectively carrying out its three core functions – oversight, representation and lawmaking – is critical to making EITI successful. Legislators can help ensure that their government signs up, that the program follows EITI Criteria and Principles (See *Appendix A*), that it is relevant to the particular needs of the country, and that it is properly managed, monitored, and publicized.

The most important decisions about an EITI program are made at the beginning of the process, when the program is designed and EITI governance structures are established. These decisions will determine what information will be reported and in what format it will be shared. They will also affect which actors will be involved in EITI and what role they will play. The success of an EITI program depends on all of these factors, and legislators will want to decide how best to engage in and influence them.

Legislative engagement is equally important when the report is released. The report should identify discrepancies between company payments and government receipts reported, and share recommendations for improving government collection and accounting practices. Legislators can use the report as a tool for holding the

government accountable. Finally, legislators play a vital role during validation, the final step in EITI, in which a country can claim the international recognition that comes with being deemed an EITI “Compliant” country.

### Key recommendations for legislators

- *Get involved in EITI to enhance expertise and leadership on extractive industry transparency and good governance* EITI establishes a structured process for many different actors – government institutions, civil society, and private industry – to build partnerships. By engaging on EITI, legislators can gain expertise on extractive industry issues, and may come to be viewed as credible leaders on an issue that is important to citizens.
- *Utilize the committee system to monitor and oversee EITI* EITI programs are most effective when they are well-managed and monitored, and when the results are publicized. Through organized and coordinated committee work, legislators can activate their oversight authority. Public committee hearings are also a useful way to raise public awareness about EITI and incorporate public input into the process.
- *Coordinate efforts with civil society organizations* Some CSOs are very active on extractive industry issues. They may have links with international organizations that provide them with financial support and information about the extractive industries, and about EITI. These organizations can provide legislators with useful information on EITI and the extractive industries, be helpful advocates in encouraging the government to adopt or improve EITI, provide informed ideas for developing a policy to strengthen or complement EITI, or help to hold the government accountable for missing or mismanaged revenues.
- *Incorporate EITI into constituent communication* Citizens often care very deeply about whether the natural resources in their country are benefitting them, but know little about what the government receives from extractive industries, or how it spends the revenue. Legislators can transmit this information through their regular contact with constituents.
- *Build and leverage relationships with other EITI actors* Legislators can become better informed, and more effective overseers of the EITI process by working with their peers in other EITI countries and in regional networks, international legislative networks and with international donors. Legislators should leverage international interest about EITI to request support for their engagement on EITI.

# INTRODUCTION

The demand for oil, gas and mineral resources has had a perverse effect on many resource-rich nations. Instead of contributing to poverty alleviation and economic growth, revenues earned from these resources have often led to large-scale corruption, less development, and conflict.

In the absence of strong government institutions that are transparent and accountable to citizens, oil, gas and mining revenues are often managed ineffectively. Large and unregulated inflows of funds to government can create a great temptation for those in power to engage in corruption. Public officials can lose sight of the need to spend carefully during 'boom' years and use patronage to provide short-term fixes to social and economic problems. The relationship between citizens and their governments is undermined as government leaders depend less on revenues from taxes and non-extractive sectors. Ultimately, benefits accrue only to a concentrated few, while the majority of the population remains impoverished.

Citizens, government bodies, civil society, companies and international organizations have begun to address the "resource curse" by developing and advocating for increased transparency and accountability in the extractives sector. With better access to information about how the government manages the sector, legislators and the public can scrutinize government activities, ask important questions, and promote improvements. Transparency alone cannot improve governance and development in resource-rich nations. Conversely, accountability is impossible without information and transparency is therefore an important step.

The Extractive Industry Transparency Initiative is one effort many resource-rich countries are beginning to use. EITI reinforces the principles of transparency and accountability by promoting full verification and publication of company payments and government revenues. Through partnerships between citizens, government bodies, and companies, EITI helps to shine the light of transparency on extractive industries and is becoming an important tool for demanding government accountability for the use of those revenues.

Legislatures have a critical role to play in EITI. This guide provides legislators<sup>1</sup> with information about the EITI process and offers practical suggestions for them to encourage the government to participate and ensure that the EITI program is successful. It is designed primarily for legislators and their staff, but political leaders, government officials, civil society organizations and international actors may also find it helpful.

The guide is organized into X chapters. Chapter I provides an overview of EITI and the EITI process. Chapter II provides a context for the legislature's engagement on EITI and discusses broadly how legislators can contribute. Finally, Chapters III through X each discuss a specific aspect of the EITI process and share specific suggestions for the role the legislature might play to ensure that the process succeeds.

## Box 1

### The "Resource Curse" and Poverty

"Resource curse" is a term widely used to describe the paradoxical situation in which countries with abundant natural resource wealth are more likely to suffer from high poverty rates, weak economic growth and slow development.

A country's poorest citizens are often the ones most negatively affected. Resource-rich developing countries often have lower life expectancy, and greater inequality, illiteracy and child infant mortality, than those that are less endowed. Despite their wealth, these countries tend to rank at the bottom of international human development indicators.

<sup>1</sup> For the sake of simplicity, this guide uses the term legislator to refer to members of parliament, legislators, deputies, members of Congress, etc. Similarly, the term legislature is used as a generic term covering any national representative institution, including parliaments, congresses, assemblies, etc.





# What is EITI?



## Chapter I.

*To effectively engage on EITI, legislators will want to know a few essential features of the Initiative. This chapter provides a brief summary of how EITI works and is managed, and describes how countries can benefit.*

### What is EITI?

The EITI is a global standard for transparency in the extractives sector. It centers on the reconciliation of company payments with government receipts and disclosure of that information to the public. The goal is to identify potential discrepancies between payments and receipts and investigate and address the underlying causes.

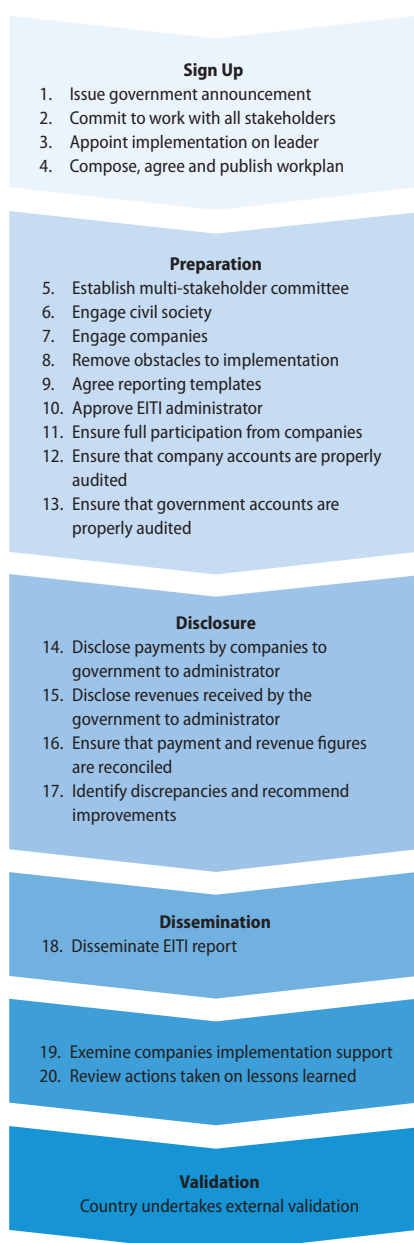
The EITI process is carried out using the services of an independent administrator and conducted under the supervision of a multi-stakeholder steering committee. The administrator produces a public report with revenue and payment data and an explanation of data discrepancies and process shortcomings. Each EITI program must adhere to the EITI Principles and Criteria,<sup>2</sup> and must complete 20 steps in four phases, as outlined in *Diagram 1* on the next page. However, the entire process is designed to be flexible so that each country may adapt it as necessary. Once established, the EITI process should be conducted annually.

For a country to become an EITI “candidate,” the government must publicly commit to the Initiative and complete the four steps of the Sign Up phase. Once a country has fully implemented EITI, and has undergone a successful Validation process

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<sup>2</sup> See *Appendix A: EITI Criteria and EITI Principles*.

Diagram 1: EITI Process



(See *Chapter VIII: Ensuring a Successful Validation Process*), it becomes EITI “compliant.” As the EITI program continues, Validation is conducted every two years.

## What are the benefits of EITI?

Countries choose to join EITI for a variety of reasons. The following paragraphs describe several of them. EITI can help to:

*Ensure that a greater portion of revenues generated from oil and mineral resources are used to benefit the people in a nation.* This is a primary benefit of EITI.

*Strengthen budget monitoring and oversight.* EITI reports can be powerful tools for citizens and legislators to understand how much money the government collects and, where countries choose, how the funds are spent. In some cases, EITI has led to the government’s recovery of unaccounted-for funds or company underpayments.

*Reinforce broader anti-corruption and good governance agendas.* Effective EITI programs can make corrupt practices more difficult to hide. By promoting transparency in an area where secrecy is often the norm, EITI participation can help establish precedents for improving transparency in other areas of government.

*Build citizen trust in public institutions.* When elected officials use EITI to promote openness and public discussion about how the government receives and spends revenue, citizens may feel empowered and better connected to the policy process; more confident that their interests will be taken into consideration in government decision-making; and more likely to believe that they can play a role in holding their government accountable.

*Promote reduced hostilities between governments, companies and communities or citizens.* Extractive industries tend to be disruptive to the communities in which they operate. Since they involve physical upheaval of land, and workers from outside the community (and sometimes outside the country), there tends to be hostility, in extreme cases leading to conflict. The government and the companies often blame each other. Transparency can build trust among these actors, and EITI can create a safe forum for dialogue, understanding, and resolution.

## Case Study 1

### Recovering Funds in Nigeria

Nigeria’s first EITI audit report found a discrepancy of \$230 million Nigerian naira between what the companies reported to have paid, and what the Nigerian Central Bank reported to have received. After auditors further pursued the issue, they identified a number of accounting, record-keeping and other problems that could explain a large portion of the amount of funds originally unaccounted for. As a result, the amount of missing funds was reduced to \$8.5 million.

In 2008, when an ad-hoc committee of the National Assembly began holding hearings to examine activities of the Nigerian National Petroleum Company (NNPC), members were able to cite the EITI report during questioning of officials from the Department of Petroleum Resources.

*Improve the investment climate.* A country's implementation of EITI sends a signal to international investors and companies that the government is committed to strengthening transparency and accountability. The country may be perceived as a more attractive destination for investment, which may spur economic growth in other sectors; in the longer-term, access to cheaper capital may increase as the country's risk ratings improve.

## Who is involved in EITI?

EITI requires the active participation of a wide range of stakeholders. The *EITI Source Book* defines stakeholders as "...individuals, communities, groups and organizations who have an interest in the outcome of EITI and those who are able to influence it."<sup>3</sup> In most countries, this has included representatives from government, civil society, and the private sector, who sit on a multi-stakeholder steering committee or working group (MSG). The role of legislators has varied, from participating directly on the MSG, to monitoring the EITI process in their oversight capacity. The MSG, discussed at greater length in Chapter IV, is the principal EITI decision-making body.

## How is EITI managed and funded in each country?

Each implementing country manages its own EITI process, led by a senior government official and the MSG. The primary source of funding for an EITI program should be the implementing country's government. A Multi-Donor Trust Fund (MDTF), managed by the World Bank, is also available for targeted technical assistance in some countries.

## How is EITI managed and funded at the international level?

At the international level, EITI is governed by a 20-person EITI Board. The International EITI Secretariat, based in Oslo, Norway, provides support to the EITI Board and is the first point of contact for organizations involved and interested in EITI. It promotes the EITI process, coordinates communication and policy decisions by EITI international stakeholders, and provides guidance to EITI implementers.

## How can legislators learn more about EITI?

The first place to look is the international EITI web site ([www.eitransparency.org](http://www.eitransparency.org)) and the list of resources in *Appendix C* of this guide. Legislators may also want to request informational meetings with officials of government agencies likely to spearhead EITI (e.g., oil or mining, finance, economy or planning), as well as local civil society partners and offices of the Publish What You Pay Campaign, Transparency International, and Revenue Watch Institute (RWI). The World Bank country office representative may also be able to provide additional EITI background and information.

### Box 2

#### Typical EITI Stakeholders

##### *Government or public institutions*

- Oil or mining agency
- Agencies that collect or manage revenue
- Economic development and planning agency
- Sub-national government
- National oil or mining companies
- Traditional leaders
- Supreme Audit Institutions
- Legislature (budget, finance, planning, and natural resource committees)

##### *Private sector*

- Oil, gas, and mining companies (international, domestic private, state-owned)
- National oil or mining companies
- Investors
- Business and industry associations

##### *Civil society and others*

- Community-based organizations
- National nongovernmental organizations (NGOs)
- International NGOs and their local affiliates
- Media
- Trade unions
- Academic and research institutions
- Faith-based organizations
- Traditional/customary leaders

Source: *Implementing EITI: Applying Early Lessons from the Field*, World Bank, 2008.

3 *EITI Source Book*, p. 5, Extractive Industries Transparency Initiative, 2005.

Figure 1: EITI Candidate Countries as of January 2009



EITI Candidate Countries (as of January 2009):

- Azerbaijan
- Cameroon
- Central African Republic
- Côte d'Ivoire
- Democratic Republic of Congo
- Equatorial Guinea
- Gabon
- Ghana
- Guinea
- Kazakhstan
- Kyrgyzstan
- Liberia
- Madagascar
- Mali
- Mauritania
- Mongolia
- Niger
- Nigeria
- Peru
- Republic of the Congo
- São Tomé e Príncipe
- Sierra Leone
- Timor-Leste
- Yemen

# The Legislature and EITI



## Chapter II.

*Legislators have a crucial role to play in making EITI effective. This chapter discusses what this role might involve, and gives an overview of tools and strategies legislators might utilize to ensure that EITI succeeds in their country.*

*“Legislators must be proactive in the oversight of revenues from extractive industries...only then will they be able to help in the fight against poverty.”*

Sen. Lee Maeba, Chairman, Senate Upstream Petroleum Committee,  
National Assembly of Nigeria

### How can legislators contribute to EITI?

A legislature effectively carrying out its three core functions – oversight, representation and lawmaking – is critical to the success of EITI.

- *Oversight*

Legislatures are empowered to scrutinize government activities, to ensure that programs are implemented effectively and legally, and that allocated funds are accounted for. By skillfully using the question period, conducting public hearings, and inviting ministers, business people and others to testify before committees, legislators can help make certain EITI is managed well and that EITI reports are issued on time, that they are accurate and that they are published widely. Once a report has been released, legislators can ensure that the results are widely publicized, and that the government addresses discrepancies and shortcomings.

### Box 3

#### Structuring Legislative Engagement on EITI

Legislators will want to organize and coordinate their involvement in EITI. They may want to establish an EITI legislative working group or coordinate activities through the political party or coalition caucus. Given the importance of the oversight role to EITI, however, committees are likely to be the most effective venue.

In some cases, one committee may cover the majority of EITI-related issues. Zambia's Committee on Economic Affairs and Labour, for example, oversees the Ministries of Mines and Minerals Development, Finance, National Planning, and Commerce, Trade and Industry. More often, several committees – budget, oil or mining, anti-corruption – have jurisdiction over an aspect of EITI, and may need to be involved at various stages of the EITI process.

- *Representation*

Carrying out their representation function, legislators can help shape the EITI program and make certain it reflects a broad range of interests. They may become involved in EITI multi-stakeholder groups (MSGs), and can help ensure that civil society organizations (CSOs) committed to resource transparency are involved and active in the MSG. Through public hearings, interviews with the media, constituent outreach, and other methods, legislators can build public awareness about EITI and the problems it identifies, and influence public opinion for holding the government accountable.

- *Lawmaking*

Finally, acting in their lawmaking capacity, legislatures may ensure that their governments sign on to and participate meaningfully in the EITI process. Several countries have run into legal obstacles to EITI implementation, and a revision to the laws has been required. Legislators can ensure these laws are changed in a way that reflects and reinforces the transparency required through EITI. In addition, although not a part of EITI requirements, some countries have strengthened EITI by enshrining the process itself into law.

### How can legislators benefit from engaging on EITI?

Legislators have chosen to engage on EITI for a number of reasons. The initiative provides legislatures, political parties, and individual legislators with an opportunity to establish themselves as relevant and credible leaders on extractive industry transparency issues, about which citizens often care deeply. It can serve as a venue for building expertise and partnerships with other actors on extractive industry issues. Legislators who work closely with other actors on EITI may be able to use their engagement as a platform for engaging on other important issues related to improving extractive industry management. Finally, information obtained through EITI reporting can serve as an important tool for expanding and strengthening budget monitoring and oversight activities by the legislature.

### What legislative tools and strategies can be used to engage on EITI?

The remaining chapters of this guide discuss several legislative tools for learning about and getting involved in EITI. The majority of the suggestions fit into the following four categories:

- *Coordinate efforts with civil society organizations*

Some CSOs are very active on extractive industry issues. And they may have links with international organizations such as Transparency International and Publish What You Pay Campaign, which provide them with financial support and information about the extractive industries, and the EITI process. These organizations can provide legislators with useful information on EITI and the extractive industries, be helpful advocates in encouraging the government to adopt or improve EITI, provide informed ideas for developing a policy to strengthen or complement EITI and help to hold the government accountable for unaccounted or mismanaged revenues.

- *Incorporate EITI into constituent communication*

Citizens often care very deeply about whether the proceeds of natural resource extraction in their country are benefitting them, but know little about what the government receives, or how it spends extractive industries revenues. Legislators can transmit this information through their regular contact with citizens.

- *Strengthen and utilize the committee system*

Legislatures with effective committee systems divide their work, accomplishing much more than those without effective committees. Committees with jurisdiction over EITI-related issues can develop specific EITI expertise and are often better able to work across party lines, making the small compromises necessary to reach agreement on legislation and policies. Through public hearings, committees are also a useful, and often the only, venue to include public input into the policymaking process.

Since EITI involves issues that are typically covered by several committees – natural resources, budget and finance, public accounts, anti-corruption – effective oversight requires that the activities of these committees be coordinated and that information be shared between them. Legislatures also establish ad-hoc, select, or investigative committees to study or to deal with specific issues. With regard to EITI, creating such a committee is likely to be most useful once a report has been released, to investigate shortcomings or discrepancies identified by the administrator and which the government has failed to address or correct.

- *Build relationships with other EITI actors*

And finally, legislators can become better informed, and more effective overseers of the EITI process by working with their peers in other EITI countries, in regional EITI networks, international legislative networks and with international donors.

Each of the remaining chapters of the guide provides information about aspects of the EITI process most relevant to legislators, and explain how legislators can contribute. A summary of these legislative strategies is also included as *Appendix B*.





# Preparing for EITI



## Chapter III.

*An EITI program should reflect the specific characteristics of each country's extractives sector. This chapter describes the types and sources of information that can help legislators better understand the extractive industries, and suggests specific tools legislators can use to contribute to EITI prior to, and during, the first steps of EITI.*

### What information about extractive industries is important to know for EITI?

What questions should legislators interested in establishing an EITI program ask? The five that follow are a good place to start.<sup>4</sup>

1. *Are there extractive industries and how much do they each contribute to the national economy? Which industries provide the most government revenue? How much do they contribute to GDP? EITI requires that countries define which industries will be included in the reporting process.*
2. *Who are the key actors in the industry? What companies, international and domestic, operate in each industry? Are there state-owned companies, such as a national oil company, or is the government a joint partner in any mining or oil operations? EITI requires that all companies from the relevant industries report their data.*

<sup>4</sup> A detailed discussion on these issues can be found in *Drilling Down*, Ch 6–8, Revenue Watch Institute, 2008.

3. *What kinds of contracts have been signed between the government and companies?* Contracts specify how much money the government should receive and in what form (i.e., types of payments), who pays production costs, who manages the operations, how resources are shared or sold, and in what order parties to the contract get paid. There are two main types of contracts relevant to EITI, as described in *Table 1*, below.
4. *What are the key revenue streams?* Companies pay governments in taxes, royalties, payments in-kind, bonuses, dividends and rents. EITI requires that all material oil, gas and mining payments be published. The total revenue streams, added together, make up the government's "take" or share from operations of these industries.
5. *What government entities are involved in managing extractive industry revenues?* Which government entities collect revenue from companies? Which ones regulate the industry? Where exactly does the money go when the companies make their payments – with which government entity is it deposited?

**Table 1: Common types of contracts in oil, gas and mining industries<sup>5</sup>**

Type of contract	How it works	In what form the government receives money	Sectors in which it is most common
Production Sharing Contract (PSC)	Company manages development of the operation, and there is an agreed-upon formula for determining the proportion of the resource extracted (barrels or oil, tons of mineral, etc.) that goes to the government, and to the company.	Proportion (or "share") of production the government is entitled to. Governments frequently take these resources in-kind, and sell them or use them domestically. In some instances, governments receive payments from companies for the value of the government's allotted share.  Companies may also pay royalties, taxes, land rents and other payments. Governments may earn revenues from dividends earned by national resource companies serving in operating groups.	Oil
Concession Agreements	Government gives a license for the right to develop a specific geographic area	Royalties Fees for acreage size Taxes Bonuses Social taxes Dividends earned from national resource company participation Land rents	Mining  Oil

<sup>5</sup> Technical service agreements, in which the government controls the resource and enters into an agreement with a company to provide technical services of exploration, construction and management, are also common in the oil industry. However, they do not produce benefit streams usually relevant for EITI.

## What tools are best for a legislator to acquire this information?

Legislators have a number of tools to choose from when seeking this information. The approaches described below focus on accessing existing local and international expertise from within civil society, academic institutions, international organizations, companies and government. Where legislative resources for these activities are limited, international donors and other organizations<sup>6</sup> may be able to provide support.

- *Conduct site visits*

Legislators visiting an oil, gas or mining operation educate themselves about how the natural resource is extracted. Meetings with company employees and representatives of the ministry responsible for the industry can shed additional light on industry operations and finances.

- *Hold briefings or informational hearings*

Legislators might invite oil and mining ministry officials, company representatives, civil society, and other experts to brief members during a committee meeting or an informational hearing. In many countries, civil society groups knowledgeable about technical, legal or financial aspects of extractive industries hold similar briefings for their colleagues, and legislators should take advantage of their expertise.

- *Organize a study tour of an EITI implementing country*

Exchange visits can provide tangible, comparative information about how EITI works and how it can benefit a country. By meeting with the country's EITI actors, legislators can gain insight into how decisions about EITI were made and why, which can inform a legislator's view of his or her country's own EITI program. The EITI secretariat and others may be able to facilitate such a visit.

- *Commission a study*

Legislative committees can take advantage of local or international expertise on extractive industries by consulting with experts from universities or civil society organizations to conduct research on the key EITI issues. Such studies could examine fiscal, legal or operational aspects of the industry and highlight key concerns that may be relevant to EITI.

- *Produce a committee report*

Committees can also produce a public report explaining findings of a commissioned study or other committee activities. Committee reports are often used in developing legislation or to encourage the government to act on an issue. If the government has not yet adopted EITI, such a report might make recommendations to the government for doing so.

### Box 4

#### Mapping of Financial Flows

Some EITI programs have conducted a mapping of financial flows to learn about how money is exchanged between extractive companies and government. A mapping of financial flows in Cameroon was included in the first reconciliation report. See *Appendix E*.

<sup>6</sup> NDI and RWI are both examples of organizations that may be able to provide assistance with these types of activities.

## EITI Study in Zambia

Zambia announced in July 2008 its plan to join EITI. The government conducted an EITI **scoping study** with assistance from the World Bank. The study, released to the public, included information about:

- Ownership and production levels in the mining industry
- History and key statistics about the industry, including revenue streams and mining agreements
- Auditing standards;
- Stakeholder views about EITI; and
- Potential barriers to implementation.

Source: <http://go.worldbank.org/UD915M8920>

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## What can legislators do to encourage the government to sign up?

If the government has not yet signed on with EITI, or has, but has not yet been declared a candidate country, the legislature may build support for the initiative by promoting public awareness and encouraging public pressure on the government to act. How might this be done?

- *Participate in a conference or workshop on EITI*  
EITI has worked best in countries where actors have been brought together early to discuss the Initiative. Legislators can participate in workshops or conferences, and discuss their views on the need for EITI as well as how they would like to see the legislature participate. International donors and local or international CSOs may be able to help facilitate these events.
- *Pass a resolution of the legislature*  
The legislature can encourage the executive to sign on to EITI by passing a resolution asking the government to join EITI. Such a resolution may be stronger if it specifies a time frame for action. If the executive declines to sign up within that time period, the legislature might publicly question the relevant minister during plenary debate, or through parliamentary questions or a public hearing.
- *Work through the media to build public awareness*  
Legislators can raise awareness, promote EITI, and urge the government to join EITI by conducting press conferences and other media activities. In some countries, legislators often write opinion editorials or newspaper columns, and these are also good places to promote EITI.

# Establishing EITI Governance Structures



## Chapter IV.

*The success of EITI depends on how well it is managed. Chapter IV describes EITI governance structures and highlights ways legislators might participate and monitor them to help ensure that they operate effectively.*

### What should legislators know about EITI governance structures?

Governance structures vary from nation to nation, but a multi-stakeholder steering committee must oversee the program, and a senior government official must lead it. Several countries have also created additional structures, described below, to broaden stakeholder input or provide additional oversight. By becoming informed about how EITI is managed and by whom, legislators can recognize how best to participate in and influence their country's EITI program.

#### Case Study 3

#### Legislative MSG Membership

Legislators have held seats on the MSG in four of the 24 EITI candidate countries:

- **Kazakhstan:** the National Stakeholder's Council includes three legislators.
- **Yemen:** the EITI Council includes one legislator, who is a member of the Committee on Oil and Development.
- **Mauritania:** each of the four legislators on the MSG is from a different political party with representation in parliament.
- **Nigeria:** In the first iteration of EITI, two National Assembly members and two state-level legislators held seats on the National Stakeholder Working Group.

- *Multi-stakeholder working group*

The multi-stakeholder working group (MSG)<sup>7</sup> is a committee of civil society, government institutions, and company representatives who work in partnership to make decisions about the design, monitoring, and evaluation of EITI. It is the core decision-making body of the EITI program. The number of MSG members and who they represent differs from country to country, but *Box 2* provides a list of possible members. MSG membership should be small enough for the group to work efficiently, but large enough to represent all the stakeholders.

The MSG's responsibilities vary, but a recent analysis<sup>8</sup> of EITI countries showed most MSGs do some or all of the following:

- Determine an overall EITI country strategy;
- Choose the EITI Scope (See *Chapter V*);
- Develop, approve, and monitor progress of the EITI Work Plan (See *Chapter V*);
- Appoint and manage the independent administrator;
- Help make decisions about the reporting template (See *Chapter V*);
- Raise public awareness about EITI, often by disseminating the EITI report (See *Chapter VIII*); and
- Help identify and remove barriers to implementation.

- *EITI Secretariat or Implementation Unit*

EITI requires that, at a minimum, the government appoint a senior government official (often a Minister) to lead implementation of EITI. This senior official should be of sufficient rank to be able to resolve bureaucratic obstacles to EITI when they arise. Most EITI countries operate a dedicated national secretariat staffed by administrative, communications, or extractive industry expert staff. These are usually hosted by a specific government agency or ministry. In Peru, for example, the EITI secretariat is based in the Ministry of Energy and Mines; in Cameroon, it is located within the Ministry of Economy and Finance. Finally, a number of countries have also established inter-governmental working groups to coordinate government participation.

## Case Study 4

### Zambia Multi-Stakeholder Workshop

Legislators should seek to engage on EITI early on in the process. One way to do this is to participate in multi-stakeholder workshops held during initial EITI planning stages. Zambia, for example, held one such workshop just after announcing plans to join EITI. The workshop provided a venue for companies, civil society, members of parliament and government to discuss the structure of the future EITI Council, and how to proceed with the EITI process. Hon. Given Lubinda, Chairman of the Economic and Planning Committee, attended the workshop, and discussed the importance of legislative involvement in EITI.

Source: <http://go.worldbank.org/UD915M8920>

- *Other input mechanisms*

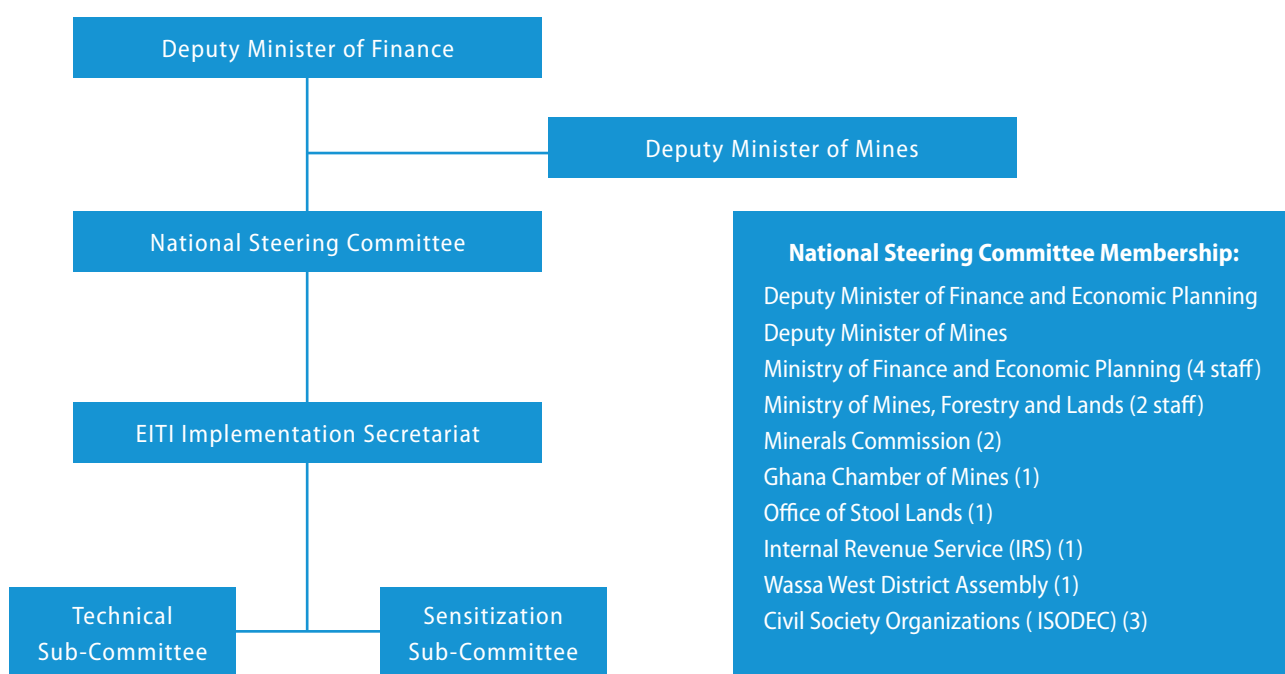
Some countries have created additional mechanisms to facilitate broader input. National EITI conferences convene individuals and organizations not formally

7 In some countries, the MSG is referred to as the EITI working group, steering committee, council or commission. It varies from country to country.

8 *Implementing EITI: Applying Early Lessons from the Field*, pp. 20–21, World Bank, 2008.

part of the MSG to share views. Civil society and businesses have also established constituency groups, which have representatives who sit on the MSG. They meet to discuss EITI decisions and their representatives share the group's views with the MSG.

Diagram 2: **Ghana's EITI Governance Structure**



## Do legislators sit on the MSG? What are the benefits of doing so?

EITI does not require that legislators be members of the MSG, but in some countries (See *Case Study 3*) the chairpersons or members of relevant committees (e.g., budget, finance, planning, natural resources, public accounts) have held a seat on the body, enhancing the legislature's contribution to EITI in several ways. Legislative membership on the MSG:

- Allows for easier legislative monitoring of EITI*

Committee members are responsible for knowing the industries or issues that their committee oversees. Holding a seat on the MSG, attending meetings and providing input helps the legislator to monitor EITI progress, achievements and problems.
- Encourages improved legislative-executive communication*

Infrequent and ineffective communication between the legislative and executive branches can weaken a legislature's ability to conduct oversight. EITI provides a structured process for facilitating information-sharing by the government with all parties.

### Box 5

#### Potential sources of EITI expertise

- Publish What You Pay (PWYP) members
- CSOs active in extractive industry issues
- Committee or other parliamentary staff
- Parliamentary research services, where they exist
- International donor organizations
- Relevant executive or ministerial officials
- Company representatives
- Academic institutions
- World Bank country office staff
- EITI national secretariat
- MSG members

## Joining the EITI MSG

Legislators might obtain a seat on the EITI MSG in a variety of ways. Legislative leadership or a relevant committee chairman could send a letter of request to the head of the MSG or of the EITI Secretariat or to a high-level agency official. In some cases, the government may need to be convinced, and using the media and coordinating advocacy efforts with CSOs may be another useful strategy.

In other cases, legislative membership may be initiated by the government. In Yemen, legislators were not initially included on the MSG. However, one year after its official formation, the EITI Council sent a formal letter of invitation to parliament to designate a legislator for membership.

- *Creates opportunities for relationship-building*

The MSG brings together a diverse set of actors to share viewpoints and expertise, and to make decisions by consensus. Participating in the MSG can facilitate relationships among these actors, which legislators can later leverage when pursuing broader extractive industry or anti-corruption agendas.

- *Promotes greater legislative expertise and leadership on extractive industries*

Through direct participation in the MSG legislators can benefit from extractive industry and transparency expertise of other MSG actors. In reporting to colleagues, and discussing EITI in the media, legislators may establish themselves as credible leaders on the issue.

### Box 6

#### A Note on EITI Timing

The amount of time it takes for an EITI program to produce its first report depends on many factors, including the scope of the program, funding, and a country's political circumstances. In the 10 countries that have produced a report, it has taken an average of 18–24 months.

## How can legislators best monitor the activities of the MSG?

Whether legislators sit on the MSG or not, overall engagement on EITI is more likely to be effective when they stay apprised of MSG activities. The following paragraphs share several strategies for staying informed and questions to ask when doing so.

- *Be informed about how the MSG works*

Legislators should inquire about who makes up the MSG. How were members chosen? Do members represent a sufficiently broad range of stakeholders and do they include at least senior company, civil society and government officials? Which government agency is responsible for coordinating EITI? Is there a separate national secretariat? What is their schedule for MSG meetings?

- *Establish communication early*

The earlier legislators establish mechanisms of communication with the EITI national secretariat and the MSG, the better informed they will be. Committees can request a copy of the EITI work plan and regular briefings by the EITI senior government official or the MSG chairperson. In cases where a committee chairman or member sits on the MSG, he or she should inform colleagues of EITI developments and problems.



- *Promote full engagement by civil society and companies on the MSG*

EITI programs are most successful when all non-government stakeholders are able to fully participate. Yet there are sometimes obstacles that legislators may want to monitor, and encourage the government to address. Non-government actors should be independent of government, and free to express themselves. Civil society representatives residing outside the capital may have difficulty traveling to meetings held in the capital without advance notice or funding for travel costs. If the government has communicated poorly with companies about their role on the MSG they may misunderstand what is required.



# Shaping the EITI Program



## Chapter V.

*An EITI program is designed and shaped early in the process. Chapter V discusses several of the decisions nations must make when designing their EITI program and suggests a number of ways the legislature might contribute.*

### What are the main issues considered for an EITI program?

In shaping the EITI program, key questions to ask include:

*How should company participation be determined?* EITI requires that all companies, both private and those that are state-owned, report.

*What should be the materiality level for payment types (taxes, royalties, etc.)?* EITI requires that all “material” payments be included. However, countries may determine that certain payments, based on a determined threshold, need not be included because of the cost and time it would take to produce the data.

*Should the results be reported as aggregated or disaggregated figures?* EITI allows each program to decide whether a report will contain payment and receipt figures as aggregated numbers, or separated by company, separated by payment type, or both. To date, all EITI programs have disaggregated data by payment type, but only reports from Ghana, Guinea, Mongolia and Nigeria have also disaggregated by company.<sup>9</sup> Reports with disaggregated data tend to be more informative, and greater transparency through disaggregation can generate more trust among stakeholders.<sup>10</sup>

<sup>9</sup> *Drilling Down*, p. 148, Revenue Watch Institute, 2008 and *EITI Mongolia 2006 Report*, released February 2008 (Available at: <http://eitimongolia.mn>)

<sup>10</sup> *Implementing EITI: Early Lessons Learned from the Field*, p. 33, World Bank, 2008.

## Case Study 6

### Shaping EITI in Mongolia

Mongolia joined EITI in 2005, and produced its first report in February 2008. The EITI Council chose to have a reconciliation using previously audited data conducted and to disaggregate by both payment and company.

The EITI Council also chose to define a threshold for company reporting. Mongolia's mining industry is large, with approximately 350 companies. Some members of the EITI council felt it important to include all companies to ensure reporting was comprehensive. Others worried that requiring so many companies to report would take so long that it would undermine the EITI program's credibility, and would be too costly.

The EITI Council chose to include the 25 largest companies, or those contributing at least 200,000,000 Tugrugs in 2006. Together, these companies contribute almost all of the total mining revenues (one company, for example, contributed more than 80% of mining revenues).

## Case Study 7

### Additional Examples of Materiality

The **Ghana** EITI program chose to include payments made by eight companies contributing 99 percent of royalty.

**Nigeria** required all companies to report their payments of taxes, royalties, and production shares

**Guinea** defined materiality to only include the payments of the six largest mining companies

Source: *Drilling Down*, Revenue Watch Institute, 2008.

#### Box 7

#### What to Do When the Data Had Not Previously Been Audited

EITI requires that all company payment and government revenue data be previously audited to international standards. This helps to ensure that the data being reconciled are reliable.

However, if data have not been previously audited to international standards, the EITI program needs to include an audit, rather than reconciliation.

### Where will scoping decisions be reflected?

Decisions about the scope of a country's EITI program will be reflected in and shaped by three important documents: the EITI work plan; the EITI reporting template; and the EITI administrator's Terms of Reference. All three documents are explained in the World Bank's guide *Implementing EITI: Applying Early Lessons from the Field* (See Appendix C: *List of Additional Resources*). The EITI work plan serves as the "road map" to EITI implementation, and it must be approved by the MSG and made publicly available. It should define the EITI program's objectives, set a timeline, indicate how much the planned activities will cost, and assess any constraints on the capacity of those who will participate. The EITI reporting template is a standard questionnaire used to collect payment data from each reporting entity (government or company). The Terms of Reference for the independent administrator<sup>11</sup> should define exactly how they will carry out their responsibilities, including what information they include in the report.

11 The role of the independent administrator is to collect the data reported through the reporting template, reconcile it, and produce a report of the results.

## How can legislators ensure EITI follows the agreed work plan?

In these early EITI stages legislators, whether MSG members or not, can help to guarantee the effectiveness of the EITI process by monitoring whether it is following the agreed work plan.

- *Encourage government and the MSG to remove obstacles to implementation*  
Confidentiality clauses, sometimes included in contracts between companies and the government, can be an obstacle to implementation. Failure to remove them can delay the EITI process, derail it, or render the exercise ineffective. Legislators should encourage the government to excuse companies from this obligation. Another common obstacle has been tax law that prohibits government from releasing company tax information to a third party. This is another instance where the government can change the law, if required, to make EITI work.
- *Encourage government to address delays*  
Legislators may be able to reduce delays in implementation of EITI, and ensure funding deficiencies do not unnecessarily disrupt the process. Legislators can help address causes for any delays and encourage the government to stick to its agreed work plan through parliamentary questions, and through informal meetings with government officials involved in EITI and company representatives. Legislators may also help ensure that funding is disbursed in the timeframe outlined in the work plan.
- *Request regularly scheduled EITI briefings*  
Committees can request that the EITI senior government official provide EITI briefings on a regular schedule. Committee members will need to determine how often these briefings should take place to ensure effective information exchange. Some factors to consider include the length of the legislative session and pressing non-EITI events or issues.
- *Request that the administrator's progress reports be presented to the legislature*  
The MSG may require that the administrator provide progress reports to the MSG on a periodic basis. Progress reports may help identify problems early in the process. They are likely to include what actions have been taken to date, to which companies or government entities reporting templates have been sent, what companies or entities have completed them, and tasks yet to be completed.
- *Request automatic forwarding of public EITI documents*  
Most documents produced as part of the EITI process should be made public. This includes the EITI work plan; MOUs signed between the government and the MSG; the EITI reporting template, and the MOU signed by the administrator. Committees could request that they receive, as a matter of course, copies of all relevant EITI documents.

### Box 8

#### Maximizing Benefit from EITI Briefings

- Remember that the main purpose of briefings is to gather information rather than to criticize policy.
- Briefings can often provide background for further actions or assist in focusing legislative involvement on key issues.
- Briefing sessions are not to resolve all the problems of the EITI, but to provide more information on a specific issue.
- Speakers at briefings are representatives of organizations or agencies, but may not be able to answer all questions, particularly with respect to future policy or actions.

### Box 9

#### Options When the Government is Unresponsive to Requests for EITI Information

- Exert pressure through political party caucuses
- Press issues through committee outlets (hearings, investigation, tabling reports)
- Draft a public letter of protest (copy the World Bank, other concerned donor agencies and the media)
- Document lack of response and seek support of civil society and the international community



# Analyzing and Improving the EITI Report and Process



## Chapter VI.

*The success of the EITI program rests on the quality and completeness of the EITI report. Chapter VI describes the report and the process through which it is developed, and suggests a number of ways legislators might help improve its quality.*

### How does the reporting process work?

The EITI administrator sends the report templates to each covered company and government agency. The companies and agencies complete the template, and send them back to the administrator, who reconciles the figures and presents them in a final EITI reconciliation report. In some cases, the administrator may request additional information. All reconciliation results are explained in the final EITI report.

#### Case Study 8

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#### **Attending a Workshop on the EITI Report in Ghana**

The Ghana EITI program produced its first report in February 2007. In June 2007, the Ministry of Finance and Economic Planning (MOFEP) and the EITI National Steering Committee (NSC) held a workshop for members of the Parliamentary Select Committee on Mines. The purpose of the workshop was to present the report's results to the MPs, discuss the EITI initiative, and begin discussing EITI legislation.

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## What should the EITI report look like?

The structure and content of the EITI report will depend on MSG decisions about the program, as reflected in the work plan and the administrator's Terms of Reference (See *Chapter V: Shaping the EITI Program*). At a minimum, every EITI report should explain how it has fulfilled EITI requirements,<sup>12</sup> and should disclose the following:

- *Material revenues and payments*

The report should state which material payments and material revenues were disclosed and are included in the report. All covered companies (per the MSG work plan) and all government entities should be listed. The report should also explain how "materiality" was defined for revenue streams, covered companies and government entities.

- *Discrepancies*

According to Validation criteria, the report should identify discrepancies between what the companies reported they paid and what the government entities reported they received. It should list all companies and government entities that failed to report to the administrator.

- *Recommendations*

Finally, EITI requires that the report include recommendations for strengthening the EITI process. Such recommendations might include improvements to the integrity of financial systems and company record-keeping and accounting practices, or clarifications to related laws and regulations which could enhance compliance.

### Case Study 9

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#### Examples of Problems in an EITI Report: Mongolia

The most common problems identified in EITI reports are that some companies fail to report, or report inaccurate information; companies misunderstand what they are required to report; government agencies fail to report, and delays in the process. These problems are quite common in the first report in each country.

For example, Mongolia's first EITI report identified the following issues:

- Incomplete government data: Some government agencies submitted reporting templates with incomplete information; some agencies failed to report at all.
- Incomplete reporting by companies: The report noted that many companies seemed to misunderstand what payments needed to be reported on.
- Inconsistency in the way government departments and companies report the same payment: Some companies, for example, included VAT and customs duties in the figure for customs duties.
- Delays in the process: The administrator noted that delays in implementation left too little time for government agencies and companies to respond to administrator inquiries.

Source: *Report on the First Mongolian Reconciliation*, available at: <http://eitimongolia.mn/>

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<sup>12</sup> *EITI Validation Guide*, p. 10, Extractive Industries Transparency Initiative, 2006. (See *Appendix C: List of Additional Resources*).



## What should legislators do to promote improvements in the EITI report and process?

Depending on the oversight tools and authority that legislatures and their committees possess, they may have several options for addressing report shortcomings. Legislators may:

- *Meet with the administrator and with CSOs to discuss report findings*  
As soon as the report is released, legislators should have the administrator explain the findings. They could also ask CSOs active on EITI to share their analysis.
- *Hold public hearings about the report's findings*  
Public hearings can be used to gather information about the EITI report findings, solicit input on ways to improve the EITI process, or raise public awareness about EITI (See *Chapter VIII: Communicating The EITI Report*).
- *Establish select (investigative) committees to examine major discrepancies or problems*  
If problems identified are serious and are not being addressed by the government, select committees can be an effective way to shed more light on the problem. Select committees are temporary committees established to examine a particular issue and can have a deterrent effect on corruption.
- *Produce committee reports highlighting areas for government action*  
Committee reports provide government and the public with the committee's analysis of a particular issue or program with recommendations for action. A committee report on EITI might highlight recommendations included in an EITI report but not yet acted upon by government or might draw attention to the government's action or lack of action to reconcile discrepancies highlighted in the EITI report.
- *Seek government action through parliamentary questions*  
Oral or written parliamentary questions typically provide regularly scheduled opportunities for individual legislators to pose questions to executive leaders for verbal response.
- *Request that an audit be conducted*  
Where discrepancies or other problems have been identified, commissioning an additional audit may be the only way to examine why they occurred. In some countries, legislative committees may have the authority to request that the government conduct such an audit to resolve outstanding problems.

### Box 10

#### Questions to ask when reviewing the EITI report

- How much has the government earned in total?
- How much was earned from taxes, royalties, other categories?
- Did the payments reported by companies match the revenues reported by the government?
- Were all material money flows reconciled?
- How was the oil converted to cash and what prices was government paid?
- Were there any discrepancies?
- Does the report meet the standard agreed to by the MSG?
- Does the report fulfill EITI criteria?
- What recommendations have been made in the report?
- What was the time period covered in the report?

Also see Appendix B: Summary of Legislative Strategies.

Source: *Drilling Down*, p. 80, Revenue Watch Institute, 2008.



# Communicating the EITI Report



## Chapter VII.

*One of the most important benefits of EITI is that it makes public information about extractive industries revenues. How can legislators help in this process? Chapter VII makes several specific suggestions.*

### Why is communication important for an EITI program?

Communication is an essential part of making EITI successful. Government, companies, civil society organizations, legislators and citizens themselves must understand and support the program. This requires that key EITI information be available and understandable to all actors, all of which requires effective communication.

EITI communication should incorporate a number of different tools, be carried out by a variety of stakeholders, and occur frequently throughout the EITI process. The communication strategies used have varied from country to country, but the most common have included publishing the EITI report on a web site and making paper copies available. *Talking Transparency: A Guide for Communicating EITI* shares information about some of the more comprehensive strategies (See *Appendix C: List of Additional Resources*)

## Box 11

### Communicating Online: Some International and National EITI Web Sites

International EITI Web site:  
<http://www.eitransparency.org>

Government of Azerbaijan (in English  
and Azerbaijani): <http://www.oilfund.az/>

Government of Gabon (in French): [http://  
www.eitigabon.org/FRAN/index.htm](http://www.eitigabon.org/FRAN/index.htm)

Government of Ghana (in English): [http://  
www.geiti.gov.gh](http://www.geiti.gov.gh)

Government of Guinea (in French) [http://  
www.guinee.gov.gn/itieg.php](http://www.guinee.gov.gn/itieg.php)

Government of Kazakhstan (in Russian,  
with some Kazakh and English content):  
<http://www.eiti.kz>

Government of Liberia:  
<http://eitiliberia.org/>

Government of Mauritania:  
<http://www.mauritania.mr/itie/>

Government of Mongolia (in Mongolian  
and English): <http://eitimongolia.mn/>

Government of Nigeria:  
<http://www.neiti.org/>

Government of Peru: (in Spanish): [http://  
www.minem.gob.pe/eiti/default.asp](http://www.minem.gob.pe/eiti/default.asp)

Government of Equatorial Guinea (in  
French): [http://www.republicofequatorial  
guinea.net/Initiatives/?PageID=127](http://www.republicofequatorialguinea.net/Initiatives/?PageID=127)

Government of Cameroon (in French):  
[http://www.spm.gov.cm/showdoc.php?  
txtrech=eiti&lang=fr&button=ok](http://www.spm.gov.cm/showdoc.php?txtrech=eiti&lang=fr&button=ok)

## Why is it important for the EITI report results to be communicated?

No matter how successful the EITI program, if the report is not publicly released and widely disseminated, it will fail to fulfill its purpose. EITI requires that the report be made publicly available, and that it be comprehensive and comprehensible.<sup>13</sup> Citizens must be able to access the report, and they must be able to understand it.

## Why should legislators help to communicate EITI?

Legislators are uniquely positioned to help communicate the EITI results through public outreach activities. They often already have experience working with the media and engaging citizens, and often already use a variety of mechanisms for doing so. They may also have a good understanding about how citizens feel about extractive industry transparency, and what they are most interested to know. Whether as members of a committee, a political party group or as an individual legislator representing constituents, legislators can use public outreach activities to educate citizens about EITI and gather their feedback. Legislators and political parties who communicate about EITI may be able to demonstrate leadership on the issue, and show that they are responsive to and concerned about citizens' needs.

## What are the objectives of sharing EITI report results?

Legislators generally have two objectives in sharing EITI information with the public: 1) educating the public about the importance of EITI and the EITI report; or 2) drawing attention to problems in the report that the government needs to address. If the objective is to highlight shortcomings in the report, legislators will want to emphasize only the most important issues and communicate them clearly. When choosing what to highlight, legislators may want to ask the following questions:

- What issues are of most concern to citizens?
- What issues if resolved, would do most to improve EITI and transparency?
- What can government do about the problems identified? What should it do?
- What do MSG members think are the most important issues?
- What do CSOs active on EITI believe to be the most important issues to address?
- What are the most important issues to the party? How do EITI and other transparency issues fit into the party platform?

When deciding when and how to communicate with the public, legislators should be sure to take into consideration whether the government has made an effort to resolve the issues of concern. The goal is to ensure that the problems are resolved, and that the report is as transparent as possible.

<sup>13</sup> *EITI Validation Guide*, Extractive Industries Transparency Initiative, 2006. (See *Appendix C: List of Additional Resources*).

## What are some approaches for communicating about EITI?

Legislators have a number of possible approaches to communicating the EITI report findings. The following paragraphs describe several of them.

- *Coordinate with the EITI national secretariat*

EITI requires that the report be publicized. Most EITI secretariats have, at the least, developed a public web site (See *Box 11*) and posted the report online. Several EITI programs have created formal communications strategies, which include a range of approaches for publicizing the report. Legislators may want to coordinate their outreach activities with those of the secretariat by, for example:

- Providing input into the EITI communication strategy;
- Making available through the legislature's public relations department a simplified version of the EITI report or a pamphlet on the EITI process;
- Offering to speak at an event to launch the EITI report;
- Helping EITI to arrange a town hall meeting to present the report to the public;
- Distributing EITI reports to citizens during a constituency visit, or making copies available at the constituency office;
- Writing a joint editorial with the national secretariat in a local newspaper to emphasize the importance of transparency to citizens; and
- Briefing national secretariat staff and the MSG about feedback from citizens.

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### Case Study 10

#### Road Shows in Nigeria

Nigeria's EITI communications strategy included "Road Shows," public forums outside the capital to raise public awareness and discuss EITI. They are carried out by the EITI national secretariat around the country. National Assembly members participate by presiding over the forums, making presentations, and contributing to the discussion.

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- *Conduct outreach on EITI through constituent relations activities*

Legislators and political parties can incorporate EITI into their constituent relations and communications strategies. Legislators with mining or oil company operations in their constituency, for example, could use the EITI report as a tool to engage with their constituents and demonstrate responsiveness to local needs.

Possible EITI-related activities for legislators or parties include:

- Discuss EITI at a town hall meeting; invite the administrator or EITI staff to explain the report;
- Participate in a radio or television call-in show to discuss the legislature's activities related to EITI;
- Include an EITI update in a legislator's or political party's newsletter; and
- Conduct a survey to learn more about citizen concerns on extractive industries, and about their knowledge of EITI.

In general, the more often the activities allow for two-way communication (legislators share information, while citizens voice their concerns), the better. Legislators who understand constituents' EITI-related concerns can provide more informed and representative suggestions for strengthening the EITI process.

*Conduct committee-based outreach on EITI.* Committees with jurisdiction over the ministries responsible for the extractive industries, or for revenue and spending transparency, are probably the primary legislative vehicle for EITI outreach. These committees are empowered to collect EITI information from relevant actors, and are best positioned to explain the issue to citizens. Well-publicized committee hearings allow citizens to hear from their public officials, or can permit citizens, CSOs, and expert witnesses to testify about EITI.

Legislators who reach out to citizens on EITI will need to have a clear, concise message. When speaking publicly to promote that message, they will need to be fully briefed, have full information, and be prepared to make statements or points that do not contradict those being made simultaneously by other legislators (whether in the party or the committee). They should also be ready to share where people can get more information.

# Ensuring a Successful Validation Process



## Chapter VIII.

*The validation process determines whether a country is deemed to be EITI compliant. The process is conducted by an outside, independent validator, but there are ways legislators can contribute to the process. This chapter describes several.*

### What is the purpose of the validation process?

Validation serves two purposes. First, it is conducted to determine whether the country is deemed EITI Compliant. Failure to carry out the process in a timely manner may result in a loss of EITI candidate status. Second, it can be conducted by countries to measure their progress against the initiative's indicators and look for external recommendations for improvement.

### How does the validation process work?

An outside independent validator, chosen by the MSG, reviews EITI documents, conducts stakeholder interviews, and produces a report that explains whether each EITI step was completed according to EITI standards. Once the validation report has been produced, but before it is released to the public, the MSG and the government have an opportunity to review it and resolve concerns, if necessary.<sup>14</sup> Validation must be conducted on an ongoing basis, usually every few years.

<sup>14</sup> *EITI Validation Guide*, Extractive Industries Transparency Initiative, 2006.

## How can legislators oversee the validation process?

Because of its importance to the overall EITI process, and its potential benefit to legislatures as a complementary oversight tool, legislators will want to oversee implementation of the validation process.

- *Hold public hearings to encourage government to carry out validation*

Validation has begun in only a few countries, but many are required to complete the process by the end of 2010. If the process is delayed, committees may want to hold public hearings to discover why. Where they have the authority, committees can call the Minister or other senior government official leading EITI to testify on validation progress. By broadcasting the hearing and/or conducting an EITI press conference, legislators can bring attention to the delays, and may prompt the government to fulfill its obligations on EITI.
- *Offer to brief the validator*

Committees that have held hearings about the EITI report or process or conducted their own review of the EITI program will have valuable information to share with the validator. The validator will likely request meetings with relevant committees, but if not, legislators should take the initiative and contact the validator to share their views.
- *Request copies of the validation report*

The validation report must be made publicly available once it is finalized; however, the MSG and the government must review it first. If disagreements occur, the validator should try to resolve them in cooperation with the government and the MSG. The ideal time for legislators to receive the report is when the MSG and the government receive it. This will allow the committee with relevant oversight responsibilities to be made aware of the problems identified, and possibly help to address government's or the MSG's disagreements. Legislators should be aware that the government may be hesitant to share the report before all disagreements have been resolved.
- *Compare validation report to issues identified through previous oversight of EITI*

If the legislature has been actively monitoring the EITI process prior to validation, the validation report's findings are likely to include similar conclusions to those of the legislature. Be sure to see whether discrepancies or problems previously identified are included. If they are not, it will be important to discover whether and exactly how they were resolved.
- *Meet with the validator*

Once obtaining a copy of the validation report, committees can request a meeting with the independent validator. The validator can explain the report and its findings, and may be able to help clarify why issues legislators expected to be addressed are still outstanding.



# Strengthening the EITI Process



## Chapter IX.

*Many countries have chosen to strengthen and build upon their EITI programs. This chapter discusses several, and makes suggestions for the contributions legislators can make.*

### Why is it important to strengthen the EITI process?

Launching an EITI program is an important accomplishment: an effective EITI program will provide the public with more information about what their government receives from natural resource revenues, and how it is collected and managed. To ensure that EITI is sustainable, that it fully reflects a country's specific circumstances, and that the information begins to be used as a budget tool, legislators will want to consider ways to build upon and expand their country's EITI program. This chapter discusses some of these measures, and highlights how legislators can contribute to maximizing the benefits of an EITI program.

### How can passing an EITI law help to make the program more successful?

Enshrining the EITI process into law can strengthen the program in several ways. The EITI process depends on a government's desire to carry it out, and company and government entity compliance in reporting is not legally binding. An EITI law can ensure that the EITI program is sustainable, survives changes in government, and provides for penalties where companies and government entities fail to report.

## Nigeria Extractive Industries Transparency Initiative (NEITI) Act

The NEITI Act became law in May 2007, making Nigeria the first country to give statutory backing to its EITI program. The Act requires annual reporting, establishes the NEITI Secretariat as a permanent legal entity, outlines rules and procedures for appointing MSG members, and legally defines the MSG's role. The law also strengthens NEITI by:

- Making company and government reporting mandatory (those that do not comply may be penalized)
- Requiring audit reports be reviewed by the Auditor General
- Requiring audit reports be submitted to the National Assembly
- Requiring bi-annual NEITI activity reports to the National Assembly

### ***Drawing on Expertise and Public Input to Review, Amend and Pass the NEITI Bill***

To review, amend and pass the NEITI bill, the National Assembly drew on support and expertise of CSOs, EITI experts, and international organizations. To better analyze and understand the NEITI bill, the Senate Committee on Establishment and Public Service of the National Assembly held a retreat to discuss its provisions. Committee members, with the support of international organizations, invited NEITI Secretariat staff and World Bank representatives to brief them on the major pieces of the legislation. International legislative experts worked with them to analyze each section of the bill.

Source: *NEITI Act, 2007 (See Appendix D)*

An EITI law strengthens the legislature's role in EITI as well. In the process of drafting, debating and reviewing the law, legislators can shape the program to ensure that it reflects country circumstances, accurately articulates citizens' needs, and complements other laws and programs related to extractive industries. Most importantly, a law will strengthen the formal legislative oversight role over EITI.

## Going beyond the core EITI<sup>15</sup>

EITI is more valuable as a transparency tool when the EITI report includes information of sufficient volume and quality. Some countries have benefited from expanding their EITI programs beyond the core requirements. Ghana, Guinea and Nigeria, for example, have chosen to re-audit government and company data, a process that can ensure that the numbers included in the EITI reconciliation report are reliable and of high quality. The EITI process can also be applied to transparency of contracts and even operations of extractive companies. More work can be done at the national level on assessing the impact of EITI in each country.

15 For a detailed description of these issues and specific examples, see *Drilling Down*, p. 151, Revenue Watch Institute, 2008.

## Examples of EITI Innovation

*Use of sub-national distribution of revenues:* The **Ghana** EITI reports have traced the 9% of overall mineral royalty payments that are collected by the central government and then re-distributed to local authorities in the areas where mining takes place. The audit also included a review of spending by the authorities in producing districts.

*Providing regulatory or legislative backing to the EITI:* In **Kazakhstan**, the law on subsoil use was amended to require any future company with a contract to develop hydrocarbon or mineral resources to commit to EITI by becoming a signatory to the Kazakhstan Memorandum of Understanding on EITI.

*Including physical audits:* In **Nigeria**, the financial audit is coupled with a physical audit, which helps ensure that the volume of oil and gas extracted is accurately recorded and reported.

*Including non-extractive industry companies and sectors:* The **Liberia** MSG decided to include revenues from forestry in the reconciliation exercise.

*Including non-production related payments:* In **Guinea**, personal income tax was included in the reconciliation exercise to verify how much money the government was earning from employment and pensions system of extractive industries.

## Connecting EITI with budget formulation and oversight

To ensure that EITI leads to more effective and efficient use of extractive industry revenues, it should be linked with the budget process. As part of their role in formulating and overseeing implementation of the national budget, legislators can help with this effort in several ways, including:

- *Use data from the EITI report to analyze the budget*  
During budget review, budget and EITI-responsible sectoral committees should compare revenue data from the EITI report with revenue listed in the budget bill, and hold the government accountable for discrepancies.
- *Promote increased transparency in budget implementation*  
Legislators should leverage national interest in the EITI process to encourage the government to be more transparent about how revenues are allocated, how they are spent, and whether expenditures reflect state policy priorities. If government revenue is not included as part of the budget bill, legislators can advocate for its inclusion.



# Becoming Part of the World EITI Movement



## Chapter X.

*Legislators can take advantage of growing support for EITI and other transparency initiatives to coordinate and strengthen their efforts. This chapter highlights international and regional efforts that can enhance the effectiveness of EITI programs.*

*“As legislators we have a responsibility to be leaders on extractive industry transparency issues. One of the best ways to do this is by learning from the experiences of our peers in other countries – we need to know what has worked, what has not, and what we can do in our own countries to reinforce what others are doing.”*

— Congressman Barney Frank  
Chairman, House Financial Services Committee  
United States Congress

Growing international support for EITI means that there is a large network of governments, organizations and individuals who are interested in and knowledgeable about the process. Legislators should tap into this interest and expertise to reinforce efforts and share experiences.

### Linking efforts of EITI implementing countries

A number of initiatives are under way or in place that can complement and strengthen country EITI programs. Some of these may complement company reporting requirements that are part of a country EITI program. The US Congress, for example,

is considering a bill<sup>16</sup> that would require companies registered with the US Securities and Exchange Commission to disclose payments made to foreign governments for the extraction of oil, gas and minerals.

At a regional level, legislators and other actors are increasingly coordinating their efforts and sharing best practices. The West Africa EITI conference, held in September 2008, brought together governments, civil society organizations, companies and donors from West African countries as well as Norway, the UK, United States and other countries. Conference participants shared ideas and strategies for dealing with challenges to implementing EITI, as well as best practices and lessons learned. They also discussed strategies for promoting EITI within the Economic Community of West Africa (ECOWAS) and the African Union.

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## Case Study 13

### East African Legislative Assembly (EALA) and Regional Cooperation

Members of the legislative body of the East African Community (EAC), EALA, have begun to promote resource revenue transparency at a regional level and in their member countries of Burundi, Kenya, Rwanda, Tanzania and Uganda. In early 2008, EALA held an initial workshop convening EALA members and member country legislators to learn about extractive industries in the region and discuss potential areas for cooperation. The body passed a 21-point resolution, in which it recommended that all EAC countries join EITI.

EALA also established an ad-hoc committee to organize its efforts on extractive industries. Among the committee's first official activities was a site visit to a mining operation in Tanzania. The members consulted with local government officials, industry operators and local civil society organizations.

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## Networking within international legislative organizations

Legislators may be able to strengthen their knowledge and engagement on extractive industry transparency by networking with their peers through international legislative organizations. For example, Global Parliamentarians Against Corruption (GOPAC) is a network of legislators dedicated to combating corruption. Through its international secretariat and 13 regional chapters, GOPAC provides information and support to its members. The Commonwealth Parliamentary Association (CPA), whose membership is comprised of all Commonwealth parliaments, and the Inter-Parliamentary Union (IPU) may also be useful venues for information exchange and learning. The Parliamentary Network on the World Bank (PNOWB), an international parliamentary membership organization devoted to promoting transparency in development, holds conferences and other events at which issues important to legislators are discussed.

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<sup>16</sup> In 2008, The Extractive Industries Transparency Disclosure Act (EITD) was introduced in the US Senate (S 3389), and in the House of Representatives (HR 6066). Additional information can be found at [www.openthebooks.org](http://www.openthebooks.org)

## Case Study 14

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### European Parliament and Accounting Standards

A coalition of international NGOs, including RWI, is currently in pressing the International Accounting Standards Board (IASB) to include a requirement that companies report their payments, costs, production, profits and location of subsidiaries on a country-specific basis. IASB has agreed to consider this as it reviews the extractive industry standards. If approved, the standard would require a multinational company registered in an IASB-regulated country to report data in every country of operation. The standard would have almost global applicability since IASB standards are widely used (European Union, most African countries, and Australia).

The European Parliament has passed a resolution requesting the European Commission support “the development of an appropriate accounting standard requiring country-by-country reporting by extractive companies”

Source: Economic and Monetary Affairs Committee Resolution B6-0437/2007 passed 14th of November 2007.  
<http://www.europarl.europa.eu/sides/getDoc.do?Type=MOTION&Reference=B6-2007-0437&language=EN>

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## Case Study 15

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### Arab Parliamentarians Against Corruption Revenue Transparency Project

Arab Region Parliamentarians Against Corruption (ARPAC), a branch of Global Parliamentarians Against Corruption (GOPAC), is undertaking a project aimed at advancing legislative oversight of Government revenues with a focus on resource revenues. Findings from the initial research and mapping phase will be utilized in developing tools and building parliamentary capacity to achieve this goal. The project also includes forums for public outreach and engagement with civil society.

The project is currently being piloted in 5 countries: Jordan, Kuwait, Lebanon, Morocco and Yemen. Although each country has its own dedicated research team, ARPAC’s management brings a synergy to the project that the individual countries could not achieve on their own.

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### Leveraging interest in EITI to seek additional support for legislative strengthening

Legislators should leverage growing international interest in EITI to seek additional support for legislative strengthening on extractive industry issues. A number of international actors can help, including the International EITI Secretariat, and international bilateral donors such as Germany’s GTZ, Norway’s Oil for Development, and the UK Department for International Development. The World Bank typically spearheads assistance to countries interested in EITI through its country offices. Organizations that can provide technical assistance for EITI engagement include the Revenue Watch Institute (RWI), National Democratic Institute (NDI) and the World Bank Institute.





## Appendix A: EITI Principles and Criteria

### EITI Principles

1. We share a belief that the prudent use of natural resource wealth should be an important engine for sustainable economic growth that contributes to sustainable development and poverty reduction, but if not managed properly, can create negative economic and social impacts.
2. We affirm that management of natural resource wealth for the benefit of a country's citizens is in the domain of sovereign governments to be exercised in the interests of their national development.
3. We recognise that the benefits of resource extraction occur as revenue streams over many years and can be highly price dependent.
4. We recognise that a public understanding of government revenues and expenditure over time could help public debate and inform choice of appropriate and realistic options for sustainable development.
5. We underline the importance of transparency by governments and companies in the extractive industries and the need to enhance public financial management and accountability.
6. We recognise that achievement of greater transparency must be set in the context of respect for contracts and laws.
7. We recognise the enhanced environment for domestic and foreign direct investment that financial transparency may bring.
8. We believe in the principle and practice of accountability by government to all citizens for the stewardship of revenue streams and public expenditure.
9. We are committed to encouraging high standards of transparency and accountability in public life, government operations and in business,
10. We believe that a broadly consistent and workable approach to the disclosure of payments and revenues is required, which is simple to undertake and to use.
11. We believe that payments' disclosure in a given country should involve all extractive industry companies operating in that country.
12. In seeking solutions, we believe that all stakeholders have important and relevant contributions to make – including governments and their agencies, extractive industry companies, service companies, multilateral organisations, financial organisations, investors, and non-governmental organisations.

## EITI Criteria

1. Regular publication of all material oil, gas and mining payments by companies to governments (“payments”) and all material revenues received by governments from oil, gas and mining companies (“revenues”) to a wide audience in a publicly accessible, comprehensive and comprehensible manner.
2. Where such audits do not already exist, payments and revenues are the subject of a credible, independent audit, applying international auditing standards.
3. Payments and revenues are reconciled by a credible, independent administrator, applying international auditing standards and with publication of the administrator’s opinion regarding that reconciliation including discrepancies, should any be identified.
4. This approach is extended to all companies including state-owned enterprises.
5. Civil society is actively engaged as a participant in the design, monitoring and evaluation of this process and contributes towards public debate.
6. A public, financially sustainable work plan for all the above is developed by the host government, with assistance from the international financial institutions where required, including measurable targets, a timetable for implementation, and an assessment of potential capacity constraints.

## Appendix B: Summary of Legislative Strategies on EITI

Stage of the EITI process	Questions legislators should ask	Things legislators should do
<b>SIGN UP</b>		<b>PREPARING FOR THE EITI</b>
<ul style="list-style-type: none"> <li>Issue government announcement</li> <li>Commit to work with all stake holders</li> <li>Appoint implementation on leader</li> <li>Compose, agree and publish work plan</li> </ul>	<ul style="list-style-type: none"> <li>What is the EITI? How does it work? Is it relevant for my country?</li> <li>What are the key extractive industries in my country? Which are the main companies exploring and producing? How much do they contribute to my country's GDP? To fiscal revenues? And to exports?</li> <li>Which government entities manage revenues and extractive industries? Which agency regulates the industry? Is there a state-owned company or does the country own shares in extractive projects?</li> <li>What contracts have been signed by the government? Did the legislature review them? Are they available publicly? What are their key provisions?</li> <li>How transparent are company payments and government receipts?</li> <li>Has the government announced its intention to implement the EITI? If not, why not?</li> </ul>	<ul style="list-style-type: none"> <li>Conduct visits to extractive industry site operations</li> <li>Hold briefings with oil and mining ministry officials, CSOs, and World Bank or other international donor staff</li> <li>Conduct informational hearings and invite oil and mining ministry officials, CSOs, and other experts</li> <li>Commission a study to examine how the industry works</li> <li>Produce a committee report with recommendations about adopting EITI</li> <li>Participate in a multi-stakeholder workshop about how EITI works</li> <li>Work through the media to build public awareness</li> <li>Promote a legislative resolution to adopt EITI</li> </ul>
<b>PREPARATION</b>		<b>ESTABLISHING EITI GOVERNANCE STRUCTURES</b>
<ul style="list-style-type: none"> <li>Establish MSG</li> <li>Engage civil society</li> <li>Engage companies</li> <li>Remove obstacles to implementation</li> <li>Agree reporting templates</li> <li>Approve EITI administrator</li> <li>Ensure full participation from companies</li> <li>Ensure company accounts are properly audited</li> <li>Ensure government accounts are properly audited</li> </ul>	<ul style="list-style-type: none"> <li>How is EITI governed? Is there an official EITI decree? Is it available to review?</li> <li>Who is the government official coordinating the EITI? Does he or she have the right skills to manage the process? Which government agency or ministry manages the EITI? Are there any conflicts of interest between the agency's role and the implementation of EITI?</li> <li>Has a national secretariat been established? Does it have sufficient financial resources as well as skilled human resources?</li> <li>Has a MSG been created?</li> <li>Which government bodies are represented in the MSG? Is their representation justified by their ability to support the process?</li> <li>Is civil society represented in the MSG? Was it allowed to self-select its members? Are the selected groups independent from the government? Are they participating in meetings?</li> <li>Is the private sector adequately represented in the MSG? Are the main industries participating in the committee meetings?</li> <li>Is the legislature represented? Should the legislature be represented on the MSG?</li> <li>Are EITI-related documents (decree, templates, EITI work plan and MSG agenda and meeting minutes) available to the legislature? Are they easily accessible to the public?</li> </ul>	<ul style="list-style-type: none"> <li>Be informed about governance structures and how the MSG works in your country</li> <li>Communicate with the MSG and EITI Secretariat early and often to monitor EITI progress and represent constituents' views and concerns.</li> <li>Promote full engagement by civil society and companies on the MSG</li> <li>Encourage government to address obstacles to civil society and company participation on the MSG</li> </ul>

Stage of the EITI process	Questions legislators should ask	Things legislators should do
<b>PREPARATION</b> <i>(continued)</i>		<b>HELPING TO SHAPE THE EITI PROGRAM</b>
	<ul style="list-style-type: none"> <li>What should be the materiality level for payments?</li> <li>Will the reconciliation produce data that have been disaggregated by company and payment? If not why?</li> <li>Are the data used credible? Do they require an audit?</li> <li>Have sufficient resources been allocated to the EITI? How much is the EITI budget? Is it paid by donors, the budget or a mix?</li> <li>Is the MSG abiding by the agreed work plan and timeline? If not, why?</li> <li>Are all stakeholders satisfied with the way the process is being implemented?</li> <li>Has an administrator been selected? Is the administrator technically qualified to carry out the reconciliation process? Have procurement procedures been respected in the hiring process?</li> <li>Have capacity gaps been assessed? Is a capacity building strategy in the making? Is it funded?</li> <li>Has a communication strategy been approved? Is it funded? Has a web site been established?</li> </ul>	<ul style="list-style-type: none"> <li>Learn what will be included in the work plan, reporting template, and the administrator's terms of reference</li> <li>Work with civil society, company, and government stakeholders to help address delays and obstacles to implementation</li> <li>Request automatic forwarding of public EITI documents</li> <li>Request the administrator's progress reports be presented to the legislature</li> <li>Request regularly scheduled EITI briefings</li> <li>Ensure EITI follows the agreed work plan</li> </ul>
<b>DISCLOSURE AND REVIEW</b>		<b>ANALYZING AND IMPROVING THE EITI REPORT AND PROCESS</b>
<ul style="list-style-type: none"> <li>Disclose payments by companies to government to administrator</li> <li>Disclose revenues received by government to administrator</li> <li>Ensure payment and revenue figures are reconciled</li> <li>Identify discrepancies and recommend improvements</li> <li>Examine companies' implementation support</li> <li>Review actions taken on lessons learned</li> </ul>	<ul style="list-style-type: none"> <li>Is the report exhaustive? Did the administrator fulfill its terms of reference? If not, why not?</li> <li>Did all companies and state bodies provide data? If not, which did not and why not? Were any actions taken against non-cooperating companies by the government? If not, why not?</li> <li>Were all material flows included? If not, why not?</li> <li>Were all extractive resources included? If not, why not?</li> <li>Are there discrepancies or gaps highlighted in the report? Does the report explain the reasons behind those discrepancies? If not why?</li> <li>Does the report contain recommendations? Has the government set up a reform strategy to address them? Is the strategy available to legislature and the public? Is it adequate?</li> <li>Is a new reporting phase scheduled? If not, why not?</li> </ul>	<ul style="list-style-type: none"> <li>Meet with the administrator and with CSOs to discuss report findings</li> <li>Hold public hearings to discuss the report's findings</li> <li>Establish select (investigative) committees to examine major discrepancies or problems</li> <li>Produce committee reports highlighting areas for government action</li> <li>Seek government action through parliamentary questions</li> <li>Request that an audit be conducted</li> </ul>
<b>DISSEMINATION</b>		<b>COMMUNICATING THE EITI REPORT</b>
<ul style="list-style-type: none"> <li>Disseminate EITI report</li> </ul>	<ul style="list-style-type: none"> <li>Is the report comprehensible and easily accessible?</li> <li>Has it been printed and distributed in paper copy? To which entities? Has it been posted on a web site?</li> <li>Has the communication strategy been implemented? How?</li> <li>How can legislators help communicate the EITI results? How can the party help? How can the legislature help?</li> </ul>	<ul style="list-style-type: none"> <li>Ensure the EITI report is made public</li> <li>Clarify communication objectives</li> <li>Coordinate efforts with civil society</li> <li>Conduct outreach on EITI through constituent relations activities</li> <li>Conduct committee-based outreach on EITI</li> </ul>

Stage of the EITI process	Questions legislators should ask	Things legislators should do
<b>VALIDATION</b>		<b>ENSURING A SUCCESSFUL VALIDATION PROCESS</b>
<ul style="list-style-type: none"> <li>Country undertakes external validation</li> </ul>	<ul style="list-style-type: none"> <li>Is my country only an EITI candidate? If so, is it taking steps to be validated?</li> <li>Is there a validation strategy and timeline? Is it available to the legislature and to the public?</li> <li>Has a validator been selected? Is it technically qualified to carry out the reconciliation process? Have procurement procedures been respected in the hiring process?</li> <li>Is the validation report available to the legislature? Is it available to the public?</li> <li>What assessment does it provide? What actions does it recommend?</li> </ul>	<ul style="list-style-type: none"> <li>Meet with the validator</li> <li>Compare report to issues identified through previous oversight of EITI</li> <li>Request copies of the validation report</li> <li>Offer to brief the validator</li> <li>Hold public hearings on report findings to encourage government to carry out Validation</li> </ul>
<b>BEYOND THE EITI</b>		<b>STRENGTHENING THE EITI PROCESS</b>
	<ul style="list-style-type: none"> <li>Does the EITI provide useful information for my work on the budget?</li> <li>How can I strengthen the EITI process in my country? Can a law on the EITI help? What are the gaps identified in the EITI process that a law can remedy?</li> <li>Can the EITI be expanded to other resource sectors of relevance in my country such as forestry or fisheries?</li> <li>Can it be expanded to track revenue transfers to subnational authorities?</li> <li>Can it be expanded to include a review of spending?</li> <li>Can it be extended to include a re-audit of payments and revenues or other types of audit such as value for money, process and physical audits?</li> </ul>	<ul style="list-style-type: none"> <li>Pass a law on the EITI to institutionalize and strengthen the process</li> <li>Consider moving beyond core EITI to deepen or broaden the EITI program</li> <li>Link anti-corruption and other good governance reforms to EITI</li> <li>Connect EITI to the budget formulation and oversight process</li> </ul>
		<b>BECOMING PART OF THE WORLD EITI MOVEMENT</b>
	<ul style="list-style-type: none"> <li>Do any neighboring countries implement the EITI? Can joint regional strategies be defined to support transparency in my country and region?</li> </ul>	<ul style="list-style-type: none"> <li>Link EITI-related efforts with legislators in other countries</li> <li>Network within international legislative organizations</li> <li>Promote regional cooperation on EITI</li> <li>Leverage interest in EITI to seek additional support for legislative strengthening</li> </ul>

#### **Sign Up**

1. Issue government announcement
2. Commit to work with all stakeholders
3. Appoint implementation on leader
4. Compose, agree and publish workplan

#### **Preparation**

5. Establish multi-stakeholder committee
6. Engage civil society
7. Engage companies
8. Remove obstacles to implementation
9. Agree reporting templates
10. Approve EITI administrator
11. Ensure full participation from companies
12. Ensure that company accounts are properly audited
13. Ensure that government accounts are properly audited

#### **Disclosure**

14. Disclose payments by companies to government to administrator
15. Disclose revenues received by the government to administrator
16. Ensure that payment and revenue figures are reconciled
17. Identify discrepancies and recommend improvements

#### **Dissemination**

18. Disseminate EITI report

19. Examine companies implementation support
20. Review actions taken on lessons learned

#### **Validation**

Country undertakes external validation

## Appendix C: List of Additional Resources

### EITI Resources

- **EITI Factsheet**  
*Extractive Industries Transparency Initiative, Regularly updated*  
The essential four page, easy-to-follow what, how, why, and who guide to the EITI.  
[www.eitransparency.org](http://www.eitransparency.org)
- **EITI Business Guide**  
*Extractive Industries Transparency Initiative, 2008*  
This guide outlines how companies can support and play a role in EITI and revenue transparency in the countries in which they operate.  
<http://www.eitransparency.org/document/businessguide>
- **EITI Validation Guide**  
*Extractive Industries Transparency Initiative, 2006*  
This guide explains how validation should work, when it should be carried out and expected outcomes of the process. It includes the *Validation Grid*, a diagram showing each step in the EITI process, and *Indicator Assessment Tools*, which list questions the validator should ask to ensure EITI process compliance.  
<http://www.eitransparency.org/document/validationguide>
- **Talking Transparency: A Guide for Communicating the EITI**  
*Extractive Industries Transparency Initiative, 2008*  
This guide discusses strategies for national EITI secretariats to effectively communicate with the public and other EITI actors on the EITI report and process. It outlines approaches to designing a communications strategy on EITI, and shares case studies from Cameroon, Democratic Republic of Congo, Kazakhstan and Nigeria.  
[www.eitransparency.org](http://www.eitransparency.org)
- **EITI Sourcebook**  
*Extractive Industries Transparency Initiative, 2005*  
The EITI Sourcebook provides guidance about how to become involved in the EITI, and is intended to assist countries wishing to implement the EITI and stakeholders wishing to support implementation.  
<http://www.eitransparency.org/document/sourcebook>
- **Drilling Down**  
*Revenue Watch Institute, 2008*  
Drilling Down is an extractive industries accounting and audit guide for civil society. The guide presents an overview of critical industry and financial concepts and issues, such as the different types of contracts used in the extractive sector, the types of government accounts and accounting systems, and the structure and flow of funds to and from government, all presented for a non-expert civil society audience.  
<http://www.revenuwatch.org/news/publications/drilling-down.php>

- **Implementing EITI: Early Lessons Learned from the Field**  
*World Bank, 2008*  
 This publication compiles “best practices” and “lessons learned” about EITI programs, and is an additional source of information about how the EITI process should work. Includes an Annex with example documents from several EITI programs.  
<http://go.worldbank.org/C5OKJZ7860>
- **EITI Progress Report 2006–2009**  
*Extractive Industries Transparency Initiative, 2009*  
 This publication outlines progress in the initiative from the Oslo Conference in 2006 until the Doha Conference in 2009. It includes snapshots of the initiative from all implementing countries and opinions from the full range of supporting stakeholders.  
[www.eitransparency.org](http://www.eitransparency.org)

More up-to-date information, materials and news on the initiative can be found at [www.eitransparency.org](http://www.eitransparency.org), where you can also subscribe to a regular newsletter.

### Additional Resources

- **Follow the Money: A Guide to Monitoring Budgets and Oil and Gas Revenues**  
*By Jim Schulz, Revenue Watch Institute, 2005*  
[http://www.soros.org/initiatives/cep/articles\\_publications/publications/money\\_20041117/follow\\_money.pdf](http://www.soros.org/initiatives/cep/articles_publications/publications/money_20041117/follow_money.pdf)
- **Committees in Legislatures: A Division of Labor**  
*National Democratic Institute, 1996*  
[https://www.ndi.org/files/030\\_ww\\_committees\\_0.pdf](https://www.ndi.org/files/030_ww_committees_0.pdf)
- **Covering Oil: A Reporter’s Guide to Monitoring Budgets and Oil and Gas Revenues**  
*Edited by Svetlana Tsalik and Anya Schiffrin, Open Society Institute, 2005*  
<http://www.revenuewatch.org/news/publications/072305.pdf>
- **Guide on Resource Revenue Transparency**  
*International Monetary Fund, 2007*  
[www.imf.org/external/np/pp/2007/eng/051507g.pdf](http://www.imf.org/external/np/pp/2007/eng/051507g.pdf)
- **Strengthening Legislative Capacity in Legislative-Executive Relations**  
*National Democratic Institute, 2000*
- **Transparency and Accountability in Africa’s Extractive Industries: The Role of the Legislature**  
*National Democratic Institute, 2007*  
[http://www.ndi.org/files/2191\\_extractive\\_080807.pdf](http://www.ndi.org/files/2191_extractive_080807.pdf)



- **Legislative Ethics: A Comparative Analysis**  
*National Democratic Institute, 1999*  
[https://www.ndi.org/files/026\\_ww\\_legethics\\_0.pdf](https://www.ndi.org/files/026_ww_legethics_0.pdf)
- **Orientation Handbook for Members of Parliaments**  
*By John Johnson and Robert T. Nakamura, World Bank Institute, 2006*  
<http://siteresources.worldbank.org/PSGLP/Resources/HandbookforMembersofParliaments.pdf>
- **A Parliamentarian's Guide to the World Bank**  
*World Bank, 2005*  
<http://go.worldbank.org/MTLDXXNBX0>
- **Promoting Revenue Transparency: 2008 Report on Revenue Transparency of Oil and Gas Companies**  
*Transparency International, 2008*  
[http://www.transparency.org/news\\_room/latest\\_news/press\\_releases/2008/2008\\_04\\_28\\_prt\\_report\\_launch](http://www.transparency.org/news_room/latest_news/press_releases/2008/2008_04_28_prt_report_launch)
- **The Role of Parliament in Curbing Corruption**  
*Edited by Rich Stapenhurst, Niall Johnston, and Ricardo Pelizzo, World Bank Institute, 2006*
- **Toward the Development of International Standards for Legislatures: A Discussion Document for Review**  
*National Democratic Institute, 2007*  
[http://www.ndi.org/files/2113\\_gov\\_standards\\_010107.pdf](http://www.ndi.org/files/2113_gov_standards_010107.pdf)



## Appendix D: NEITI Act

### **NIGERIA EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE (NEITI) ACT, 2007**

#### **EXPLANATORY MEMORANDUM**

This Act provides for the establishment of the Nigeria Extractive Industries Transparency Initiative (NEITI) charged with the responsibility, among other things, for the development of a framework for transparency and accountability in the reporting and disclosure by all extractive industry companies of revenue due to or paid to the Federal Government.

## NIGERIA EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE (NEITI) ACT, 2007

### ARRANGEMENT OF SECTIONS

#### Section:

1. Establishment of the Nigeria Extractive Industries Transparency Initiative
2. Objectives of the Nigeria Extractive Industries Transparency Initiative
3. Functions of the Nigeria Extractive Industries Transparency Initiative
4. Appointment of Independent auditors and publication of report
5. Establishment of the National Stakeholders Working Group
6. Composition of the National Stakeholders Working Group
7. Tenure of office of National Stakeholders Working Group
8. Payment of allowances to the National Stakeholders Working Group
9. Meetings of the National Stakeholders Working Group
10. Procedure
11. Special Committees
12. Appointment of Executive Secretary, consultants and other Staff of the National Stakeholders Working Group
13. Financial provisions
14. Audited account
15. Bank account
16. Offences and penalties
17. Regulations
18. Legal Proceeding
19. Indemnity
20. Service of notices and process
21. Interpretation
22. Citation

## NIGERIA EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE (NEITI) ACT, 2007

### A BILL FOR AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF THE NIGERIA EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE (NEITI) AND FOR RELATED MATTERS

Enacted by the National Assembly of the Federal Republic of Nigeria.

1. (1) There is established a body to be known as the Nigeria Extractive Industries Transparency Initiative (in this Act referred to as “the NEITI”).  
  
(2) The NEITI:
  - (a) shall be an autonomous self-accounting body, which shall report to the President and the National Assembly,
  - (b) shall be a body corporate with perpetual succession with a common seal, and
  - (c) may:
    - (i) sue and be sued in its corporate name, and
    - (ii) acquire, hold and dispose of movable and immovable properties in the discharge of its functions under this Act.
  
2. The primary objectives of the NEITI are:
  - (a) to ensure due process and transparency in the payments made by all extractive industry companies to the Federal Government and statutory recipients;
  - (b) to monitor and 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;
  - (d) to ensure transparency and accountability by government in the application of resources from payments received from extractive industry companies, and
  - (e) to ensure conformity with the principles of Extractive Industries Transparency Initiative.
  
3. For the purpose of realizing its objectives under this Act, the NEITI shall perform the following functions:
  - (a) develop a framework for transparency and accountability in the reporting and disclosure by all extractive industry companies of revenue due to or paid to the Federal Government.
  - (b) Evaluate without prejudice to any relevant contractual obligations and sovereign obligations the practices of all extractive industry companies and government respectively regarding acquisition of acreages, budgeting, contracting, materials procurement and production cost profile in order to ensure due process, transparency and accountability.
  - (c) Ensure transparency and accountability in the management of the investment of the Federal Government in all extractive industry companies.
  - (d) Obtain, as may be deemed necessary, from any extractive industry company 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, provided that such information shall not be used in any manner prejudicial to the contractual obligation or proprietary interests of the extractive industry company.
  - (e) 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 received from the company at any period, as revenue accruing to the Federal Government from such company for that period, provided that such information shall not be used in a manner prejudicial to contractual obligations or proprietary interests of the extractive industry company or sovereign obligations of Government.

- (f) Monitor and ensure that all payments due to the Federal Government from all extractive industry companies, including taxes, royalties, dividends, bonuses, penalties, levies and such like, are duly made.
  - (g) Identify lapses and undertake measures that shall enhance the capacity of any relevant organ of the Federal, State or Local Government having statutory responsibility to monitor revenue payments by all extractive industry companies to the Federal Government.
  - (h) Disseminate by way of publication of records, report or otherwise any information concerning the revenues received by the Federal Government from all extractive industry companies, as it may consider necessary.
  - (i) Promote or undertake any other activity related to its functions and which, in its opinion, is calculated to help achieve its overall objectives as enumerated in section 2 of this Act;
  - (j) Ensure that all fiscal allocations and statutory disbursements due from the Federal Government to statutory recipients are duly made.
4. (1) The NEITI shall in each financial year appoint independent auditors for the purpose of Appointment 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.
- (2) The independent auditors appointed under subsection (1), of this section shall undertake a physical, process and financial audit on such terms and conditions as may be approved by the National Stakeholders Working Group (NSWG).
- (3) Upon the completion of an audit, the independent auditors shall submit the reports together with comments of the Extractive Industries Company to the NEITI, which shall cause same to be disseminated to the National Assembly and the Auditor-General of the Federation and also ensure their publication.
- (4) The NEITI shall submit a bi-annual report of its activities to the President and National Assembly.
- (5) An auditor or auditing firm that has audited any extractive industry company in any given year shall not be appointed in the same year for the purposes of subsection (2) of this section.
- (6) An auditor or auditing firm shall not be engaged for more than two years consecutively for the purposes of subsection (2) of this section.
- (7) The Auditor-General of the Federation shall not later than 3 months after the submission of the audit report to the National Assembly publish any comment made or action taken by the Government on the audit reports.
5. (1) The governing body of the NEITI shall be the National Stakeholders Working Group (in this Act referred to as “the NSWG”).
- (2) The NSWG shall be responsible for the formulation of policies, programmes as strategies for the effective implementation of the objectives and the discharge of the functions of the NEITI.
- (3) Without prejudice to subsection (2) of the section, the NSWG shall have powers to recommend the annual budget and work-plan of the NEITI and ensure the periodic review of programmes performance by the NEITI.
6. (1) The NSWG shall be constituted by the President and shall consist of a chairman and no more than 14 other members one of whom shall be an Executive Secretary.
- (2) (a) In making appointment into the NSWG, the President shall include:
- (i) representative of extractive industry companies,
  - (ii) representative of Civil Society,
  - (iii) representative of Labour Unions in the extractive industries,
  - (iv) experts in the extractive industry, and
  - (v) one member from each of the six geopolitical zones;
- (b) the Chairman and other members of NSWG other than the Executive Secretary shall serve on part-time basis.
- (3) The appointment of Executive Secretary shall be for 5 years and no more.
7. A person appointed as a member of the NSWG shall hold office for 4 years and no more.

8. The members of the NSWG as well as any person appointed to any of its special committees under section 2 may be paid such allowances out of the funds of the NEITI as the *National Revenue Mobilization and Fiscal Commission* may approve.
9.
  - (1) The NSWG shall ordinarily meet quarterly for the dispatch of business at such times and places as it may determine, but not less than four times in a year.
  - (2) At every meeting of the NSWG, the Chairman shall preside and in his absence, a member of the NSWG appointed by the members from among themselves shall preside.
  - (3) Questions proposed at a meeting of NSWG shall be determined by a simple majority of members present and voting and in the event of an equality of votes, the person presiding shall have a casting vote.
  - (4) The NSWG may at any time co-opt any person to act as an adviser at any of its meetings but no person so co-opted shall be entitled to vote at any meeting.
  - (5) The validity of the proceedings of the NSWG shall not be affected by the absence of any member, vacancy among its membership or by any defect in the appointment of any of the members.
10. The quorum of the NSWG at any meeting shall be 8 members.
11. The NSWG may constitute such special committees as it considers fit to deal different aspects of its responsibilities.
12.
  - (1) The NSWG may create departments and engage the services of such staff at consultations as it may consider necessary for the NEITI.
  - (2) The NEITI shall have an Executive Secretary who shall
    - (a) be appointed by the President upon the recommendation of the NSWG provided he is a graduate with relevant qualifications and of least 10 years cognate experience.
    - (b) be responsible for the day-to-day administration of the NEITI, and
    - (c) serve as Secretary to NSWG.
  - (3) The staff and consultants of the NEITI may be engaged on such terms and conditions as the NSWG may determine.
  - (4) The NSWG shall fix the remunerations, allowances and benefits of the staff and consultants of the NEITI.
  - (5)
    - (a) The NSWG shall recommend to the President for appointment, qualified validator line with NEITI guidelines as contained in second schedule to this Act and
    - (b) NSWG shall fix the remunerations, allowances and benefits for the validators.
13.
  - (1) The funds of the NEITI shall consist of:
    - (a) such sums as may be provided by the Federal Government and appropriated by the National Assembly based on the budget submitted by the NSWG and which shall be released as and when due; and
    - (b) such sums as may be paid to the NEITI by way of grants, donations and gifts provided the sources of such grants, donations and gifts are properly disclosed and not in conflict with the provisions of this Act.
  - (2) The NEITI shall apply the proceeds of the funds established under section 13(1) of this Act to the:
    - (a) cost of administration,
    - (b) payment of salaries, allowances and benefits to members of the NSWG or any of its committees,
    - (c) payment of salaries, remunerations, allowances, pensions benefits to officers and employees for NEITI,
    - (d) payment of all purchases,
    - (e) payment for all contracts, including mobilization, fluctuation, variations, legal fees and cost of contract-administration; and
    - (f) carrying out of other activities that would 'promote its objectives which are connected to all or any of the functions of NEITI under this Act, and
    - (g) payment for validators.

- (3) The Governing body of NEITI, the NSWG, shall not later than 30<sup>th</sup> September in each year, submit to the President and the National Assembly an estimate of the expenditure and income of NEITI during the succeeding year and the NEITI shall cause to be kept proper accounts in respect of each year and proper records in relation thereto.
14. (1) The NEITI shall cause the account of total revenue which accrued to the Federal Government from all extractive industry companies, its receipts, payments, assets and liabilities to be audited not later than 6 months after the end of each year by independent auditors appointed on such terms and conditions as the NSWG may approve and on the confirmation of the audit the independent auditor shall submit the report with comments of the audited entity to the NEITI which shall cause same to be published for the information of the public, provided that the contents of such report shall not be published in a manner prejudicial to the contractual obligations or proprietary interests of the audited entity.
- (2) The NEITI shall have power to borrow money from banks with the approval of NSWG.
- (3) The NEITI shall prepare and submit to the President and the National Assembly not later than 30<sup>th</sup> September in each year, a report of its activities during the immediate preceding year, and shall include in such report the audited accounts of the NEITI for that year and the auditor's report thereon.
15. (1) The NEITI shall maintain bank accounts, the signatories of which shall be determined by the NSWG in accordance with the regulation made pursuant hereto.
- (2) The accounts may be opened in such banks as the NSWG may determine.
16. (1) An extractive industry company which:
- (a) gives false information or report to the Federal Government or its agency regarding its volume or production, sales and income, or
- (b) renders false statement of account or fails to render a statement of account required under this Act to the Federal Government or its agencies, resulting in the underpayment or non-payment of revenue accruable to the Federal Government, or statutory recipients commits an offence and is liable on conviction to a fine not less than N30,000,000.
- (2) Where the Extractive industry has been convicted of an offence under sub-section (1) of this section, the court shall, in addition to the penalty prescribed there under, order the company to pay the actual amount of revenue due to the Federal Government.
- (3) An extractive industry company which delays or refuses to give information or report under this Act, or willfully or negligently fails to perform its obligations under this Act, commits an offence and is liable on conviction to a fine not less than N30,000,000.
- (4) Without prejudice to subsections(1), (2) and (3) of this section, the President may on the recommendation of the NSWG suspend or revoke the operational licence of any extractive industry company which fails to perform its obligations under this Act.
- (5) If any extractive industry company commits an offence against this Act, every Director or other persons concerned in the management of the company commits the offence and is liable on conviction to not less than 2 years imprisonment or a fine not less than N5,000,000 unless that persons proves that:
- (a) the offence was committed without his consent or connivance, and
- (b) the person exercised all such diligence to prevent the commission of the offence as ought to have been exercised by that person, having regard to the nature of his functions in that company and to all the circumstances.
- (6) A government official who renders false statement of account or fails to render a statement of account required under this Act to the Federal Government or its agencies, resulting in the underpayment or non-payment of revenue accruable to the Federal Government or statutory recipients, commits an offence and is liable on conviction to not less than 2 years imprisonment or a fine not less than N5,000,000 unless that person proves that:
- (a) the offence was committed without his consent or connivance, and



- (b) the person exercised all such diligence to prevent the commission of the offence as ought to have been exercised by that person, having regard to the nature of his functions in that company and to all the circumstances.
17. The NSWG may make regulations as 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.
18. Subject to the provisions of this Act, no suit shall be commenced against NEITI before the expiration of 30 days after written notice of an intention to commence the suit shall have been served upon NEITI as a defendant or its agent, and the notice shall clearly and explicitly state:
- (a) the cause of action;
  - (b) the particulars of the claim;
  - (c) the names and the legal practitioners representing the plaintiff and their addresses; and
  - (d) the relief sought.
19. (1) The Executive Secretary of the NEITI, his officers, employees or agents shall personally be subject to any action, claim or demand by, or liable to any person in respect anything done or omitted to be done in the exercise of any function or power conferred by this Act upon the NEITI or member of the NSWG.
- (2) A member of the NSWG, the Executive Secretary or any officer of the NEITI shall be indemnified out of the funds of the NEITI against any liability incurred by him in defending any proceeding, whether civil or criminal, if the proceeding is brought against him in his capacity as a member of NSWG, Executive Secretary, officer or any employee of the NEITI.
- (3) Subject to the provisions of this Act, the provisions of the Public Officers Protection Act shall apply in relation to any suit instituted against any officer, or employee of NEITI or member of the NSWG.
20. A notice, summons, other court processes, other documents required or authorized to be served upon the NEITI under the provisions of this Act, any other law or enactment shall be served by delivering it to the Executive Secretary or by sending it by registered post and addressed to the Executive Secretary at the principal office of the NEITI.
21. **In this Act:**
- “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, gold, coal, tin, bitumen, diamonds, precious stones and such like, and includes any agency or body responsible for the payment of extractive industry proceeds to the Federal Government or its Statutory Recipient;
- “Federal Government” means The Federal Government of Nigeria;
- “Government” means the three tiers of the government of Nigeria, including Federal, State and Local Government, and their respective Ministries, agencies and departments.
- “President” means the President and Commander-in-Chief of the Armed Forces of Federal Republic of Nigeria;
- “Statutory Recipient” means any entity to whom by law, extractive industry companies or Government are obliged to make payments;
- “Extractive Industry Expert” means a person who has spent a minimum of ten (10) years in a management position in the extractive industry;
- “NSWG” means National Stakeholders Working Group.
22. This Act may be cited as the Nigeria Extractive Industries Transparency Initiative Act 2007.

**SUPPLEMENTARY PROVISIONS RELATING TO THE NIGERIA EXTRACTIVE INDUSTRY TRANSPARENCY INITIATIVE, ETC.****Proceedings of the Governing Body**

- 1 (1) Subject and section 27 of the Interpretation Act, Cap. 192LFN, 1990 the NSWG may make standing order to regulate its proceedings for those of any of its Committee.
- (2) The quorum of the NSWG shall be Chairman or any other person presiding at a meeting in his absence and 4 other members of the governing body and the quorum of any Committee shall be as determined by the governing body.
- 2 (1) the NSWG shall meet whenever it is summoned by the Chairman and if the Chairman is required to do so by notice given to him by not less than 4 other members, he shall summon a meeting of the NSWG to be held within 14 days from the date on which the notice was given.
- (2) At any meeting of the NSWG, the Chairman shall preside but if he is absent, the members present at the meeting shall appoint one of them to preside at the meeting.
- (3) When the NSWG desire to obtain the advice of any person on a particular matter, it may co-opt him for such period as it deems fit, but a person who is a member by virtue of this sub-paragraph shall not be entitled to vote at any meeting of the NSWG and shall not count towards a quorum.
- (4) The NSWG shall ordinarily meet at such times and places as it may determine, and for not less than four times in a year.
- (5) questions proposed at a meeting of the NSWG shall be determined by a simple majority of members present and voting, and in the event of an equality of votes, the Chairman or any other person presiding shall have a second or casting vote.

**Committees**

- 3 (1) The NSWG may appoint one or more Committee to carry out on its behalf such of the functions of NEITI as it may determine.
- (2) A Committee appointed under this paragraph shall consist of such number of person as may be determine by the NSWG and a person shall hold office on the Committee in accordance with the terms of his appointment.
- (3) A decision of a Committee shall not have effect until it is confirmed by the NSWG

**Miscellaneous**

- 4 (1) The fixing of the seal NEITI shall be authenticated by the signatures of the Chairman and Secretary of the NSWG generally.
- (2) Any contract or instrument which, if made or executed by a person not being a body corporate would not be required to be under seal, may be made or executed on behalf of NEITI by the Secretary of the NSWG general or any other person specifically authorized by the NSWG to act for that purpose.
- (3) A document purporting to be duly executed under the seal of NEITI shall be received in evidence and shall, unless the contrary is proved, be presumed to be so executed.
- (4) The validity of any proceeding of the NSWG or of a Committee shall not be adversely affected by:-
- a) A vacancy in the membership of the NSWG or a Committee, or
  - b) A defect in the appointment of a member of the NSWG or Committee, or
  - c) Reason that a person not entitled to do so took part in the proceedings of the NSWG or Committee.

I CERTIFY, IN ACCORDANCE WITH SECTION 2(1) OF THE ACTS AUTHENTICATION ACT, CAP. 4, LAWS OF THE FEDERATION OF NIGERIA 1990, THAT THIS IS A TRUE COPY OF THE BILL PASSED BY BOTH HOUSES OF THE NATIONAL ASSEMBLY.

A handwritten signature in black ink, appearing to read 'Nasiru Ibrahim Arab', with a vertical line through the middle of the signature.

NASIRU IBRAHIM ARAB,  
CLERK TO THE NATIONAL ASSEMBLY

25<sup>th</sup> Day of May, 2007

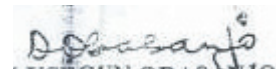
**NIGERIA EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE (NEITI) ACT, 2007**

<b>(1) SHORT TITLE OF THE BILL</b>	<b>(2) LONG TITLE OF THE BILL</b>	<b>(3) SUMMARY OF THE CONTENTS OF THE BILL</b>	<b>(4) DATE PASSED BY THE SENATE</b>	<b>(5) DATE PASSED BY THE HOUSE OF REPRESENTATIVES</b>
Nigeria Extractive Industries Transparency Initiative (NEITI) Act, 2007	An Act to provide for the establishment of the Nigeria Extractive Industries Transparency Initiative (NEITI); and for related matters.	The Bill provides for the establishment of the Nigeria Extractive Industries Transparency Initiative (NEITI) charged with the responsibility, among other things, for the development of a framework for transparency and accountability in the reporting and disclosure by all extractive industry companies of revenue due to or paid to the Federal Government.	23rd May, 2007	17th May, 2007

I certify that this Bill has been carefully compared by me with the decision reached by the National Assembly and found by me to be true and correct decision of the Houses and is in accordance with the provisions of the Act Authentication Act Cap 4, Laws of the Federation of Nigeria, 1990



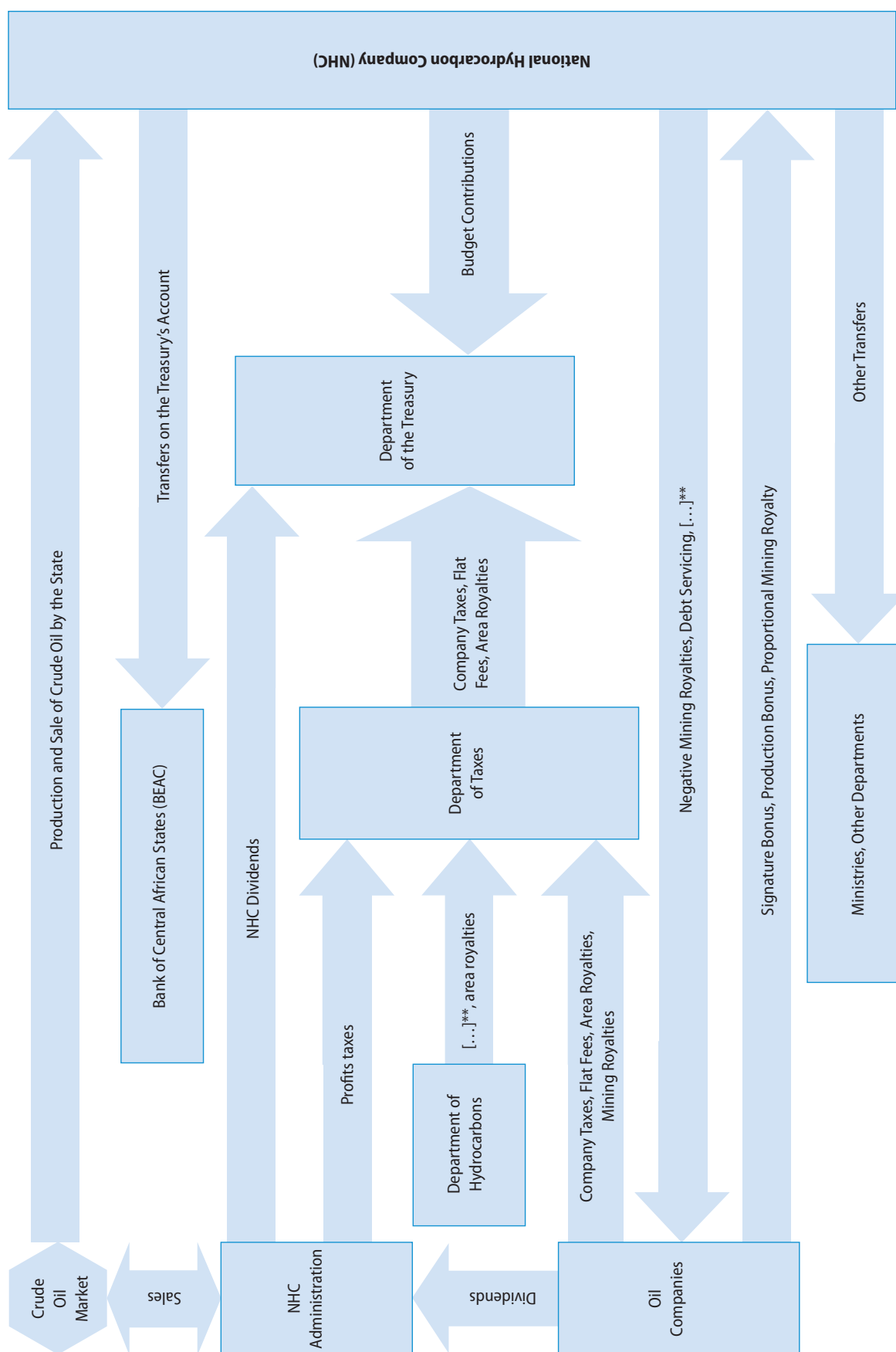
NASIRU IBRAHIM ARAB,  
Clerk to the National Assembly  
25<sup>th</sup> Day of May, 2007



CHIEF OLUSEGUN OBASANJO, GCFR  
President of the Federal Republic of Nigeria  
28<sup>th</sup> Day of May, 2007

I ASSENT

## Appendix E: Cameroon Financial Flows Map\*



\* This is a reproduction and translation of the original mapping found in Cameroon's 2005 EITI reconciliation report. It is intended to serve as an example of such a mapping, but may not be a complete and accurate picture of Cameroon's financial flows. Cameroon's report is available at: [http://www.spm.gov.cm/documents/art445\\_Rapport%20au%20public%202007.03.pdf](http://www.spm.gov.cm/documents/art445_Rapport%20au%20public%202007.03.pdf)

\*\* Authors were unable to decipher this additional revenue stream in the copy of the report available to them.



## Appendix F: EITI Glossary

**Administrator:** An organization (usually an audit or consulting firm) appointed to reconcile payments and revenue data provided by companies and government agencies involved in the extractive industries. In a reconciliation, the administrator compares different sets of data and investigates and explains discrepancies where they occur.

**Audit:** A process of obtaining, verifying, potentially reconciling and reporting upon a company's, government's, or other entity's financial statements (and in some cases, statements related to production volume).

**Auditor:** An organization, typically an independent audit firm, that is licensed or otherwise certified to provide financial audits and related services by a professional standards or chartering authority for auditors within a designated legal jurisdiction. In EITI, the auditor is typically charged with the responsibility of inspecting the financial accounts and other information held by those companies and/or government agencies involved in the extractive industries and ascertaining whether such accounts and information are accurately recorded and reported.

**Bonuses:** A type of payment made to government at certain agreed points in the exploration and production process for oil. A signature bonus is paid upon contract signing; discovery bonus paid upon first discovery of oil; and production bonus is paid when production has reached a specified level.

**Candidate Country:** A country that has publicly committed to implement EITI and that has met the first four EITI (sign-up) validation indicators.

**Compliant Country:** A country that has fully implemented EITI and has undergone a successful Validation process in line with the EITI validation indicators.

**Civil Society Organization:** Civil society organizations are nongovernmental organizations such as trade unions, issue-based coalitions, faith-based organizations, indigenous people's movements, and foundations.

**Disaggregation:** Method of reporting by which individual companies and/or types of payments (taxes, royalties, etc.) made to a government are disclosed and can be identified separately in an EITI report.

**Dividend:** A payment to a partner or shareholder out of the profit of a company as a return on the investment made.

**EITI Board:** The international body that oversees EITI globally. The Board consists of representatives from EITI implementing government institutions, donor organizations, extractive industry companies, investors, and civil society organizations.

**EITI Criteria:** The internationally agreed six criteria that describe the minimum outcome of a successful EITI program. They are included as *Appendix A*.

**EITI Principles:** The founding tenets of the Initiative. They are also included as *Appendix C*.

**EITI International Secretariat:** EITI is supported by an International Secretariat presently based in Oslo, Norway. The Secretariat is the custodian of the EITI methodology and provides coordinating energy to the global initiative. Most implementing countries have a national secretariat with a full-time staff to help manage the administrative aspects of EITI implementation.

**Export/Import Duties:** A type of tax applied to the export or import of products. Oil and gas are usually exempt from export duties.

**Financial Flows:** Payment streams between extractive companies and any government entity at any level of government.

**Extractive industries:** Industries that extract natural resources, such as oil, natural gas, diamonds, coal, and other minerals from the ground.

**In-Kind Payments:** Payments made to a government (e.g., royalty) in the form of the actual commodity (e.g., oil, gas, or minerals) instead of cash.

**International Auditing Standards:** The internationally accepted standards applicable to the way professional auditors conduct audits, as issued by the International Auditing and Assurance Standards Board. The applicability of these standards in each country is a matter for the relevant regulatory organization of that country.

**Joint Venture:** A group of companies, which can include a state-owned company, that have joined together to conduct explorations and prospectively exploit minerals or hydrocarbons under a specified area under the terms of an agreed contract.

**Material/Materiality:** A threshold amount or percentage used to determine if a company or a payment is significant to an outcome, or “materially” affects the outcome if included or excluded. EITI implementing countries often set materiality levels based on company or payment size. A materiality level for a company would define the size of company above which companies are required to participate in a national EITI process. A payment materiality level would define the size of payment above which those payments should be included in the EITI process. It is the responsibility of the stakeholders to decide how to define materiality levels.

**Multi-stakeholder working group (MSG):** The key decision-making body in a national EITI process, which leads and oversees implementation of EITI in a country. MSG membership should include representatives of government bodies, extractive industry companies, and civil society organizations.

**Production Sharing Contract/Agreement:** A petroleum production arrangement in which the contractor bears all costs of exploration and production without such costs being reimbursable if no find is made in the contract area and in which the government and contractor are both paid in the resource produced.

**Reconciliation:** A sufficient explanation of the difference between two figures.

**Revenue streams:** A term used to describe how a government, company, organization or individual receives and collects money from users of their product or service (for EITI: royalty, VAT, etc.)

**Resource Curse:** A term widely used to describe the paradoxical situation in which countries with abundant natural resource wealth are the most likely to suffer from high poverty rates, weak economic growth, and slow development.



**Royalty:** A payment for the extraction of mineral resources made to the host government (which may include a regional, provincial, and/or local administration).

**Stakeholders:** Members of the government, civil society, and private sector affected by the extractive industry in a country. Representatives of all stakeholder groups must have an opportunity to actively participate in EITI.

**Tax:** A payment made by a company to the host government in proportion to the taxable income resulting from the project (corporate tax and profits tax are two examples).

**Validation:** The agreed process by which progress on implementing EITI by countries is measured against the EITI Criteria. Details on the validation process can be found at: <http://www.eitransparency.org/document/validationguide>.

**Value Added Tax (VAT):** A tax applied to each stage of the manufacture and sale of a product or service. The rules for a VAT system are specified at country level and differ between countries. Export of oil and gas is usually exempt from VAT.



### **The Extractive Industries**

**Transparency Initiative (EITI)** is a globally developed standard that promotes revenue transparency at the national level. It is a coalition of governments, companies and civil society. Through its robust yet flexible methodology, company payments and government revenues from oil, gas and mining are published, and discrepancies reduced. Although the EITI Board and the International Secretariat are the custodians of the EITI process, implementation takes place at the country level, in a process that emphasises multi-stakeholder participation.

[www.eitransparency.org](http://www.eitransparency.org)

### **The National Democratic Institute (NDI)**

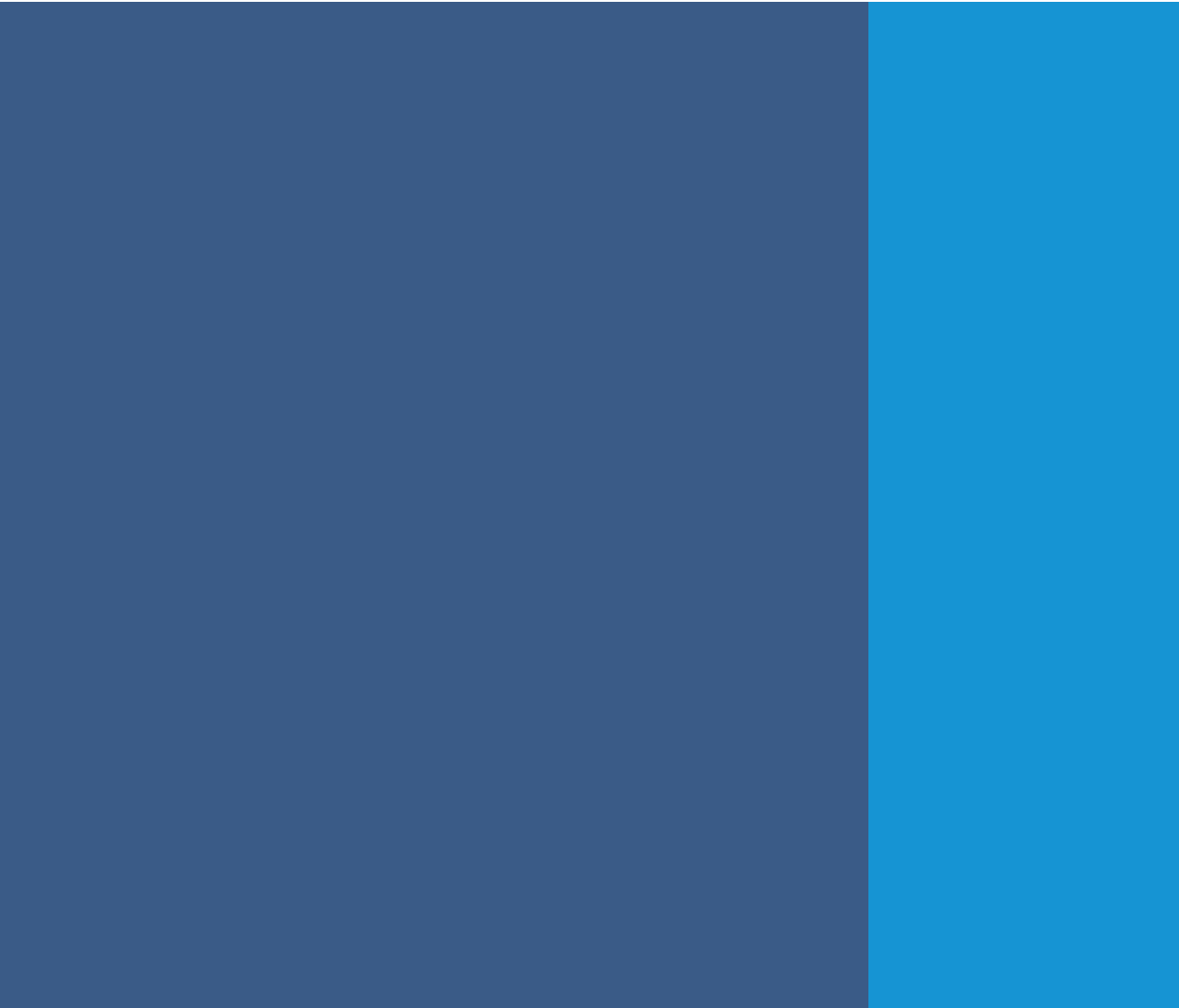
is a nonprofit organization working to strengthen and expand democracy worldwide. Calling on a global network of volunteer experts, NDI provides practical assistance to civic and political leaders advancing democratic values, practices, and . NDI works with democrats in every region of the world to build political and civic organizations, safeguard elections, and promote citizen participation, openness, and accountability in government.

[www.ndi.org](http://www.ndi.org)

### **The Revenue Watch Institute (RWI)**

promotes the responsible management of oil, gas and mineral resources for the public good. With effective revenue management, citizen engagement and real government accountability, natural resource wealth can drive development and national growth. RWI provides the expertise, funding and technical assistance to help countries realize these benefits.

[www.revenuewatch.org](http://www.revenuewatch.org)



[www.eitransparency.org](http://www.eitransparency.org)

[www.ndi.org](http://www.ndi.org)

[www.revenuewatch.org](http://www.revenuewatch.org)

[www.usaid.gov](http://www.usaid.gov)