EXPLORING MULTI-STAKEHOLDER INITIATIVES FOR NATURAL RESOURCE GOVERNANCE

THE EXAMPLE OF THE NIGERIAN EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE (NEITI)

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ABSTRACT

Multi-stakeholder Initiatives (MSIs) have been strongly advocated as strategies for filling global governance gaps. MSIs bring multiple stakeholders (usually government, business, and civil society) to a common platform in order to dialogue, design, and implement suitable mechanisms for addressing identified governance issues. However, what factors are likely to determine the effectiveness of MSIs? The Extractive Industries Transparency Initiative (EITI) is a global MSI, established in 2003, that seeks to improve the management of natural resource wealth in implementing countries through increased transparency. This study examines the Nigerian EITI to explore the factors that influence the organisation and effectiveness of MSIs for achieving resource transparency. We find that the Nigerian EITI, although often acknowledged as a model for country implementing the EITI, falls short of a truly multi-stakeholder initiative and hence is limited in its impact and effectiveness in improving resource wealth management in Nigeria. We find that four factors deduced from a combination of agency and collective action theories appear to be strong in explaining the shortcomings of the NEITI. These factors are the Nigerian structural environment, the characteristics of the stakeholders to the Nigeria extractives industry, the emergent governance structure of the Nigerian EITI, and the nature of external influence on NEITI. Evidence gathered from the implementation of NEITI, in the period covered by this study, demonstrates that a combination of these factors has contributed to the difficulty in achieving a truly multi-stakeholder structure and hence the limited impact of the initiative on improving resource wealth management in Nigeria.

DEDICATION

This work is dedicated to my dearest wife, Chinelo; and my lovely daughter, Jaachi.

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LIST OF ABBREVIATIONS

ADVANCE	Advocacy Awareness and Civic Empowerment
AfDB	African Development Bank
AGF	Accountant General of the Federation
AIT	African Independent Television
ANEEJ	African Network for Environmental and Economic Justice
BATNA	Best Alternative to No Agreement
BEITI	Bayelsa State Expenditure Transparency Initiative
BICC	Bonn International Centre for Conversion
BP	British Petroleum
C4C	Coalition for Change
CATEIFFN	Coalition for Accountability and Transparency in Extractive Industry, Forestry and Fisheries in Nigeria
CAMA	Companies and Allied matters Act
CBN	Central Bank of Nigeria
CBO	Community Based Organisations
CISLAC	Civil Society Legislative Advocacy Centre
COC	Code of conduct
CoP	Communication on Progress
CSCR	Centre for Social and Corporate Responsibility
CSO	Civil Society Organisation
CSP	Country Strategy Paper
CSR	Corporate Social Responsibility
CTC	Certificate of Transparency Compliance
DFID	Department for International Development
DPR	Department for Petroleum Resource
EFCC	Economic and Financial Crimes Commission
EI	Extractive Industry
EIA (US)	Energy Information Administration
EIA	Environmental Impact Assessment
EIR	Extractive Industry Review
EITI	Extractive Industries Transparency Initiative
ERA	Environmental Rights Action
ETI	Ethical Trade Initiative
FBO	Faith Based Organisations
FDI	Foreign Direct Investment
FEC	Federal Executive Council
FIRS	Federal Inland Revenue Service
FoEN	Friends of the Earth Nigeria
FoI	Freedom of Information
FOSTER	Facility for Oil Sector Transparency
FSC	Forest Stewardship Council
GDF	Global Development Facility
GDP	Gross Domestic Product
GIS	Goldwyn International Services
GNPG	Globalised national Public Good
GPG	Global Public Good
IAG	International Advisory Group

IBLF	International Business leaders Forum
ICG	International Crisis Group
ICPC	Independent Corrupt Practices Commission
IFI	International Financial Institutions
IMF	International Monetary Fund
IMTT	Inter-Ministerial Task Team
INGO	International Non-Governmental Organisation
IOC	International Oil Company
IPG	International Public Good
JV	Joint Venture
KPCS	Kimberley Process Certification Scheme
KPI	Key Performance Indicator
LEEDS	Local Economic Empowerment Development Strategy
MDTF	Multi-Donor Trust Fund
MOU	Memorandum of Understanding
MSC	Marine Stewardship Council
MSI	Multi-stakeholder Initiative
MSP	Multi-stakeholder Process
NAOC	Nigerian Agip Oil Company
NDEBUMOG	Niger Delta Budget Monitoring Group
NEEDS	National Economic Empowerment Development Strategy
NEITI	Nigerian Extractive Industries Transparency Initiative
NGO	Non-Governmental Organisation
NNPC	Nigerian National Petroleum Company
NSMD	Non-State Market Device
NSWG	National Stakeholders Working Group
OAGF	Office of the Accountant General of the Federation
OECD	Organisation for Economic Cooperation and Development
OGAU	Oil and Gas Accounting Unit
OGIC	Oil and Gas Implementation Committee
OSIWA	Open Society Institute of West Africa
PACI	Partnering Against Corruption Initiative
PDP	People's Democratic Party
PIB	Petroleum Industry Bill
PIC	Public Information Centre
PITD	Petroleum and International Tax Department
PPMC	Pipelines and Products Marketing Company Limited
PPP	Purchasing Power Parity
PPT	Petroleum Profits Tax
PRSP	Poverty Reduction Strategy Paper
PSC	Production Sharing Contract
PSI	Policy Support Instrument
PWYP	Publish what You Pay
RRT	Resource Revenue Transparency
RWI	Revenue Watch Institute
SEEDS	States Economic Empowerment Development Strategy
SPDC	Shell Petroleum Development Company
TI	Transparency International

TIN	Transparency International, Nigeria
TNC	Transnational Corporation
UN	United Nations
USAID	United States Agency for International Development
WCD	World Commission on Dams
WSSD	World Summit on Sustainable Development

CHAPTER ONE

INTRODUCTION

1.1 Introduction

In our contemporary world, it is obvious that the systems for coordinating interactions between and amongst states, groups and individuals have witnessed significant transformations since the early 1990s. Keohane (2002:1) notes that "states remain the most powerful actors in world politics, but it is no l onger even a reasonable simplification to think of world politics simply as politics among states." 'Global governance' is the popular term used to reflect this transformation and Rosenau defines it as:

> "Systems of rule at all levels of human activity – from the family to the international organisation – in which the pursuit of goals through the exercise of control has transnational repercussions." (Rosenau, 1995:13).

The controversy on the meaning of global governance as a concept notwithstanding, there seems to be a co nsensus that the challenges facing humanity would require innovative strategies for resolving them. In recent times there has been a s trong recommendation for the collective action of multiple players towards providing solutions to global governance issues.

The term 'collective action' was made popular by Mancur Olson through his book *The Logic of Collective Action,* published in 1965. Olson espoused the theory of collective action by challenging the age long logic about group behaviour – that individuals will act collectively in pursuit of their common interests. In recent times, a particular form of collective action has become popular. It is called multi-stakeholder initiatives (MSIs) and refers to the process whereby multiple stakeholders – usually government, business and civil society – come together to dialogue and agree on mechanisms for addressing identified governance issues. Why are MSIs increasingly advocated in global governance? Their growing popularity notwithstanding, there seems to be little understanding of the concept of MSIs. As a result MSIs have been ill-applied in certain circumstances. This study explores the factors that influence the effectiveness of MSIs with a view to contributing to existing knowledge in the use of MSIs.

MSIs have been applied in numerous issue areas. It is important to also understand that MSIs tend to be issue specific and a proper understanding of the issue they address is essential for their effective organisation. From climate change to terrorism, and from governance failures to poverty and inequality, it is believed that many of the problems of global governance cannot be effectively addressed without the collective action of various stakeholders. These global challenges with consequences that extend beyond national boundaries and beyond generations are collectively referred to as Global Public Goods (GPGs). The description of GPGs has expanded over time and with globalization and its implications there seems to be fewer problems without global consequences. This study focuses on the example of the failure of natural resource wealth to translate into economic prosperity in many resource-rich countries, a phenomenon sometimes referred to as "resource curse".

This study highlights the key debates in the "resource curse" discourse especially the argument that the quality of institutions more than anything else seems to determine, to a considerable extent, the outcome of abundant natural resources. However, within this school of thought, there are yet some further debates regarding for instance, which institutions matter and how best can institutional quality be improved? This study follows the debate that many of the problems associated with poor resource management emanate from the opacity that often times pervades the governance of natural resources. Hence, it is believed that *resource transparency* is a key way of improving the management of natural resource wealth.

Resource transparency is the public disclosure of relevant and accessible information about the management of *all* the activities involved in the natural resource chain from discovery and exploitation to the collection and application of revenues. It is believed that resource transparency can enable the citizens, who are the ultimate owners of natural resources, to demand accountability from the public and private agents entrusted with the responsibility of managing resource wealth.

However, the greater challenge seems to be in the fashioning of a practicable and effective strategy for achieving resource transparency, considering the complexity of the problem especially in many resource-rich developing countries. It is argued in the literature that agents who are rational and self-interested are often unwilling to relinquish the advantage that information asymmetry offers them in their relationships with the principals (Macho-Stadler and Perez-Castrillo 2001). At the same time, the consequences of poor management of resource wealth (e.g. poor reputation and community restiveness and hostility) also negatively affect and threaten the interests of the agents as well (Waterman and Meier, 1998; and Shapiro, 2005). Therefore, collective action of all stakeholders, in the form of a multi-stakeholder initiative (MSI) is considered a second best option or the best alternative to no a ction

(BATNA). But how effective can this option be towards engendering better management of natural resource wealth, and what factors are likely to influence its effectiveness, especially in the context of a resource-rich developing country?

This study therefore explores the challenges to effective collective action for resource transparency. Relying on the suggestions from collective action and agency theorists, the framework for this study is built around four key challenges that are likely to influence the effectiveness of collective action for resource transparency. These challenges arise from the structural environment, the nature and character of the stakeholders, the governance structure for the collective action, and the nature of external influence. This study adopts a holistic single case study approach to examine the effectiveness of a multi-stakeholder initiative designed for resource transparency in a typical resource-rich developing country.

This chapter provides an overall introduction for this thesis. Section 1.2 presents a statement of the problem addressed in this study while the aims and objectives of the study are highlighted in section 1.3. The scope and justification of the study are discussed in section 1.4 while section 1.5 outlines the structure of the thesis. Section 1.6 concludes this introductory chapter.

1.2 Statement of the Problem

What hopes are there for the two-thirds of the world's poorest people who live in countries rich in natural resources?[1] Can collective action improve the governance of resource wealth in resource-rich countries? With the increasing reliance on collective

[1] The Revenue Watch Institute (RWI) http://archive-2011.revenuewatch.org/our-work/issues/revenue-transparency accessed 24/01/2012

action for GPG provision, the frontiers and understanding of the collective action theory have become stretched. Innovative strategies that maximise the basic assumptions of the (Olsonist) collective action theory have hence evolved in recent years. The belief in collective action for resource transparency carries with it some hope that after several decades of resource exploitation, resource wealth could genuinely benefit the citizens who dwell in the lands where it is found in abundance. However, this new strategy has been warranted not just in consideration of the plight of these citizens, but also because the consequences of poor resource wealth management are spilling beyond the borders of their countries, and jeopardizing the peace and stability of the rest of the world. Interestingly, this new strategy often originates from the global level yet its success would depend essentially on factors that are inherent in the local context. The same factors that in one way or another engendered the 'resource curse'.

It is believed that the proportion of the world's poor could be drastically reduced if the resource wealth of resource-rich countries such as Nigeria, Angola, Kazakhstan and Venezuela were managed better. For a very long time, there was emphasis on aid as a means of salvaging these poor countries, but experience has shown that it has become rather imperative to address the problem of poor resource wealth management.

The search for alternative solutions for tackling world poverty shifted attention to the concept of good governance as a prerequisite for sustainable development and poverty reduction. At the heart of the good governance campaign is also the emphasis on building appropriate institutional capacity considered weak in many poor countries.

Corruption, for instance, was identified as a problem and had to be tackled for any meaningful progress to be achieved. More importantly, the popular view that corruption was endemic in poor countries was slowly jettisoned and it was acknowledged, albeit reluctantly, that foreign (private) actors also play a significant role in corruption in poor countries. This admission proved to be momentous as it both informed the solutions that emerged and also made it easy for poor country governments and politicians to buy into global anti-corruption initiatives.

However, there were high profile cases of corruption and embezzlement of public funds in some of the resource-rich countries that the world could not ignore. For instance, when Sani Abacha, the head of the Nigerian military government died in 1998, it emerged that he and his close family had stolen over half a billion dollars which they stashed away in foreign bank accounts (Scher, 2005). In addition, the Global Witness report *Crude Awakening (1999)* also chronicled the cases of corruption and embezzlement of public funds in resource-rich Angola. There were several cases from other countries such as Equatorial Guinea, Indonesia, and Kazakhstan. These cases were all linked to institutional weaknesses and lack of effective checks and balances on government in these societies.

On the other hand, there was mounting evidence that international companies, in their quest to secure business opportunities at all costs both contributed to corruption and were indifferent to acts of injustice and abuse of human rights committed by governments and their agents, even when they could have intervened. In Nigeria, for instance, Shell was accused of complicity in the execution of Ken Saro Wiwa and seven other human rights activists by the Nigerian military government headed by late

Sani Abacha in 1995[2] (Mares, 2004). The malpractices of international companies in their host communities were further exposed by Civil Society Organisations (CSOs) who capitalised on the wave of democratisation in these countries to mobilise local agitations on issues such as human rights violations and environmental degradation.

However, on the issue of corruption, the Organisation for Economuic Cooperation and Development (OECD) took a bold step in 1997 when it adopted the Anti-bribery Convention which came into effect the following year. This convention established "legally binding standards to criminalise bribery of foreign public officials in international business" (OECD Website, accessed 30/12/2009). From that moment it was no longer business as usual, at least in principle[3]. The OECD convention, created further awareness on the direct and indirect contributions of business not only to corruption in poor countries but also to conflict, human rights violations, deplorable labour practices and environmental degradation in the process of carrying out business in poor countries. Although there were initiatives prior to the 1990 to address some of these issues, the late 1990s and early 2000s witnessed a rise in MSIs in order to accommodate the growing influence of business and Civil Society in world politics, who equally showed some eagerness to join in finding solutions. In the area of natural resource management, initiatives such as the Voluntary Principles on Security and Human Rights, the Kimberly Process Certification Scheme (KPCS), and the Extractive Industries Transparency Initiative (EITI) were introduced.

[2] Shell denied this allegation at the time but in June 2009 accepted to pay the sum of $15.5 million as compensation to the families of the executed activists.
[3] In December 2009, the Further Recommendations on the Anti-Bribery Convention was adopted as a follow up to the 1997 convention.

A common theme underlying many of these initiatives has been the recognition that the collective action of all stakeholders is essential for meaningful and sustainable results (Sandler, 2001; Barret, 2007). Therefore, beyond the overwhelming global recommendation of MSIs, how effective are they in addressing issues such as resource transparency? What hope do initiatives such as the EITI bring for over 3.5 billion of the world's population who live in countries rich in natural resources? The answers to these questions lie in a critical evaluation of the MSI framework and in understanding the critical success factors that are essential for its effectiveness.

1.3 Aims and Objectives of the Study/Purpose of the study

This study aims to contribute to the knowledge and understanding of collective action for the provision of global public goods (GPGs). public goods refer to goods and services that are non-excludable and non-rivalrous. When the provision or non-provision of such goods or services have implications beyond national boundaries and across generations, they are reffered to become global public goods (Kaul, 2007). Often times, public goods are required to be provided within the boundaries of a given country. However, for certain public goods, the benefits or consequences of non provision tend to spill beyond national boundaries. Lack of transparent management of natural resources in most resource-rich developing countries has been strongly linked with conflict and poverty in these societies and serious consequences for the rest of the world. Hence, resource transparency is strongly advocated as a panacea to the negative national and global consequences of poor natural resource management. In this study, we classify resource transparency as a 'globalised national public good' (GNPG). Inge Kaul (2007) has used a number of characteristics to categorise GPGs (see detailed discussion in Chapter 3). Like resource transparency, GNPGs particularly globalised national public goods (GNPGs). As discussed in detail in Chapter 3, this study views resource transparency as belonging to the category of GPGs called GNPGs. This study highlights the characteristics of resource transparency as a GNPG that have implications for the choice of strategy for their provision. The assertion that GNPGs would be best provided through the collective action of multiple stakeholders is also explored. Specifically, this study aims to improve the understanding of multi-stakeholder initiatives especially for the provision of resource transparency. Therefore, the broad objectives of this study include the following:

- *Identify* the factors that influence the organisation of collective action for resource transparency;
- *Understand* how these factors manifest; and
- *Explore* why the identified factors influence the effectiveness of collective action for resource transparency.

1.4 Justification of the Study

Recent developments especially in resource-rich countries have heightened global concerns for effective solutions to poor resource wealth management. In the rush to find solutions, certain strategies are ill-examined and are often churned out with mixed outcomes. With diminishing resources available for the provision of global public goods, there is need to examine these strategies in order to understand the fundamental considerations necessary for their effectiveness. For instance, strategies for better management of abundant natural resources, notably Structural Adjustment

Programme (SAP), have evolved over time yet the problem of poor resource management seems to be on the increase. At the moment, there is an overwhelming clamour for resource transparency through the collective action of all stakeholders. This study contributes to this debate by investigating the challenges that are likely to influence the effectiveness of collective action for resource transparency.

Business has grown so influential and powerful that the options for regulating them are reduced to the use of (self-regulatory) voluntary codes of conduct (COCs) and other soft power mechanisms. An observer notes that "privatization, free trade agreements and economic integration have limited government's ability to regulate TNCs [Transnational Corporations]. … the demand for FDI [foreign direct investment] has meant that governments are less willing to contemplate regulating companies" (Sullivan, 2003:13). However, at the same time, a third group of actors – the civil society organisations - has also become very prominent in the global arena and their participation and inclusion is crucial to effective and sustainable solutions to global governance issues. MSIs offer a fairly acceptable strategy to these three broad groups of actors – government, business, and civil society. Therefore, it is only timely that the growing popularity and application of this form of collective action is subjected to some deeper analysis in order to expand knowledge on the fundamental assumptions and the challenges that influence their organisation and effectiveness.

1.5 Scope of the Study

This study generally explores the challenges to achieving resource transparency through the collective action of multiple stakeholders in a given environment. The study focuses on highlighting the theoretical assumptions that underlie this school of thought and examining evidence from an identified empirical case. Evidence for this study was gathered specifically from the Nigerian experience with the Extractive Industries Transparency Initiative from inception in 2004 to 2009. However, where necessary, references have been made to the period beyond 2009 to provide further support to the argument being made.

1.6 Structure of the Thesis

This thesis is arranged in 8 chapters. The first three chapters, including this introduction, form the overall introductory part of the thesis. This introductory chapter is followed by a chapter on the review of literature, which explores the key arguments in the literature highlighting the point of departure for this study. Chapter 3 presents the theoretical and analytical framework for the study and identifies the specific case study and research methods employed.

The second part of the thesis is constituted of chapters 4-7 which are the analytical chapters of the study. Each of these chapters presents the findings of the study with each dedicated to one research question towards answering the overall question on determining the factors that influence the effectiveness of collective action for resource transparency. Chapter 8 forms the third and concluding part of the thesis. It presents the summary of the findings, highlights the key contributions of the study and concludes the thesis.

CHAPTER TWO

NATURAL RESOURCE GOVERNANCE AND THE 'RESOURCE CURSE' HYPOTHESIS: A REVIEW OF LITERATURE

2.1 Introduction

This chapter reviews the trend of key debates in the natural resource governance literature. It is important to understand this trend in addressing the main research question of this thesis which is: what factors influence the effectiveness of collective action for the provision of resource transparency? It centres on the growing emphasis over time on t he key role of institutions in determining the outcome of natural resource abundance. It explores the popular recommendation that greater transparency is a viable means of strengthening the management of resource wealth. However, the challenge appears to be in fashioning an adequate strategy that will facilitate and institutionalise transparency in natural resource management. With the inadequacy of conventional systems of global governance in addressing sustainable development issues and the rise of new forces in the global arena, creative innovations have become inevitable and the collective action of all stakeholders have been suggested as an effective means of addressing some of these global issues. The possible strategies for achieving resource transparency are explored and the gaps are identified. The need for a framework for a better understanding of resource transparency and how it can be effectively achieved is also highlighted.

The rest of this chapter is arranged as follows. Section 2.2 revisits the debate on the popular 'resource curse' hypothesis as an explanation for poor resource wealth management, and the challenges from the institutions school of thought. Section 2.3 highlights the emerging focus on institutions as an alternative explanation to the 'resource curse' hypothesis, while section 2.4 discusses the entrance of the resource transparency route as one of the suggestions emanating from the institutions perspective. Section 2.5 explores possible strategies for achieving resource transparency and the challenges that the uniqueness of resource transparency may pose to them, and points out the need for a proper framework that would aid the understanding of how best the provision of resource transparency could be organised. Section 2.6 concludes the chapter.

2.2 Explaining the Problem: The 'Resource Curse' Hypothesis Revisited

There are several reasons why some countries tend to grow faster than others. For decades, the inability of abundant natural resources to effectively transform into economic growth and prosperity has attracted a lot of attention. The disparity in the economic fortunes of countries is common in history, what is however puzzling is when such disparity is engendered by the abundance of natural resources instead of the opposite. This global concern has continued to generate countless explanations for this phenomenon. At first, it was thought that the terms of trade imbalance between developed countries and developing countries, and the limited integration of primary products exporting countries, were generally responsible for the economic growth discrepancies among nations (Prebisch, 1950 and 1964; Singer, 1950; Hirschman, 1958; Seers, 1964). It was later found that the volatility of the prices of some natural resources especially oil, presented major challenges to resource-rich countries which hindered their ability to properly manage their resource wealth (Mabro and Munroe, 1974; Mabro, 1980; Neary & Van Wijnbergen, 1986). However, it was further discovered that the tendency of natural resource exploitation to crowd out manufacturing and other sectors of the economy, a phenomenon known as 'Dutch Disease', also hampers the economic growth and development of resource-rich countries (Corden and Neary, 1982; Corden, 1984).

Of course, each of these explanations had policy implications. However, the persistence of the problem especially in resource-rich developing countries suggested that there were possible weaknesses in these explanations and their policy prescriptions. The question then remains: why do resource abundant countries often times develop or grow slower than their less endowed counterparts? Sachs and Warner (1995, 1997), using cross-country data for the period 1971 to 1990 from 20 countries, discovered that in fact resource abundance has a negative effect on economic growth with evidence showing that countries endowed with abundant natural resources grew slower than their less endowed counterparts. This, according to them, confirmed the existence of a natural 'resource curse' earlier mooted by Auty (1993). This 'resource curse' hypothesis significantly changed the long held assumption that the abundance of natural resource wealth was a decisive advantage to economic growth. The 'resource curse' thus emerged as a concept to represent the odd reality of the inability of resource-rich countries to successfully transform resource wealth into economic growth and prosperity.

From the mid-1990s, the ‘resource curse’ hypothesis dominated the debate on the poor outcome of natural resource abundance. The concept itself seems to possess some form of appeal as it aptly captures the situation common in most resource-rich countries. Experiences from countries such as Nigeria, Angola, and Venezuela, provided robust empirical evidence to support the “resource curse” hypothesis (Sachs and Warner, 1995, 1997) . Despite increasing natural resource exploitation, key economic indicators for these countries deteriorated over time.

However, this belief in the existence of a resource curse as postulated by Sachs and Warner generated some controversy in the literature. Some authors insist that the ‘resource curse’ does not in fact exist (Ng, 2006). Many authors also believe that the ‘resource curse’ hypothesis seems to leave limited options or hope for resource-rich countries. The ‘resource curse’ hypothesis also suggests that resource-rich countries would fare better if they left their natural resources unexploited. The lure and temptation that come with discoveries of natural resources make this option almost impracticable. Interestingly, evidence from countries such as Norway, Botswana and Chile, with considerable positive outcomes of natural resource abundance, also suggest that natural resource abundance may sometimes be a blessing (Davis, 1998; Ahammad and Clements, 1999; Clements and Johnson, 2003). This has prompted an expanding body of literature seeking alternative explanations to the ‘resource curse’ hypothesis.

First, a number of scholars disagree with the methodology employed in the study that led to Sachs’ and Warner’s conclusion on the existence of a ‘resource curse’. Their use of a cross country analysis especially has been strongly challenged. It is believed that a time series rather than a cross-country analysis is better suited for such studies and would guarantee a more reliable result (Collier, 2007b). Stijns (2000) also argues that the parameters used by Sachs and Warner in their study are at best misleading. He (Stijns) re-investigated their (Sachs' and Warner's) claims by using actual data about energy, mineral reserves and production and found that resource abundance is not a significant structural determinant of economic growth. He (Stijns) asserts that rather what matters most in terms of economic development is *how countries manage their natural resources.* In a similar study, Bulte (2007) using data on resource wealth released by the World Bank, finds that there is a rather positive relationship between resource abundance and both economic growth and institutional quality. His finding prompted him to revisit Sachs' and Warner's study and uncovered that their use of the ratio of primary exports divided by national income is not a measure of *abundance* but a measure of *dependence.* Based on his finding, Bulte dismisses the 'resource curse" hypothesis as not only 'a mere hype' but also a 'red-herring'. After extending the sample period used in Sachs and Warner's article, Arezki and van der Ploeg (2007) also concur that "much of the empirical evidence for a negative effect of natural resource dependence on growth performance does not survive"(2007:20).

However, despite the controversy it has generated, the appeal of the use of the concept of 'resource curse' appears somewhat irresistible. Overtime, both proponents and opponents of the concept have used it to generally represent the problems inherent in many resource-rich countries. Although some authors concur on the existence of a 'resource curse' they believe that it is only a symptom and not a cause of the problem. For instance, Collier and Goderis (2008) using a panel co-integration methodology find strong evidence of a 'resource curse'. However, their conclusion is that the resource curse can be avoided by countries with sufficiently good institutions, insisting that if their "tentative diagnosis of the root cause of the resource curse as being due to errors in governance is correct, then this prognosis could be avoided by improvements in the quality of governance" (2008:29). Thus, there is an emerging consensus in the literature that the abundance of natural resources alone does not sufficiently explain the poor economic performance of most resource-rich countries.

2.3 The Emerging Focus on Institutions

The emerging consensus on the significance of the quality of institutions on the effect of natural resource abundance on economic development appears to be linked to the works of Douglas North (1981, 1990) and Dani Rodrik et al (2004) on the role of institutions in development, and the spread of liberal democracy often referred to as 'the third wave' (Huntington 1991). Hence, the debate on the poor performance of resource-rich countries has recently focused on the interplay between the quality of institutions and abundant natural resource wealth.

Acemoglu et al (2001) in their study find that institutional quality alone can explain a great deal of cross-country differences in economic development and not natural resource abundance or lack of it. This view is also supported by Mehlum, Moene, and Torvik (2006) who also believe that institutions are 'decisive' in the management of resource wealth. This view is shared by Brunnschweiler (2006) who concludes that "there may in fact only be a curse when natural resource wealth occurs together with low quality institutions" (2006:8). There is robust evidence that natural resources negatively affect institutions. Collier and Hoeffler (2002) find that natural resource abundance increases the chances of civil conflict in a country, and civil conflict is considered a sign of institutional failure (Sala-i-Martin and Subramanian, 2003). It is believed that abundant natural resources induce *rentier* effects and also reduce the incentives for citizens to demand accountability which is critical for strong effective governance (Karl, 1997, 2007; Isham et al, 2005; Iimi 2006). Sala-i-Martin and Subramanian (2003:24) also support the view that abundant natural resources "have serious detrimental effect on the quality of domestic institutions and, through this channel, on long run growth".

However, there seems to be a controversy on the causal relationship between quality of institutions and resource abundance. While some authors tend to admit that this relationship is unclear (Mehlum et al, 2006), others insist that resource abundance has a positive effect on institutions (Brunnschweiler and Bulte 2007). Couttenier (2009) offers an interesting explanation. He argues that every country's institutions have a limited capacity of natural resources which it can effectively absorb. Beyond this limit, additional resources tend to have a negative impact on institutions leading to an inverted U-shaped curve. Some authors also believe that the effects of natural resources on institutions would be determined by some contextual variables (Basedau, 2005). These contextual variables may either be country-specific - 'developmental' or 'predatory' (Stevens, 2003a); or resource-type specific – 'point source' or 'diffuse source' (Leite and Weidman, 1999). For instance, Leite and Weidman (1999) argue that 'point source' resources (such as oil) are more likely to have a negative effect on institutions than 'diffuse source' resources (such as solid minerals) because of their greater tendency to stimulate corruption and rent-seeking.

Another source of controversy relates to the question of which institutions matter most in the management of natural resource wealth. Kolstad (2007) argues that only improved institutions governing the private sector ameliorates the 'resource curse'. However, Larsen (2004) argues that Norway managed to escape the 'resource curse' through the arrangement of political and economic institutions, a strong judicial system and social norms. Furthermore, Iimi (2006) using evidence from Botswana, found that especially in developing countries, governance issues such as the quality of regulation, and level of transparency and accountability in the public sector determine the extent to which the growth effects of resource wealth can materialize. Kolstad and Soreide (2009) argue that the problems of poor institutions are created by 'rent-seeking' and 'patronage' and improving resource wealth management must entail solutions targeted at the two.

These controversies notwithstanding, a common concern seems to be: how best can the quality of institutions be improved towards achieving better resource wealth management? The lack of transparency in the management of natural resource wealth has been identified as a major obstacle to achieving better management of resource wealth (Collier, 2006; Florini, 2008). Ogwumike and Ogunleye (2008) using Nigeria as a case study find in their study of the determinants of resource-led development that the greatest inhibitors to oil-led development are corruption, lack of transparency, accountability and fairness in the use and distribution of resources. Kolstad and Soreide (2009) also argue that "policy in resource-rich countries should be less about macro-economic management and more about institutions to prevent rent-seeking and patronage, and about giving the right incentives to players in the resource sector." If rent-seeking and patronage are the attendant consequences of resource revenue

(Kolstad, 2007) and the lack of political restraint to the use of power (Collier, 2006), how best can institutions be strengthened to address these? The argument, therefore, is that greater transparency in the management of natural resources empowers citizens and the civil society to demand accountability and hence ensure the responsible use of natural resource revenue, and also reduce the tension and instability often associated with natural resources. K arl (2007:257) therefore suggests "a far-reaching "fiscal social contract" based on transparency", and also acknowledges an "emerging convergence over the importance of transparency as a first step in overcoming the resource curse".

2.4 Resource Transparency

The recent global financial crisis highlights the significance of transparency (or lack of it) in global governance. International organisations, governments, and corporate bodies increasingly adopt necessary policy adjustments to accommodate the important role of transparency. It is becoming increasing acknowledged that "secretive decision-making by small elites can no longer be sustained" (Florini, 1999:37). Transparency is also believed to be critical towards the strengthening of institutions, and more so for the institutions for the management of resource wealth (Florini, 1998; 2007, 2008; Collier, 2007; Karl, 2007; Arezki and van der Ploeg, 2007). Larsen, (2004:22) believes that "transparency, media scrutiny, rule of law, and politico-economic institutions prevent easy access for small coalitions to the public funds of resource rents".

Resource transparency draws from the general concept of transparency. Hood (2006) suggests that an appropriate definition of the doctrine of transparency would include some basic characteristics such as:

> "…decisions governed by clearly established and published rules and procedures rather than by *ad hoc* judgements or processes; methods of accounting or public reporting that clarifies who gains from and who pays for any public measure; and governance that is intelligible and accessible to the 'general public'" (Hood, 2006:5).

Hood's definition is also not very different from that offered by the IMF, in its glossary of selected financial terms. It defines transparency as "openness, honesty and accountability in public and private transactions" (IMF Website[4]) accessed 21/10/2008). There seems, therefore, to be a strong agreement in literature that transparency is "a critical component of accountability" (Zedillo and Thiam, 2006:92).

Resource transparency therefore refers to the application of transparency to the management of resource wealth. It implies *the public disclosure of necessary, reliable and accessible information about all the activities and processes involved in the natural resource wealth management chain from discovery and exploitation, to the revenue collection and expenditure.* This conscious attempt to link transparency with the effective management of natural resource management is only recent and 'unexpected' (Gillies 2008). The agency theory offers an explanation of why resource transparency may be crucial in improving resource wealth management. The agency theory presupposes that conflict of goals and information asymmetries characterize the relationship between a principal and an agent (Waterman and Meier,

[4] http://www.imf.org/external/np/exr/glossary/showTerm.asp#119 accessed 21/10/2008

1998). Therefore, the ability of the principal to both observe and influence the behaviour of the agent defines the intensity of the agency problem. (see detailed discussion in Chapter 3). For most resource-rich developing countries, natural resource wealth accounts for a portion of government revenue and GDP. Hence, natural resource wealth is easily susceptible to rent-seeking and corruption. This is made possible especially because of the information asymmetry that exists between the public and the few individuals who are privileged in one way or the other to act as custodians of natural resource wealth management. Transparency enhances the availability of information to interested parties and empowers them to demand a fair distribution and use of resources. Prat (2006: 102) notes that "available economics research supports the idea that full transparency should be the default option". It is believed that the more information made available, the greater the chance of efficient allocation of resources (O'Rourke, 2004). Ascher (1999) also notes that:

> "The level of oil-related corruption in Nigeria would be impossible if there were a modicum of transparency and accountability in NNPC and oil ministry accounts. One factor strikingly reminiscent of the opacity of Indonesia's Pertamina…is the flexibility that lack of transparency gives to the Presidency" (1999:185).

In addition, because individuals (especially poor people) are less likely to have resources to gather information, it becomes necessary for a conscious effort to make this information available to all stakeholders. Hence, in this study we view resource transparency as a public good - such that when it is provided, its consumption or benefits are both non-excludable and non-rivalrous (see detailed discussion in Chapter 3).

Collier (2007) believes that resource transparency is capable of providing some "political restraint to the use power" necessary for ensuring the efficient management of resource revenues. Essentially, Karl (2007) identifies the three key gaps that may lead to poor resource wealth management as - information, monitoring and participation gaps. She argues that any effort at addressing poor resource wealth management must be aimed at bridging these gaps for effectiveness. However, she believes that bridging the *information* gap through resource transparency should be prioritized because:

> "Sequence matters in this story. Greater access to information sets the framework for producing better monitoring, and both information and monitoring create incentives for the involvement of those who currently are (but need not be adversely) affected by petroleum exploitation" (Karl, 2007:278).

Nonetheless, Kolstad and Wiig (2009) believe that the concept of transparency is often not accorded the emphasis it deserves. They argue that:

> "The point is that information capture influences political outcome. Lack of transparency discourages public participation in democratic processes. Secrecy raises the price of information and thereby discourages voters or groups without special interests from participation. Interest groups might on the other hand lobby for their interests. Voters use available information to decide whether to keep the current party in power or to replace it with the opposition, but if, at the time of election, they are uninformed about the responsibilities for or consequences of current policies, they might not punish the current ruling party" (Kolstad and Wiig 2009:523).

However, there are yet some key controversies in the resource transparency debate. The first is the question of where on the natural resource chain is transparency required most. The natural resource value chain comprises a h ost of activities including the discovery of resources, the decision to exploit resources, the actual exploitation of resources, the generation of revenue, and the spending of resource revenue. Hence, this controversy has led to the identification of three broad aspects of resource transparency namely: contract transparency, revenue transparency, and expenditure transparency. Many authors tend to suggest that transparency should be emphasized at the point of expenditure of revenue resources. For instance, although Ascher (1999) identifies four basic stages where bad policies could be manifest viz: resource development, extraction, processing and the use of the proceeds from resource exploitation; he argues that the problems are created by the inability of resource managers to adequately convert the natural resource wealth into efficient investments and worthwhile consumption for the society. Ascher believes that the wasteful spending by state agencies of the proceeds from resource exploitation and the failure to make them accountable imply that resource abundance would have a negative effect. Interestingly, he identifies six distinct strategies by which governments pursue unsound policies which undermine proper management of natural resources. These strategies include:

- Financing controversial development programmes
- Providing economic benefits for particular groups, areas, or individuals
- Capturing natural resource rents for the central treasury
- Creating rent-seeking opportunities in order to gain private actor cooperation in pursuing other objectives
- Capturing and maintaining discretion over the financial flows involved in resource exploitation, at the expense of other government or state agencies
- Evading accountability through reliance on low-visibility resource manoeuvres.

Futhermore, Argentino (2008) emphasizes the need to focus on specific areas of control fault, such as public budget and improving organisational systems. Ogwumike and Ogunleye (2008) also argue that for oil wealth to induce development inhibitions such as corruption and lack of transparency to its *use and distribution* ought to be removed.

Nevertheless, in terms of strengthening institutions, it is sometimes difficult to draw a line between resource revenue and expenditure especially when both are centrally controlled. Sometimes addressing revenue is believed to be a necessary first step, but a complete and sustainable effect may not be achieved if one is addressed and the other is not. Kolstad and Wiig, (2009) believe that a focus on revenue is "misplaced because while transparency has little effect on rent-seeking, patronage manifests mainly through expenditure." But this is not entirely true because more often than not, patronage may manifest on the entire resource chain especially in the award of contracts. Therefore, some authors advocate a holistic approach that covers the entire chain. The argument is that at each point on the value chain "there are critical opportunities to improve or undermine the value for the population" (Rosenblum and Maples, 2009:16).

2.5 Challenges to Achieving Resource Transparency

There are opportunities and challenges that are inherent in relying on transparency to address identified global issues such as the 'resource curse' (Florini, 1999). The first key challenge is that the effectiveness of resource transparency is tied to the ability of the citizens to utilize the information so provided to demand accountability. Hence, the resource transparency agenda, especially in situations where complementary public institutions are lacking, could be an illusion. For instance, Besley (2006) believes that such institutions as the rule of law, press freedom, freedom of information, free and fair elections, and the active participation of citizens in governance are necessary conditions for transparency to be effective. It is also believed that because resource revenues sometimes radically reduce the need for taxation, citizens are not sufficiently provoked to supply "the public good of scrutiny over how their taxes are being spent" (Collier, 2007:46). The implication is that even when information is made available, citizens may yet lack the incentive to provide the necessary follow-up hence the objective of accountability may be weakened or not achieved. This raises the question of whether the citizens and institutions in a country are properly positioned to respond to increased transparency in resource wealth management. Kolstad and Wiig (2009:529) also believe that the effectiveness of resource transparency "depends on the level of education of an electorate, the extent to which key stakeholders have the power to hold a government to account, and the private or collective nature of the goods about which information is provided".

Another challenge in achieving resource transparency is the difficulty in determining the level and amount of information disclosure considered sufficient. For instance, Heald (2006) acknowledges that although sunshine is essential to life, there are dangers in over-exposure to it. Some levels of openness and disclosure could portend dangers for key stakeholders. Governments might consider information disclosure in certain areas inimical to the public interest or critical to the effectiveness of certain policy instruments. There are even greater implications in involving companies and private sector entities in transparency arrangements because they are constantly faced with the challenges of maximizing profit in the face of competition and are usually wary of the risks that disclosure might portend. Gupta (2008) identifies the emphasis on "the power of (due) process" and "empowerment through information" as the two basic assumptions of what she terms "governance-by-disclosure". She argues that these two assumptions portend some hazards for any system if not carefully monitored.

Kopits and Craig (1998) also argue that there are transaction costs associated with transparency. Effective transparency requires the establishment and maintenance of technical capacity and institutions to ensure an adequate information system. They assert that "the cost of transforming a culture of secrecy into one of transparency may be equally large" (1998:3). However, Vishwanath and Kaufmann (2001) insist that the cost of secrecy is staggering and cannot be compared to the transaction cost of transparency. They also argue that the citizens' *right to know* supersedes all arguments against transparency.

However, the challenges posed by the worsening situations in resource-rich countries seem to outweigh the numerous cautions expressed about resource transparency. This rising global risk necessitates that a concerted response is imperative. The Global Witness (2003) in a statement notes that:

> "The current *status quo* is a lose-lose situation for all parties. Ordinary citizens are dispossessed and left reliant on don or assistance. Multinational corporations see their legitimate revenues misappropriated and squandered, and are vulnerable to accusations of complicity with corruption and its attendant reputational risk … M oney from taxpayers in the North is then required in the form of aid to compensate for state failure in the South, which is inefficient and undermines other attempts to improve governance. The

> international community also faces instability that in some cases may directly threaten the security of energy supply" (Global Witness, 2008:1)

The greater challenge seems to be the question of how best could a global strategy towards resource transparency be organised? Some authors acknowledge that as much as the significance of transparency is often generally acknowledged, actualizing or institutionalizing it is no easy task (Florini, 1999; Mason, 2008). For instance, Truelove (2004: 237) acknowledges that "the need for disclosure is clear, but the means for implementing disclosure are not". The challenge therefore is in determining the most appropriate and effective strategy for achieving resource transparency.

How best can resource transparency be achieved and what factors would influence the effectiveness of any such strategy? A number of authors have suggested that collective action is the most effective means of achieving resource transparency (Karl, 2007; Collier, 2008). This they believe is due to the fact that resource transparency provides different levels of opportunities and challenges to diverse stakeholders, and as such the collaboration of all stakeholders is essential for the achievement of resource transparency. The form of collective action advocated is different from the traditional systems such as multilateralism or voluntary codes of conduct (COCs). It is believed that while multilateralism does not sufficiently accommodate all the key actors in global governance notably business and civil society organisations (CSO), on the other hand business cannot be trusted to effectively regulate itself through COCs (Kolk and Tulder, 1999; Jenkins, 2001; Utting, 2001; Sullivan, 2003; Beschorner and Muller, 2007; Martens, 2007). In order to deal with the participation and implementation shortfalls of these strategies in the provision of resource transparency, the collective action of all stakeholders in a multi-stakeholder platform is therefore considered most suitable for achieving resource transparency. For instance, Collier (2007: unpaginated) argues that what is required is "an appropriate combination of learning to correct past mistakes, and institutional innovation to correct misaligned incentives".

However, much as it has been widely advocated, this claim about the suitability of multi-stakeholder initiatives (MSIs) for the provision of resource transparency has not been sufficiently examined in the literature. Empirical studies of MSIs in varied aspects of global governance issues may abound, but their application to the resource transparency agenda is only recent and as such has not been sufficiently examined. Therefore, this study attempts to address this gap in knowledge by seeking answers to the overall research question: *what factors influence the effectiveness of collective action for resource transparency?*

2.5 Conclusion

In this chapter, we have established that the trend in the explanations for the inability of resource abundance to sometimes translate to economic prosperity has transcended the 'resource curse' hypothesis. There seems to be a major shift towards an emphasis on the role and quality of institutions in determining the outcome of abundant natural resources. However, there are further debates among proponents of this argument, for instance, on which institutions matter in the improvement of resource wealth management and what strategy is most appropriate? We highlighted the increasing focus on resource transparency as a key means of improving resource management institutions and it was noted that given the unique challenges involved in resource transparency, the collective action of all stakeholders seems to be an acceptable strategy for its provision.

The literature reviewed strongly supports the need to seek alternative strategies for addressing the negative outcome of resource abundance. One such strategy has been the assumption that resource transparency would improve the management and outcome of abundant resources. The literature also suggests that collective action of all stakeholders would be an acceptable means of achieving resource transparency due to its inherent characteristics. However, the understanding of how collective action could be effectively organised for resource transparency seems to be scant. The need arises to address this gap in knowledge by conducting a deeper exploration of collective action for the provision of resource transparency. Therefore the main research question that this study addresses is: *what factors influence the effectiveness of collective action for resource transparency and how and why do these factors manifest?* In the next chapter, resource transparency is further conceptualized, and the framework for exploring the research question posed is discussed.

CHAPTER THREE

EXPLORING COLLECTIVE ACTION FOR RESOURCE TRANSPARENCY: THE RESEARCH APPROACH, DESIGN AND METHODS

3.1 Introduction

In Chapter 2, w e established that the argument that the outcome of resource abundance is strongly linked with the quality of institutions seems to be quite robust. We also established that one key means of improving institutions for resource wealth management is through resource transparency, and the collective action of diverse stakeholders has been suggested as an effective means of achieving resource transparency. However, a key question that arises from these conclusions is ‘how best can collective action for resource transparency be organised? What seems to be scant in the literature is a detailed understanding of how collective action for resource transparency could be effectively organised. Resource transparency, in its recent connotations, lacks a coherent and detailed study of its empirical application, particularly, the challenges to the effective use of collective action for its provision. This study therefore explores the key question: ***what factors influence the effectiveness of collective action for resource transparency? And also examines how and why these factors manifest.*** In addressing these questions, it is imperative to first determine the most appropriate form of collective action that would be suitable for the provision of resource transparency.

Meinzen-Dick et al (2004) contend that there are three major challenges that researchers encounter when studying collective action. These challenges include:

- conceptualising collective action;
- developing an analytical framework for studying collective action; and
- operationalizing the framework for empirical research (2004:200).

In addition to the above challenges, collective action also seems to be issue and context specific. Hence, understanding the problem and the environment for which collective action is required seems to be imperative (Fransen and Kolk, 2007). Therefore, in this chapter we build an overall research strategy for the study of how collective action can be organised for achieving resource transparency. This chapter discusses a theoretical framework that would enable the conceptualization of resource transparency and justifies the need for collective action for its provision, and the best form of collective action advocated and why. As a guide for our enquiry, we derive from relevant theories the challenges or factors that are likely to influence the effectiveness of such collective action for resource transparency, and identify a suitable research approach and data gathering methods capable of yielding sufficient evidence for our analysis.

The rest of the chapter is arranged as follows. Section 3.2 discusses the theoretical framework for this study. The resource transparency debate is considered in the light of the agency theory and the implications for its successful provision are highlighted. These implications point to the need for an innovative form of collective action and the use of a multi-stakeholder initiative for resource transparency is discussed in section 3.3. T he focus on the critical factors that influence the organisation and effectiveness of MSIs for resource transparency forms our point of departure for this study and section 3.4 identifies the *holistic single case study* as the chosen research strategy and provides a brief overview of the broad and specific aspects of the identified case. Section 3.5 presents the analytic framework, while the data gathering and analysis methods are discussed in Section 3.6. Section 3.7 concludes the chapter.

3.2 Collective Action for the Provision of 'Globalised National Public Goods': A Theoretical Framework

The theoretical framework for this study draws from the assumption that the institutional problems in resource governance are predominantly principal-agent (or agency) problems (Kolstad and Wiig, 2009). Particularly, this agency problem is created by the information asymmetry that tends to exist between the principals (citizens) and the agents (public and private actors involved in resource wealth management). Hence, to address this agency problem, resource transparency or the transparent management of resource wealth is required in order to bridge the information gap. However, because resource transparency is considered a 'globalised national public good', it also faces the problems associated with the overall provision of public goods, and to mitigate these problems the collective action of all stakeholders would be required for its effective provision.

Nevertheless, there are obstacles to effective collective action. The focus of this study is therefore to examine the challenges or factors that influence the effectiveness of collective action for resource transparency. From the assumptions of both the agency and collective action theories we deduce that there are key factors that are likely to determine the effectiveness of collective action for resource transparency. Among these factors are the structural environment for collective action, the characteristics of the component agents, the governance structure for the collective action and, the nature of external influence. These factors, we believe, would have specific implications for the type of collective action advocated for the provision of resource transparency, especially in the context of a typical resource-rich developing country. This forms the framework that would be applied to the identified case study in investigating how and why these factors influence collective action for resource transparency. The sub-sections below provide a detailed discussion of this theoretical framework.

3.2.1 The Agency Problem in Natural Resource Governance: A Case for Resource Transparency

The agency theory explains the problems that are likely to exist between two parties in a formal or informal contract where one party - the principal, hires the other – the agent, to perform a task (Eisenhardt, 1989; Grossman and Hart, 1983; Waterman and Meier, 1998). The theory presupposes that problems may arise because:

- the goals of the two parties are divergent, as such there may be conflict of goals;
- the agent possesses more information (both about himself and the environment) than the principal, and because the agent is self-interested may utilize this advantage to engage in opportunistic behaviour;

- it is not possible for the principal to completely observe the behaviour of the agent;
- The principal and the agent may also have different attitudes towards risks and "the problem here is that the principal and the agent may prefer different actions because of the different risk preferences" (Eisenhardt, 1989: 58).

The agency theory presupposes that conflict of goals and information asymmetries characterize the relationship between a principal and an agent (Waterman and Meier, 1998). Therefore, the ability of the principal to both observe and influence the behaviour of the agent defines the intensity of the agency problem.

The relationship that the agency theory presupposes is ubiquitous and is "one of the commonest and most codified modes of social interaction" (Ross, 1973:134). With origins in the study of insurance (Spence and Zeckhauser, 1971), the agency theory has been extended to numerous areas of study including the analysis and understanding of institutions (Weingast and Moran, 1983; Weingast, 1984; Downs and Rocke, 1994; Wood, 1988; Cook and Wood, 1989; Groenedijk, 1997; Miller, 2005; Kolstad and Wiig, 2009[5]). It is argued that "it seems reasonable to urge the adoption of an agency theory perspective when investigating the many problems that have a principal-agent structure" (Eisenhardt, 1989: 70). Although, the applicability of the basic assumptions of the agency theory has also been frequently challenged (Waterman and Meier, 1998; Shapiro, 2005), we believe that the key assumptions of the agency theory are relevant in exploring the problems associated with resource

[5] Kolstad and Wiig (2009) apply the agency theory in examining the linkage between corruption and the management of resource revenue in developing countries.

wealth management and in understanding the emphasis on resource transparency as a possible option for their resolution.

The agency theory also identifies two key ways through which the problem of information asymmetry can manifest. The first is *adverse selection* which happens when the principal (has insufficient information) is unable to fully determine the type or qualities of the agent prior to the contract. The second is the problem of *moral hazard* which is a situation in which the principal is unable to fully observe or monitor the agent's behaviour during the execution of the contract. However, underlying these two agency problems is the problem of *costly verification* which denotes that it is difficult or costly for the principal to obtain information about both the agent's qualities and his behaviour (Dixit, 2002).

Therefore, *resource transparency* is advocated as a means of narrowing the information asymmetry, reducing the cost of verification, and hence the intensity of the agency problem inherent in resource wealth management (Kolstad and Wiig, 2009). This is supported by the empirical evidence that the few countries who have avoided the 'resource curse' appear to have achieved that "through prudent and **transparent** management practices" (IMF 2005:4). Lack of transparency in resource wealth management, especially in resource-rich developing countries, is even more significant because of the enormous opportunity it presents to public and private actors, and the consequences it has on poverty and economic development. Kolstad and Wiig (2009:524) argue that "secrecy is an important way in which government officials attempt to influence public opinion or create rents for themselves". Motivated by their self-interests (Eisenhardt, 1989), government and business agents maximize the rent-seeking opportunities that the institution of secrecy provides at the expense of the goals and aspirations of the ordinary citizens for the benefits of abundant resources. This negative net impact of natural resource abundance on the economy and lives of people in most resource-rich developing countries reflects the agency problem that exists in resource wealth management. For the purpose of this study, ***resource transparency is therefore defined as the public disclosure of relevant and accessible information regarding the decisions and actions of public and private agents who are directly or indirectly involved in the overall management of natural resource wealth in any given environment.***

3.2.2 Cui Bono? Resource Transparency as a Global Public Good

Can resource transparency which aims to reduce information asymmetry be in the interest of agents? In whose benefit is resource transparency? The agency theory assumes that it is in the interest of the principal to constantly seek means (through incentives or coercion) of resolving the agency problem (Groenedijk, 1997; Miller, 2005). However, as empirical evidence especially from developing countries has shown, the agency problem in resource wealth management often persists because the principals seem to lack the requisite capacity (incentives or coercion) to resolve the agency problem (Karl, 2007). Therefore, the question is: can agents be interested in resolving the agency problem? Macho-Stadler and Perez-Castrillo (2001:103) argue that "when the agent has more information than the principal concerning certain important aspects of the relationship, this information will only be revealed *if it is in the interest of the agent to do so."*

What conditions may therefore motivate agents towards providing resource transparency? Waterman and Meier (1998) suggest that contrary to the assumption that it is in the principal's interest to resolve the agency problem; agents can sometimes initiate solutions to the agency problem. However, this is very likely only in situations where the goals of both the principal and that of the agents somehow converge. Waterman and Meier (1998) argue that because the goals and interests of principals and agents are flexible, they can sometimes converge. One clear area where these goals seem to very often converge is in the provision of **public goods**.

Public goods are goods that when provided, their consumption or benefits are both non-excludable and non-rivalrous. In other words, as opposed to private goods, it is difficult to exclude non-payers from the benefits or consumption of such goods, and the consumption of a unit of these goods does not reduce their availability. Resource transparency seems to belong to the category of public goods. Arguably, the benefits (positive externalities) of a transparent management of resource wealth are both non-excludable and non-rival, and could transcend national borders and generations as well. For instance, within national boundaries, resource transparency could lead to better governance of natural resource wealth and thereby engender both political and economic stability, sustainable development and an overall better life for citizens. However, this could also result in reduced aid budgets for poverty reduction and save tax payers' money in donor countries, improve the atmosphere for investments and business opportunities for multinational corporations (MNCs) and their home countries, stability of international prices of energy and other resources, and so on. As such resource transparency falls within the category of goods/ services classified as global public goods (GPGs) (Buchanan, 1965; Cornes and Sandler, 1996).

A key implication for public goods is that there are problems associated with their provision, and they often tend to be underprovided. It is believed that public goods possess unique characteristics that have implications for their provision (Sandler, 2001; Barret, 2007). Therefore, a proper classification is essential in order to determine their most effective means of provision. Using Inge Kaul's (2003) classification of public goods, we identify resource transparency as a '*globalized national public good'*. The two key considerations that are made in classifying public goods are their *mode of occurrence* and their *scope of occurrence*.

First, public goods can either be natural or human made depending on how they occur. Natural public goods include goods or services provided as a response to issues emanating from "the atmosphere, the geostationary orbit, the electromagnetic spectrum, and the high seas, most of which predate human history" (Kaul, 2003:14), while human made public goods are those provided to respond to problems created by the decisions and actions of human beings, an example is the global fight against poverty. Kaul (2003:14) also believes that "it is this second class, the human-made global public goods, which has witnessed a rapid expansion in recent centuries -and especially- in recent decades, being both a driving force and result of globalization".

Second, considering the scope of occurrence, public goods are further classified as either national or international/transnational, depending on the geographical implications of their benefits or consequences of non-provision. When the benefits (or consequences of non-provision) of a public good manifest within the borders of a country, the public good is classified as a 'national public good'. But if the provision of a public good benefits all, irrespective of their geographical location, including future generations, and the failure to provide it puts the whole world at risk, then the public good is referred to as an 'international or transnational public good' (Sandler, 2001; Barret, 2007). These international public goods can also be either global or regional public goods, depending on the scope of their implications. Hence, regional public goods (RPGs) are public goods that have implications for specific continents or for a group of countries (who do not necessarily share contiguous borders). For instance, Barret (2007) argues that different countries will be affected by climate change and in different ways. For the provision of RPGs, Sandler (2001) suggests that:

> "a regional network that connects nations confronting a common international public good (IPG) issue needs to form as in the case of river blindness ... Western African countries engineered a network among themselves to control both the parasite worm and the person-to-person contagion of the disease (Sandler, 2001: 24).

However, Kaul (2003) argues that there is a strong tendency for national public goods, which should normally have local implications, to assume regional and global dimensions due to the effect of globalisation. Hence, they become 'globalised national public goods' such as resource transparency. Resource transparency is required to address the agency problem within resource-rich countries but its provision has become a global concern because of the rapidly spreading consequences of its non-provision. For instance, the poor management of resource wealth in developing countries is often linked to the rising incidence of poverty, conflict, and violence in these countries, and growing threats to international business and investments. Collier and Venables (2009:10) contend that poor resource wealth management has implications "somewhat analogous to climate change".

Figure 3.1 be low represents this classification of public goods in a two by three matrix highlighting 'globalised national public goods' (GNPGs) as the key focus of this study.

Table 3.1 Classification of Public Goods

	National	***Regional***	***Global***
Natural	Natural National PGs	Natural Regional PGs	Natural Global PGs (Natural Global Commons)
Human made	Human Made National PGs	Human Made Regional PGs	Human Made Global PGs (Globalised National Public Goods)

Source: Adapted from Inge Kaul (2003).

'Globalised national public goods' have attracted concerns because of their growing significance and implications to the global community coupled with the challenges associated with their provision. Sandler (2001) believes that the nature or class of a public good determines the 'aggregation technology' required for its provision which in turn informs "the manner in which individual contributions to the public good determine the total quantity of the good available for consumption" (2001: 16) – and also the institutional arrangements required for their provision. The most significant development in this area seems to be the detachment from the state-centric view that the provision of public goods falls solely within the responsibility of states (Sandler, 2001; Kaul et al, 2003; Barret, 2007). Although the state still plays a pivotal role in public goods provision "it is no longer correct (if ever it was) to define public goods simply as state-provided goods" (Kaul, 2003: 2). The question that arises then is: what effective mechanism is likely to facilitate the provision of a 'globalised national public good' such as resource transparency and why? The collective action of multiple actors has been strongly advocated generally for the provision of GPGs (Oslo, 1965; Ostrom, 2000; Anand, 2004). Anand (2004), for instance, argues that "in the absence of a global government with tax-raising powers, voluntary cooperation and collective action are the main instruments to supply GPGs" (2004:223). However, collective action exists in numerous forms. What form of collective action would be most suitable for the provision of resource transparency? In answering this question, it is imperative to first explore the key considerations underlying the need for collective action for resource transparency.

3.2.3 Exploring Collective Action for Resource Transparency

It is believed that the collective action of multiple actors is an effective means of overcoming the problems associated with the provision of public goods (Oslo, 1965; Sandler, 1992; Ostrom, 2000). The need for collective action for resource transparency appears to be even stronger. The IMF *Guide to Resource Revenue Transparency* states that "because of the magnitude of resource-related transactions, and because project-by-project negotiations are the general rule in many developing countries, issues of transparency of *international companies* and *lenders,* and *collective action* by stakeholders are also important". (IMF, 2005:10). An author also acknowledges that:

> "GPGs can generally be understood as "commodities, resources, services—and also systems of rules or policy regimes with substantial cross-border externalities—that are important for development and poverty reduction, and that can be produced in sufficient supply only through co-operation and collective action to achieve them" (Boisson de Chazournes, 2003:1).

The cooperation and coordination of more than one individual is often required for the accomplishment of most tasks in our everyday living. Taylor and Singleton (1993) acknowledge that there is hardly an area of social life from which collective action efforts is absent. They argue that collective action is required "where rational individual action by each of the members of some set of actors can lead to an inefficient or Pareto-inferior outcome" (Taylor and Singleton, 1993:196). The theory of collective action presupposes that public goods and externalities have quantity constraints for their provision and that "the presence of a quantity constraint can cause uncoordinated individual actions or decisions to reach suboptimal positions from which all individuals could have their well-being improved". The collective action theory further predicts that "if the participants can agree to coordinate their choices so that the consequences of each quantity choice (e.g., voluntary contributions to a public good) reflect the interests of the entire group, then collective action will, even in the presence of public goods and externalities, provide better outcomes from the standpoint of the collective" (Sandler 1992:7).

However, as strong as the collective action argument is for the provision of public goods, it is not often in the best interests of agents to "agree to coordinate". The Prisoner's Dilemma game is often used to illustrate that "the pursuit of individual self-interest may imply an outcome for the collective that is inferior to other feasible outcomes" (Sandler 1992:5). Therefore, it is not often guaranteed that individual actors would chose to take collective action whenever they jointly benefitted. Mancur Olson (1965), had suggested that "unless the number of individuals in a group is quite small, or unless there is coercion or some other device to make individuals act in their common interest, rational, self-interested individuals will not act to achieve their common or group interests" (1965:2).

Nevertheless, the widespread use of collective action for public goods provision, especially in recent times appears to be contrary to Olson's prediction that it would be difficult for groups to form (Ostrom, 2000). There are indications that aside the conditions listed by Olson, there may be other factors that motivate agents to "agree to coordinate". Some of these factors include the characteristics of individual agents (Ostrom, 2000), the constant interaction of the agents, uncertainty ('shadow of the future') and the agents' collective concern for transaction (and reputation) costs. The portrayal of agents as self-interested opportunists who have nothing to lose from the agency problem has also been challenged. For instance, just like agents, principals also sometimes have the tendency to shirk. Referring to the 'stewardship theory' Shapiro (2005: 268), argues that agents also face similar challenges as that of the principals and that sometimes there may be:

> "principal type that may lead to adverse selection by agents who may be unwittingly drawn to principals who shirk, cheat, and opportunistically seize perquisites for their own use; who deceive (e.g., about hazardous working conditions, opportunities for advancement, etc.); and who exploit their agents" (Shapiro, 2005:268).

The 'stewardship theory' therefore argues that contrary to the assumptions of the agency theory, agents could be "good stewards and team players and replaces assumptions of opportunism and conflict of interests with those of cooperation and coordination" (Shapiro 2005:268). This indicates that agents sometimes have considerable motivation to act towards resolving the agency problem as opposed to the classical agency theory which portrays agents as benefitting from the problem and would hardly act to resolve it. Does resource transparency (or the consequences of its non-provision) present any such motivations for agents to "agree to coordinate"?

3.2.4 Why is Collective Action Considered Necessary for Resource Transparency?

From the late 1990s, business and governments had begun to face enormous consequences of lack of transparency in natural resource wealth management. Poverty, conflict, and instability in countries such as Angola and Nigeria attracted widespread Civil Society campaigns against the 'business as usual' approach to natural resource wealth management. It soon became obvious that "negotiations in the medium term should be prompted by the desire of all concerned to avoid a worst case scenario of violence and disorder by accepting a "second best" option" (Karl, 2007:277). This 'second best' option was also one that would require the collective action of all stakeholders.

This need for collective action was particularly highlighted by a popular single case. In 2001, following mounting pressure from Civil Society campaigners for resource transparency, British Petroleum (BP) agreed to publicly disclose payments that it made to the Angolan government in respect of oil contracts. In addition to the mounting pressure from Civil Society, BP's decision was made because it was "in the best interests of the company and its shareholders to publish this data given the difficult conditions in the country and its significant investments at stake." However, concerned about the consequences of such disclosure, the Angolan government barred BP from carrying out its planned publication and threatened to terminate BP's licence to operate in the country. Of course, BP backed down from its initial position in order to preserve its business interests in Angola (van Oranje and Parham, 2009).

The case described above is often believed to have influenced the global perception of resource transparency as a global public good that essentially requires the collective action of all stakeholders. It equally highlights the argument that "when choices are interdependent but individual decisions are made independently, a collective failure, as in the Prisoner's Dilemma, may arise" (Sandler 1992:7) and also that one agent "acting unilaterally could be at risk" (van Oranje and Parham, 2009:33). Inge Kaul also notes that "public goods emerge as a result of a complex interplay between not only numerous agents but also many types of actors and coordination mechanisms, including markets" (Kaul, 2003: 9). As such "a level playing field, in which all companies are compelled to disclose payments, is required to ensure that no single company is at a competitive disadvantage" (van Oranje and Parham, 2009:32). However, it is important to note that all natural resources do not attract the same level of global attention. The level of attention or controversy seems to be a function of how internationally tradeable each natural resource commodity is. For instance low unit value resource such as granite, river sand, and fresh water attract less attention than oil or diamond.Even though resource transparency is considered relevant to the management of all natural resources, the amount of global attention may differ according to the type of resource.

It is not equally possible to expect government agents to unilaterally provide resource transparency, especially in resource-rich developing countries. Kolstad and Soreide (2009) believe that:

> "improving the institutional environment is not necessarily easy, and it is particularly difficult where key players benefit from dysfunctional institutions. It is unlikely that corrupt government officials would support or implement reform significantly reducing their take" (2009:218).

There are complex issues that are involved in achieving resource transparency. One major consideration is that it is not in the best self-interest of the agents to easily yield the advantages that information asymmetry provides to them (Haufler, 2010:58). And also in certain circumstances, especially in a multi-agent situation, agents are in competition amongst themselves and this implies that collective action, such that no single agent is unduly exposed or disadvantaged, becomes attractive (Bernstein and Cashore, 2007; Haufler, 2010).

While the argument for collective action for resource transparency seems to be strong, the challenge is also in determining the nature and type of collective action that would be most effective for its provision. Collective action exists in various forms and there are key considerations to be made in the choice of suitable forms of collective action for the provision of specific types of GPGs. For instance, Groenendijk (1997) suggests that the following three key considerations are necessary:

i. nature of the good to be provided (e.g. 'globalised national public good');
ii. nature of the component agents (and the nature of their interrelationships) and;
iii. nature of the internal and external environment in which collective action is expected to happen.

These key considerations as stipulated by Groenendijk (1997) provide a suitable model for exploring the effectiveness of collective action for resource transparency. However, it is necessary to first determine what form of collective action is best suited for resource transparency? Available literature indicates that there are various forms of collective action that exist in global governance which range from specific groups of actors co-operating among themselves within specific environments to collaborations that cut across different actor types, issues and geographical locations. Therefore, collective action may be amongst state institutions (e.g. multilateralism), or amongst non-state actors, and can also be between both state and non-state actors. However, in more recent years, a specific form of collective action has been advocated and experimented with. Increasing challenges posed by the problems associated with the provision of GPGs have made it increasingly essential that broader and inclusive platforms are necessary for the effective provision of GPGs. These platforms, known as multi-stakeholder initiatives, have also been considered for the effective provision of resource transparency. What hopes does the strategy of MSIs have for the achievement of resource transparency in resource-rich developing countries?

3.3 Achieving Resource Transparency through a Multi-stakeholder Initiative

The 1990s ushered in a new dimension in global governance with increased experimentation with MSIs. Prior to this period, GPG provision was dominated by interstate cooperation. International efforts involving actors other than states were quite limited. However, the Rio Conference on Environment and Development in 1992 was focused on the need to create platforms that would accommodate non-state actors, notably business and civil society organisations, in the provision of GPGs. This gave impetus to the increase in what was called Type II Outcomes or MSIs (Martens, 2007). Furthermore, ten years later, the World Summit on Sustainable Development (WSSD) in Johannesburg in 2002, was also themed on according greater significance to the use MSIs in addressing global issues. Ever since, MSIs have grown significantly. It is believed that globalization and its attendant consequences have further necessitated the active involvement of actors, other than states, in global governance. Specifically, the ability of states to adequately regulate business dwindled over the years, and business could not be entirely relied upon to unilaterally regulate itself through voluntary codes of conduct (Utting, 2002). Hence, MSIs provided a viable means of achieving the objective of creating a common platforms for all stakeholders to dialogue and fashion out the best possible strategies for jointly providing GPGs. Utting (2002) believes that the rise of MSIs

> "reflects changes that are occurring in the balance of social forces—notably the growth of NGO and consumer pressures—and notions of "good governance," which emphasize the importance of collaboration and "partnership" (Utting, 2002:62).

MSIs have largely been promoted as "critical mechanisms for narrowing the "governance gap" in international politics and for the effective tackling of global problems" (Wigell, 2008:4). However, a coherent understanding of the concept of MSI is still lacking in the global governance literature. Surprisingly, very little attempt is made to link the concept of MSIs to the apparently much more established collective action theory. Much as it is popularly advocated, the literature on MSIs as a form of collective action for global public goods provision is only just developing. The result therefore is that the understanding of MSIs seems to be limited, vague and subject to "multiple political interpretations" (Fransen and Kolk, 2007:669). In the available literature, the conceptualization of MSIs is further obfuscated by the retinue of terms often employed to represent the process. Some of these terms include: global public policy networks, global partnerships, multi-stakeholder partnerships, multi-sectoral networks, and plurilateral coalitions. For instance, MSIs also appear to be similar to what is termed “Democratic Corporatism” defined as “the voluntary, cooperative regulation of conflicts over economic and social issues through highly structured and interpenetrating political relationships between business, trade unions, and the state” (Dixit, 1996:110 quoting Katzenstein 1985). In addition, Bernstein and Cashore (2007:348) use the term ‘non-state market devices’ (NSMD) to represent “deliberative and adaptive governance institutions designed to embed social and environmental norms in the global market place that derive authority directly from interested audiences, including those they seek to regulate, not from sovereign states”.

In effect, there does not yet seem to be a common definition of the concept of MSIs. Martens (2007) acknowledges that:

> “Aside from the multistakeholder approach which they all share, there is no formula which otherwise unifies the varying combinations of actors, goals and timescales involved in the different projects (2007:4).”

Nevertheless, the concept of MSIs has been used to represent a rather wide spectrum of activities which ranges from:

> “concrete and time limited cooperation projects working towards financing and carrying out national or international political goals to networks to coordinate state and non-state actors in a p articular sector; from ad-hoc commissions to formulate international norms and standards to newly created permanent international institutions with functions as diverse as finance, policy making, coordination, norm-setting and decision-making” (Martens, 2007:4).

The popularity of MSIs seems to be linked to the long list of benefits often associated with them. Some of these benefits include that:

i) They inform government and business as to what is generally considered sensible and to gather and disseminate knowledge;

ii) They provide a neutral objective/platform upon which reformers/ activists can rally and to broaden participation;

iii) They provide a norm for the coordination of external pressure;

iv) By identifying those stakeholders that are willing to join/comply, they reveal those that are not (Collier, 2007);

v) They help to build trust among stakeholders who would normally be suspicious of each other eg NGOs versus business and also to facilitate negotiations (Wigell, 2008);

vi) They help to correctly identify the specific needs of the stakeholders and global public needs through dialogue (Haufler, 2007:3);

vii) Their emphasis on s takeholders' ownership of the process increases commitment and hence success.

The acceptance of MSIs as effective means of providing global public goods has grown in recent years. Many writers agree that MSIs are relevant innovations in global governance (Reinicke and Dang, 2000; Hemmatti, 2002). Boström (2006) for instance, argues that when standards are developed in multi-stakeholder settings with involvement of various interest groups, this has the benefit of 'inclusiveness', implying that all parties relevant to a specific issue have a say in matters, thus increasing authority of decision making and establishing good governance (see also Ruggie and Kell, 1999; and Fransen and Kolk, 2007:670). Even traditional forms of global governance are gradually acknowledging this importance by creating platforms for multiple stakeholders to collaborate and participate in the provision of global public goods. For instance, The United Nations (UN) established the UN Global Compact in 2002 to provide opportunity for companies to "collaborate and partner with governments, civil society, labour and the United Nations" and with "over 8,700 corporate participants and other stakeholders from over 130 countries, it is the largest voluntary corporate responsibility initiative in the world" (UN Global Compact Website[6]).

However, some sceptics argue that these benefits of MSIs are merely hypothetical as they seldom deliver the numerous promises that their proponents claim. Their growing prominence notwithstanding, the role of MSIs in global governance remains contested. Many writers argue that the voluntary arrangements that most MSIs adopt and other inherent characteristics (e.g. the tendency to be hijacked by one stakeholder group) limit the successes that the MSIs can achieve, and there are also concerns about the growing influence of MSIs at the expense of other forms of collective action strategies such as multilateralism, especially the UN (Ottaway, 2001; Utting and Zammitt, 2006). Some other authors also raise concerns about the sustainability of MSIs. For instance, Biermann et al (2007) argue that the promise that MSIs can effectively fill the governance gaps in global governance does not seem to hold.

The scepticism about the effectiveness of MSIs notwithstanding, global governance is replete with a growing number of MSIs in a wide variety of issue areas. MSIs have grown from only 50 in the 1980s to about 400 in 2007 (Martens, 2007) and they perform a number of functions including dialogue or forum, institution building, rule-setting, rule implementation, and rule monitoring (Koechlin and Calland, 2009).

[6] http://www.unglobalcompact.org/AboutTheGC.html. Accessed 28/06/2010

There are a number of factors often attributed to the growth of MSIs. Many writers believe that the choice of MSIs is strongly linked to the benefits that they offer to multiple stakeholders groups. For business, Mares (2003) argues that

> "Some gains stem from increased efficiency, such as cost savings by avoiding disruptions of operations caused by unrest in surrounding communities, or from adopting more efficient and environment-friendly technologies that save raw materials or minimize waste. Some other will be reputational gains associated with being perceived as good corporate citizens" (2003: xx)

It is believed that the advantages that MSIs offer in the midst of diminishing alternatives, especially its inclusiveness plays a key role (Martens, 2007). Haufler (2002:4) also argues that:

> "The value of the multi-stakeholder partnership should not be measured only in terms of concrete projects and outcomes, but in terms of the more ephemeral value of sustaining partnership among a diverse group of interests."

However, there seems to be a convergence on the fact that the successful organisation and effectiveness of MSIs would depend on c ertain key factors (Keochlin and Calland, 2009). In the sub-sections that follow, we attempt to highlight these fundamental factors that are likely to influence the organisation and effectiveness of a MSI designed for achieving resource transparency.

3.3.1 Organising MSIs for Resource Transparency: The Critical Factors

The effectiveness of MSIs for resource transparency would be determined by some key factors. In this sub-section, we attempt to identify the critical factors that are likely to influence the organisation and effectiveness of MSIs designed for natural resource transparency. By so doing, we derive the key research questions that guide the rest of this study. To achieve this objective, we rely on the suggestions gleaned from key collective action theorists on the challenges to collective action. For instance, Olson (1965) suggests that achieving collective action would be influenced by how well 'selective incentives' and 'institutional structures' are designed towards overcoming collective action problems. There seems to be a convergence that:

> "Variables such as relations between identity groups, the level and dynamics of socio-economic development, the design and functioning of public and state institutions, behavioural patterns of elites, political parties, the military and civil society – not forgetting the regional and global setting - have to be scrutinised carefully when studying resource- related problems in any country" (Basedau, 2005:23).

MSIs seem to have transformed from merely platforms for dialogue among diverse stakeholders to become effective global standard setting organisations, and more recently there have been efforts at mainstreaming MSIs' strategies in domestic governance processes (UNDP, 2006). It becomes imperative therefore to investigate further the key factors that influence their effectiveness. The use of MSIs for resource transparency offers an opportunity to test their viability for diverse global governance issues. What unique challenges would issues such as resource transparency present for the organisation and effectiveness of MSI? Using the key considerations highlighted by Groenendijk (1997) (see page 48 above), we have grouped the factors into the following four broad categories:

1. **The Structural Environment:** This refers to the issue area and the environment for which the MSI is required. It is believed that some issues

areas are more amenable to success than others (Koechlin and Calland, 2009). There is need therefore to consider the inherent factors and challenges within the environment for which collective action for resource transparency is required. For instance, it is argued that the presence or absence of complementary institutions that allow or support public participation would determine the effectiveness of collective action for resource transparency (Gardiner and Le Goulven, 2002). In this study, we explore the extent to which contextual factors create incentives or disincentives that influence the effectiveness of MSIs for resource transparency and also examine how and why.

Research Question 1: How and why does the structural environment influence collective action for the provision of resource transparency?

2. **The Component Agents:** The component agents to collective action also constitute the key determinants to its success and effectiveness. It is believed that "the form(s) of the agents' utility function, and "the strategic assumption (ie how agents expect others to react to their choices)" Sandler (1992:7); and the "characteristics of the individuals involved" (Groenendijk, 1997:223), would influence the outcome of collective action. Therefore, the second research question for this study is stated thus:

   Research Question 2: How and why do the characteristics of the component agents, and the nature of the relationship between and amongst them, influence the effectiveness of collective action for resource transparency?

3. **The Governance Structure for Collective Action:** The design processes, and institutions of collective action can constitute both a solution and a challenge to the problems of collective action (Ostrom, 2000). C ollective action for resource transparency would require a governance structure that would be suitable for "partners who can gain from mutual dependence but need to control the risks of opportunism" (Menard 2004: 368). The governance structure and institutions are often designed to mitigate collective action problems such as free-riding (Olson, 1965). Therefore, the third research question explores the nature of the governance structure that emerges for collective action for resource transparency.

   Research Question 3: How and why does the governance structure of collective action for the provision of resource transparency influence its effectiveness?

4. **External Influence:** The fourth set of factors reflects the global nature of the need for resource transparency. We examine the level and nature of factors outside the domestic environment on t he collective action for resource transparency. This is in recognition of the argument that MSIs are often driven by certain "drivers" who also strive not only to establish the process but also to sustain the momentum. The extent and nature of the role that these "drivers" play are also likely to influence the organisation and outcome of the MSI.

   Research Question 4: How and why does external influence on collective action for resource transparency influence its implementation and outcome?

As MSIs are fairly recent, an in-depth examination of their operability and hence effectiveness along the factors identified above appears to be lacking in the literature. A quick review of a few popular MSIs shows that the above factors have often contributed to their functionality and effectiveness. For instance, the following three popular examples of MSIs address three different issue areas respectively:

1. The Forest Stewardship Council (FSC): The FSC was established in 1993 to promote the responsible management of the world's forests as a response to global concerns over deforestation. The FSC operates as a global MSI with the objective of defining environmentally appropriate, socially beneficial, and economically viable forest management systems (FSC Website[7]).
2. The Marine Stewardship Council (MSC): Inspired by the FSC, the MSC is a MSI which was established in 1997 to establish credible standards for sustainable fishing and seafood management systems (Gulbrandsen, 2009).
3. The UN Global Compact: The UN Global compact applies the MSI approach to mainstreaming ten (10) universally accepted principles in the areas human rights, labour, environment and anti-corruption into business practices. Established in 2000, it is the largest MSI in the world with over 8,700 participants from 130 countries.[8]

These earlier MSIs have recorded some suceeses in the areas they address hence the impetus to scale up the use of MSIs. This formed the core theme of the World Summit on Sustainable Development (WSSD) held in Johannesburg in 2002. The table below shows how three global initiatives popularly identified as MSIs compare on the four identified factors.

[7] http://www.fsc.org/about-fsc.html accessed 11/05/2012.
[8] http://www.unglobalcompact.org/

Table 3.2 Comparing Selected MSIs

S/No	Factors	MSI Examples/ Year of Establishment		
		Forest Stewardship Council (FSC) - 1993	**Marine Stewardship Council (MSC) - 1997**	**UN Global Compact - 2000**
1	**Issue/Structural Environment**	To address concerns over global deforestation and the responsible management of world's forests/ global and local.	Enforce standards for sustainable fishing and seafood traceability/global and local	Align business operations and strategies with 10 agreed principles covering human rights, labour, environment and anti-corruption. Global and local
2	**Stakeholders**	Civil society, industry, and indigenous people	Industry and civil society	UN (Governments), industry and civil society
3	**Governance Structure/Enforcement mechanism**	Globally governed but nationally represented in more than 50 countries. Minimal involvement of national governments/Certification	Centrally governed through a Board of Trustees, a Technical Advisory Committee, and a Stakeholders Council but has 11 regional offices around the world/ Certification	Multi-centric governance based on local networks with minimal or no government involvement at the national level/ Communication on Progress (CoP)
4	**External Influence/Drivers**	External influence is minimal as initiative is globally governed	There is no national implementation	Affiliated to the UN and as such is considerably influenced by the UN and its agencies

Sources: Hemmati (2002); Fransen and Kolk, 2007

Table 3.2 above shows that while MSIs may share a common structure in terms of the types of stakeholders involved, the issues they address differ widely, and so are their governance structures and the level and forms of external influence. MSIs also take different forms or shapes depending on the degree they are influenced by the factors listed in section 3.3.1 above. However, on the face of it, it is not possible to fully understand the extent to which these factors have contributed to the organisation and effectiveness of these MSIs.

The diversity amongst MSIs contributes to the difficulty in achieving a coherent theory of MSIs and makes detailed studies of specific MSIs valuable. Hemmati (2002) in a study involving fifty (50) MSIs acknowledges the difficulty in achieving an appropriate cross analysis of MSIs. Hence, a deeper investigation of individual MSIs to determine how the identified factors influence their operation, especially for one designed to achieve resource transparency in a resource-rich developing country. How would the provision of resource transparency be influenced by these factors?

The research questions posed in section 3.3.1 above constitute the focus of this study and will each contribute towards the understanding of the overall challenges and factors that influence the effectiveness of using a MSI to achieve resource transparency. This framework provides a guide for this study but at the same time allows some flexibility in order to explore the extent to which these factors influence collective action and also discover other possible challenges not adequately covered within the identified categories of factors. The challenge therefore is in identifying an appropriate research strategy capable of facilitating the exploration of these factors that influence the effectiveness of collective action for resource transparency.

3.4 Research Strategy: The Holistic Single Case Study Approach

The nature of the research questions posed in this study suggests the use of the case study approach. Robert Yin (1989, 2003, and 2009) provides detailed descriptions and arguments for the use of a case study method. He defines a case study as:

> "an empirical inquiry that investigates a contemporary phenomenon within its real life context, especially when the boundaries between phenomenon and context are not clearly evident. The case study inquiry copes with the technically distinctive situation in which there will be many more variables of interest than data points, and as one result relies on multiple sources of evidence, with data needing to converge in triangulating fashion, and as another result, benefits from prior development of theoretical propositions to guide data collection and analysis' (Yin 2003, p.13-14).

This study meets the three criteria suggested by Yin (2009:8) in determining the suitability of the case study method. The first is the type of research questions posed; the second is the extent of control an investigator has over behavioural events; and the third is the degree of focus on contemporary as opposed to historical events. In exploring the challenges to collective action for resource transparency, the how and why questions are considered paramount, the researcher has no control over the behaviour of actors and the outcome of events, and collective action for resource transparency is a contemporary phenomenon.

The case study approach is common in the social sciences especially because of its capability of facilitating an in-depth exploratory research on a contemporary phenomenon as it unfolds, and within its real life context (Yin, 2009). The case study method is often preferred because of its tendency to enhance depth of analysis, be realistic, pay attention to context, and allow the consideration of an extensive range of variables (Yin, 2009).

However, like most other alternative research strategies, there are limitations and shortcomings associated with the use of the case study method. It is argued that the case study method has the tendency to allow the researcher's observational and interpretation bias, and also produces research outcomes that "provide little basis for scientific generalization" (Yin, 2009:15). A key challenge in using the case study approach is often in the ability to mitigate the concerns often expressed about the case study method, and in striking a balance between its advantages and disadvantages.

One way of addressing the potential shortfalls of the case study method is to ensure that the four criteria commonly used for judging the quality of a case study are fairly satisfied in the research design, data collection and analysis. These criteria include: construct validity, internal validity, external validity, and reliability (Kidder and Judd, 1986; Yin, 2009). So far, some of these criteria have been addressed in the preceding sections. This study was guided by the theoretical framework discussed in this chapter, and the findings of this study are intended to be generalizable only to the theories employed. However, the table below indicates the efforts made in this study towards achieving each the above criteria for measuring research quality.

Table 3.3 Techniques for Quality of the Case Study Approach

Criteria	**Techniques**
Construct Validity	Use of multiple sources of evidence and the establishment of a chain of evidence
External Validity	Reliance on relevant theories for guidance
Internal Validity	Data analysis involves pattern matching, explanation building and consideration of rival explanations
Reliability	Established a case study database

Source: Yin 2009, p41.

Furthermore, this study adopts the *holistic single case study* approach. It focuses on exploring the factors that influence the effectiveness of collective action for resource transparency using **one** identified single case. This enables a detailed examination of the identified case and facilitates an in-depth examination of the challenges and factors that influence its effectiveness. This study seeks a deeper understanding of the challenges to effective collective action for resource transparency using a unique country example. By implication, it goes beyond the identification of these challenges, and respective degrees of influence, to explore how the challenges manifest, and why. The unit of analysis therefore is the identified collective action effort (multi-stakeholder initiative) for resource transparency in the chosen country.

The challenge, however, is in identifying a typical and unique case that would yield sufficient evidence for our analysis, given the resource limitations of the study. Incidentally, while collective action efforts for global public goods provision abound, there are not many empirical cases of collective action exclusively for resource transparency. As earlier mentioned (see section 3.2.5), there are numerous global multi-stakeholder initiatives addressing such issues as combating climate change, labour and human rights, poverty and sustainable development. But the few MSIs in the area of natural resource management, such as the Marine Stewardship Council (MSC) and the Forest Stewardship Council (FSC), tend to focus on renewable natural resources. The Kimberly Process Certification Scheme (KPCS) and the Voluntary Principles are perhaps among the few MSIs that address the governance of non-renewable natural resources. However, none of the two exclusively address resource transparency as while the former aims at eradicating the trade of conflict diamonds, the latter addresses issues of security and human rights in the extractives sector.

Therefore, the Extractive Industries Transparency Initiative (EITI) seems to provide a suitable case study for our enquiry. The EITI is a global MSI that exclusively seeks to improve resource wealth management in resource-rich countries through greater transparency. Hence, the EITI incorporates the two key objectives of collective action and resource transparency. In the following sub-sections we provide a brief overview of the EITI. It should be noted that the EITI is a global initiative that adopts a country-by-country design. Therefore, we also further identify the Nigerian EITI as our specific country case.

3.4.1 The EITI: A Brief Overview

The EITI is a global voluntary initiative that seeks to improve the management of resource wealth in resource-rich countries through resource revenue transparency. Its introduction was essentially facilitated by the British Government under Prime Minister Tony Blair. It was first introduced in 2002 and was launched effectively at its inaugural global conference held in London in 2003. The initiative kicked off with four pilot countries in 2004 and has so far attracted 33 resource-rich countries as at December, 2010, which are at different stages of implementation. In this sub-section, we briefly describe the global EITI design as a prelude to the specific country case chosen for this study.

3.4.1.1 The EITI Design and Implementation

The UK Government under Tony Blair had an enormous influence on the creation of the EITI[9]. In fact, the initiative has in the past sometimes been referred to as the "Tony Blair initiative", "British Government initiative" or "DFID initiative"[10]. The initiative is described as "an effort to make natural resources benefit all; a coalition of governments, companies, and civil society and a standard for companies to publish what they pay and for governments to disclose what they receive" (EITI Website, http://www.eitransparency.org/).

The EITI is explicitly focused on the extractives sector which includes oil, gas, and mining. Countries whose extractives industry contributes up to 25% of its GDP are encouraged to adopt this initiative. In addition, it is believed that the extractives sector, along with construction, is most prone to corruption due to the very large

[9] Although there has been concerted efforts in recent times, by the EITI leadership, to diminish this claim of a heavy influence of the British government due to emerging evidence of the 'not so transparent' credentials of the UK Government, especially under Prime Minister Tony Blair (Peter Eigen, EITI Chairman, in BBC News Hardtalk interview 05/11/2009, see also Henriech Böll Foundation (ed.); and van Oranje and Parham, 2009).

[10] The EITI was managed by the DFID from inception until 2007 when it (EITI) established its secretariat in Oslo, Norway.

amount of investments involved (Collier, 2007). It is voluntary for governments to sign up to the EITI, but mandatory for all companies and agencies within an implementing country to participate in the initiative. The EITI design is guided by twelve (12) principles and six (6) criteria (see Appendices I and II) agreed and endorsed by participants from government, business and civil society at its second global conference held in London in 2005. These principles and criteria outline the basic assumptions that underlie the initiative. Implementing countries are required to adhere to the EITI Principles and Criteria, but are also encouraged to "go beyond these minimum requirements where possible" (EITI, 2005:7).

Upon signing up, the local implementation of the initiative must follow certain key guidelines set by the global EITI. Initial stage of implementation usually involves four key steps. First is the issuance of an unequivocal public statement of intent, by the government, to implement the initiative; the second is a commitment to work with civil society and companies on the implementation of the initiative; the third is to appoint a senior individual to lead the implementation of the initiative; and the fourth is to publish a work plan "with measurable targets and an implementation timetable that has been agreed to by key stakeholders" (World Bank, 2008:10).

The second stage of implementation involves the periodic auditing and publishing of government receipts from the extractives industry, and companies' payments. The audits are designed to, among other things, achieve the following objectives;

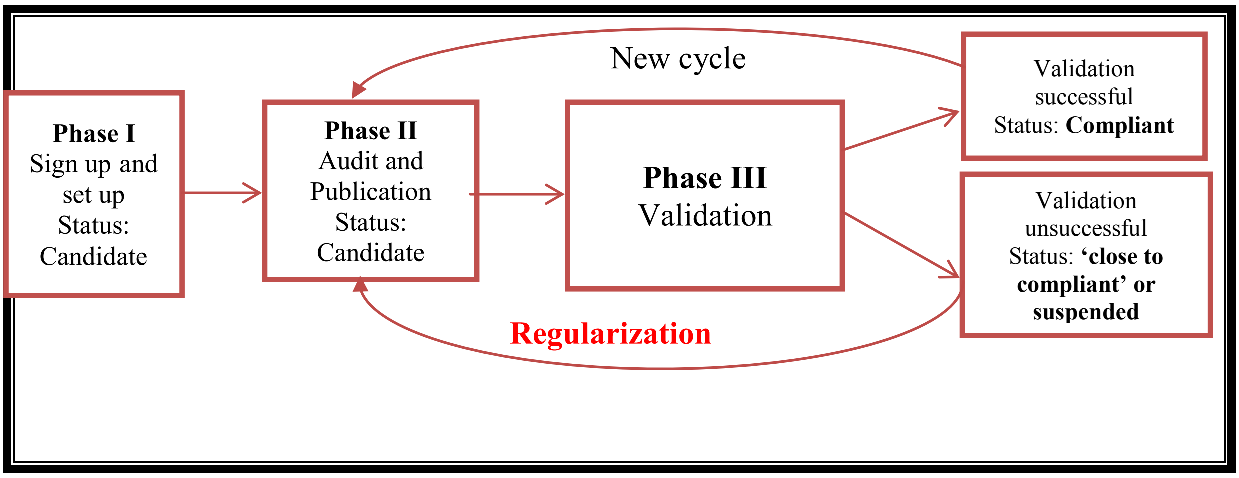
- Provide information on the payments and receipts figures to the public, and;

- Identify discrepancies which would suggest irregularities in the management of revenue payments and receipts for possible remediation.

The audit is a key instrument in pursuing the EITI objective of revenue transparency and is therefore a mandatory requirement for the local implementation of the initiative.

The third stage of implementation of the EITI is the validation exercise. This is the quality assurance mechanism that the global initiative uses to ensure that local implementation is carried out in accordance with agreed guidelines. A successful validation exercise completes a full cycle of implementation (see figure 3.1 below) and confers a 'compliant' status on an implementing country, which will also be reviewed periodically.

Figure 3. 1 The EITI Implementation Cycle



Source: Adapted from the EITI Source Book (EITI, 2005)

However, underlying the EITI implementation are the two key objectives of resource revenue transparency and the use of a multi-stakeholder framework. The strengths (and weaknesses) of the initiative seem to also lie in these two fundamental objectives of the initiative. We consider these objectives under the following sub-section.

3.4.1.2 The EITI focus on Resource Revenue Transparency

It is believed that there are three key types of resource transparency covering the entire natural resource value chain. They are: contract transparency, revenue transparency, and expenditure transparency. Rosenblum and Maples (2009:16) argue that:

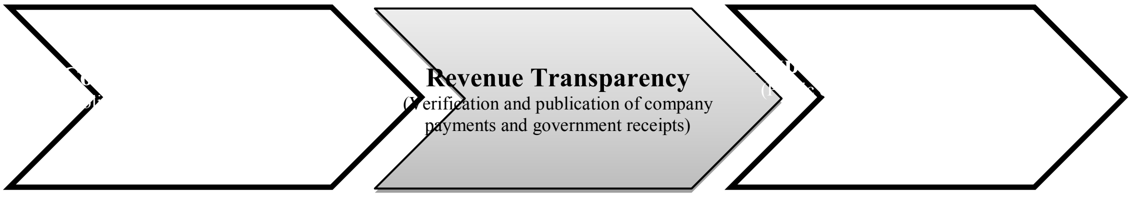
> "At each point in the chain—from the decision to exploit the resources to the exploration and exploitation, revenue collection, and eventual state expenditure of the revenues—there are critical opportunities to improve or undermine the value for the population."

However, the EITI identifies and focuses on natural resource **revenue** transparency as a 'necessary first step' in achieving overall resource transparency (shaded portion in figure 3.2 below). Proponents consider this narrow focus to be one of the key success factors of the EITI. Nevertheless, this focus on revenue transparency has attracted a lot of criticism, and there seems to be a raging debate on how best these aspects of resource transparency should be prioritized (Karl, 2007; Goldwyn, 2008; Rosenbum and maples, 2009). For instance, Goldwyn (2008:24) acknowledges that:

> "Unless and until there is an examination of the underlying transactions that produce the figures being reconciled, these payments and revenues are vulnerable to errors in calculation, manipulation, or corruption."

However, beyond the 'necessary first step' argument often adduced by the proponents of the EITI, some observers believe that there are indications that in the deliberations leading to the EITI formation, revenue transparency may have been favoured as the ‘best alternative to no agreement’ (BATNA). This is because while contract transparency seems to portend enormous implications for business, government actors also have concerns about expenditure transparency. Hence, the focus on revenue transparency was adopted because it appears to have a relatively lower risk for the two key actors involved in resource wealth management (Durnev and Guriev, 2009).

Figure 3.2 Resource Transparency (Value) Chain



Source: Adapted from Rosenblum and Maples (2009)

3.4.1.3 The EITI as a ***Multi-stakeholder Initiative (MSI)***

The second key success factor which is highlighted by the proponents of the EITI is the initiative’s emphasis on the involvement of all key stakeholders in natural resource management in the implementation process. The EITI operates as a multi stakeholder initiative (MSI), bringing all the stakeholders to the extractives industry together on a common platform. The key stakeholders identified by the initiative include: governments; oil, gas and mining companies; and the civil society. Figure 3.3 (below) represents the EITI multi-stakeholder framework illustrating the various roles of the key EITI stakeholders.

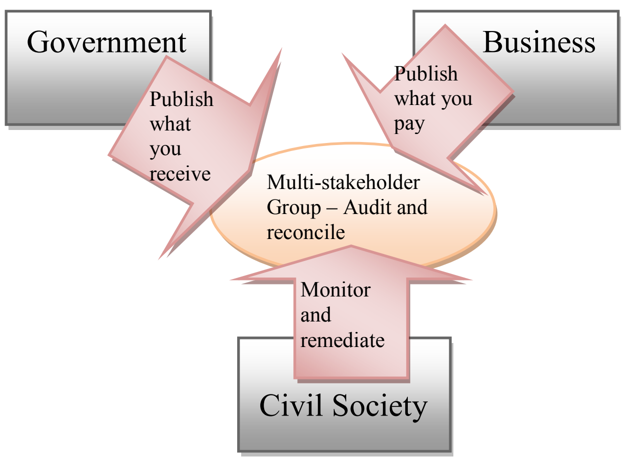
The multi stakeholder framework is apparently of significance to the implementation of the initiative especially in resource-rich developing countries. In effect, “the private sector and civil society organisations both play significant roles in how the initiative is implemented”(EITI and IBLF, 2008:8). More importantly, “in contrast to Poverty

Reduction Strategy Papers (PRSPs) or Environmental Impact Assessments (EIA), the EITI process requires that civil society not only be consulted, but given a seat at the table and a vote in critical decisions" (Goldwyn, 2008: 9-10). It offers a rare opportunity for all stakeholders to deliberate on the issue of resource revenue transparency. A civil society leader from the Republic of Congo, in the statement below, acknowledges this significance thus:

> "In my country, the Republic of Congo, it was unthinkable even just a decade ago that my civil society compatriots and I would ever be in a position to sit at the same table in the same room as our country's leaders and powerful business interests, let alone use the words 'corruption' and 'oil' in the same sentence" (Christian Muenzo, in van Oranje and Parham, 2009:9).

At the global level, the EITI is governed by a board made up of representatives from governments, business and civil society organisations from participating countries, supporting countries, and international organisations.

Figure 3.3 The EITI Multi-Stakeholder Framework



Adapted from the EITI Source Book, 2005

Overall, the EITI represents a bold step in the global campaign for resource transparency. The narrow focus on payments notwithstanding, proponents believe that the EITI has made considerable progress as is evident in the following statement by its global Chairman:

> "We are starting to do business in a different way. Slowly a culture of transparency and consultation is taking root. Slowly it is becoming accepted that the citizens of a country should easily be able to find out what their government gets when their natural resources are sold off." (Eigen in EITI, 2009).

The Chairman's claim above may appear too sweeping, but the potential of the EITI to enhance resource transparency seems evident. M any stakeholders accept that "there is now extensive international awareness that transparency of oil, gas and mining revenues is vital to preventing corruption in countries that depend on resource revenues, and to ensure that these revenues are used to promote growth and development" (Save the Children, UK and Global Witness, 2009:1).

However, while the EITI seems to be making steady progress in advancing the global resource transparency campaign, evidence from many implementing countries suggest that the core objectives of stimulating accountability and genuine institution strengthening are at best marginal (Kolstad and Wiig, 2008; Olcer, 2009). Hilson and Maconachie (in Richards ed., 2009) also argue that the EITI on its own "is incapable of facilitating reduced corruption, prudent management of mineral and/or petroleum revenues, or mobilizing citizens to hold corrupt government officials accountable for embezzling profits from extractive industry operations." What is scant however is a coherent and detailed understanding and exploration of the fundamental factors that influence the implementation of such an initiative. This understanding could improve the potentials of the initiative in achieving the desired objectives.

However, a fact that is scarcely considered is that the EITI is a global initiative that only finds practical expression in individual implementing countries. Therefore any evaluation of the EITI at the global level would be of little import because what matters more is what happens in the individual implementing countries, which apparently would differ from country to country. Henry Parham, the Co-ordinator of the global Publish What You Pay Campaign admits that the EITI "is taking a country-by- country approach so the question of how the process will evolve is too difficult to predict on an international level" (in Schumacher, 2004:7). Therefore, for the purpose of this study, the Nigerian EITI is further identified as the country case. The sub-section below provides some justifications for this choice.

3.4.2 The Nigerian EITI (NEITI)

Crude oil was discovered in Nigeria at a place in the Niger Delta called Oloibiri in 1956. Ever since crude oil production has advanced from a mere 5,100 barrels per day in 1958 to over 2 million barrels per day in 2010, making Nigeria the largest oil producer in Africa. Crude oil has been an enormous source of government revenue and it is estimated that Nigeria has about 37.2 billion barrels of proven oil reserves as at 2010 (US Energy Information Administration, 2010)[11]. However, the enormous resource wealth has failed to translate into economic prosperity as majority of the population still remain poor, and economic development is very slow. Nigeria is often a typical illustration of the negative effects of natural resource abundance.

Nigeria's enormous resource wealth and very high corruption profile both combine to make it one of the most appropriate candidates for the EITI. Lack of transparency has

[11] See http://www.eia.doe.gov/cabs/Nigeria/Oil.html

facilitated the misappropriation and mismanagement of resource wealth. It is estimated that over $380 billion of oil revenue have been misappropriated since independence in 1960. At the return to civil rule in 1999, after 25 years of military rule, the Obasanjo administration was faced with a number of daunting tasks. Paramount among these tasks was the challenge to improve Nigeria's image in the international community which had been eroded by very high corruption profile. President Olusegun Obasanjo's first tenure in office from 1999-2003 was largely dedicated to the introduction of institutional reforms mostly targeted at fighting corruption. Among these reforms were the Economic and Financial Crimes Commission (EFCC), the Independent Corrupt Practices Commission (ICPC), the Due Process Mechanism (for public procurements) and the Fiscal Responsibility Act, which were very popular both within and outside the country for their landmark efforts in the fight against corruption. For the first time in the history of the country, the Ministry of Finance, under Dr. Ngozi Okonjo-Iweala (now Managing Director of the World Bank), published revenue allocation figures made to all the levels of government, in national newspapers. Commitment to these reforms would eventually become a boost to securing $18 billion dollars foreign debt write-off which enabled the country to extricate itself from the debt overhang that had lingered for several years.

Therefore, the EITI with its focus on resource transparency seemed attractive to the political leadership at the time, especially President Obasanjo, who himself belonged to the global civil society organisation, the Transparency International (TI)[12]. In addition, the Nigerian government saw in EITI an opportunity to demonstrate to the

[12] President Obasanjo in fact chose the occasion of the 10th anniversary of the Transparency International to publicly announce Nigeria's signing up to the EITI.

world its eagerness to change the situation and image of the country in the international community and especially in the eyes of foreign investors. Okonjo-Iweala (2008) notes that:

> "The oil-price-based fiscal rule and the adoption of the EITI both underscored Nigeria's determination to take a clean break with the past by fighting corruption and improving governance. In a revolutionary move, Nigeria went beyond the petroleum sector by publishing revenues from *all* sources at *all* tiers of government. The credibility boost facilitated Nigeria's debt cancellation by the Paris Club and lifted its profile in the eyes of investors. Standard & Poor's and Fitch Ratings assigned Nigeria a sovereign credit rating of BB– for 2007, affirming earlier results. Nigeria's rating peers at the time included Indonesia, Turkey, Ukraine, Venezuela, and Vietnam. The improved rating led to sizable increases in foreign direct investment in both the oil sector (about $6 billion a year) and non-oil sectors (about $3 billion a year)". (Okonjo-Iweala, in *Finance and Development*, December, 2008:43)

However, as the largest oil producing country in sub-Saharan Africa, Nigeria's participation in the EITI was considered strategic to the overall global resource transparency campaign. Nigeria therefore signed up to the EITI in February 2004 establishing the Nigerian EITI (NEITI).

Why is NEITI considered unique for this study?

Nigeria signed up to the EITI in February, 2004 to become one of the four pilot countries of the initiative and made rapid progress in the first few years of implementation. NEITI was for some time adjudged a typical model for the country implementation of the EITI. An observer noted at the time that "the NEITI process, launched in 2004, is the most comprehensive transparency program ever attempted under EITI auspices" (Goldwyn, 2006: unpaginated). At a time when the format of the EITI audits was still being deliberated, Nigeria conducted its first audits for the period 1999 – 2004 which was published in 2006. The audits were widely considered very comprehensive as they not only contained disaggregated financial audits but also covered physical and process audits of the extractives industry. So far, two additional audits have been conducted covering the periods 2005, and 2006 – 2008 respectively.

More so, to demonstrate commitment to the objectives of the EITI in 2007, Nigeria became the first country to back the local implementation of the initiative with an enacted law. The NEITI Law seeks to institutionalize the implementation of the initiative in Nigeria and addresses fears that the NEITI implementation may not stand the test of time. In addition, while the EITI is voluntary at the global level, participation in NEITI implementation is mandatory especially for all IOCs operating in Nigeria, and the law also stipulates penalties for non-co-operation (Asobie, 2009).

Nigeria has also sought to expand the scope of the EITI. Implementers in Nigeria often argue that strictly following the narrow focus of the global EITI on resource revenue transparency would not yield maximum impact for the country. An official of NEITI notes that:

> "EITI as it is currently implemented internationally is very limited. Revenue transparency is necessary but not sufficient for conflict management and poverty reduction, especially in the Niger Delta region. We need to dig deeper. The NEITI Act 2007 offers us an opportunity to expand the initiative in line with sub-national realities and context" (Igwe 2010:1)

NEITI implementation extends beyond resource revenue transparency to cover expenditure transparency and the solid minerals sub-sector. NEITI's mandate also includes "**eliminating all forms of corrupt practices in the determination, payments, receipts and posting of revenue** accruing to the Federal Government from extractive industry companies" (Asobie, 2009:6). Nigeria has taken the EITI implementation to areas not yet contemplated by the global EITI. An EITI expert testifies that:

> "The goals of NEITI far exceed the criteria mandated by EITI. Nigeria has taken the transparency initiative to a new level by expanding the program to audit the physical flow of hydrocarbons and by taking a holistic approach to examining the energy sector, investigating government agencies in addition to private and state owned companies" (Goldwyn, 2006: unpaginated).

However, NEITI's global acclaim has come under heavy scrutiny lately. Determining the impact of NEITI is by no means an easy task. Shaxson notes that "i*t is also hard to demonstrate that better transparency has led to better developmental outcomes"* (2009:44). NEITI's impact and awareness at the local level seems to be very low. There also seems to be a very low progress with the key objective of improving resource transparency and accountability in resource wealth management.

NEITI's global popularity has equally begun to wane in recent times. As at the time of writing this report NEITI has yet to attain the coveted 'compliant' status set by the global EITI as a mark of successful implementation of the initiative. Five countries, including Azherbaijan, Liberia, Ghana, Timor Leste, and Mongolia have attained compliant status ahead of Nigeria. The EITI is a relatively new initiative therefore it is imperative to select from the countries with the largest experience in terms of number years of implementation. Nigeria and the Kyrgyz Republic are the only pilot countries yet to attain compliant status as at the time of writing this report. Attaining compliant status is an indication of successful implementation of the EITI (at least as set by the initiative). This is partly an indication that the Nigerian or Kyrgyz Republic experience is likely to showcase more interesting and unique challenges that the local implementation of the EITI faces.

However, a key consideration in the research design for this study has been the need to balance quality of outcome of research with the practicability of the approach, given resource limitations, and the ability to satisfactorily address the research questions. Nigeria was also favoured for this study because it is the researcher's home country. The researcher's knowledge of the local environment and access to key informants and sources of relevant data was fully maximized. For instance, the researcher has had a prior relationship with the current Chairman of NEITI, Prof. Assisi Asobie, as a former student. This prior relationship was utilized in facilitating access to key informants and relevant materials.

Therefore, this study focuses on NEITI as the identified unit of analysis and seeks to explore how and why the identified four factors namely: the structural environment, the character of the stakeholders, the governance structure, and external influence, shape the effectiveness of NEITI. Section 3.5 below presents the details of the analytic framework that guided the data collection and analysis towards answering the overall research questions.

3.5 The Analytic Framework

The analytic framework attempts to summarize the discussions in this chapter so far. It applies the theoretical framework to the identified case study and unit of analysis in order to develop the specific research questions, and indicate the nature of data required. The framework is essentially based on the four factors inferred from theory, on which the research questions are equally based. The relevant theories have indicated that these four factors are likely to influence the effectiveness of collective action for resource transparency, such as NEITI. We therefore examine how and why these factors influence NEITI implementation and effectiveness by exploring the various aspects of the NEITI implementation.

The first question explores how and why the structural environment influences the implementation and outcome of NEITI. We first identify the aspects of the Nigerian structural environment that have implications for NEITI implementation. We explore such areas as the Nigerian political economy, the nature and structure of the Nigeria extractive industry, and the nature of complementary institutions necessary for NEITI implementation.

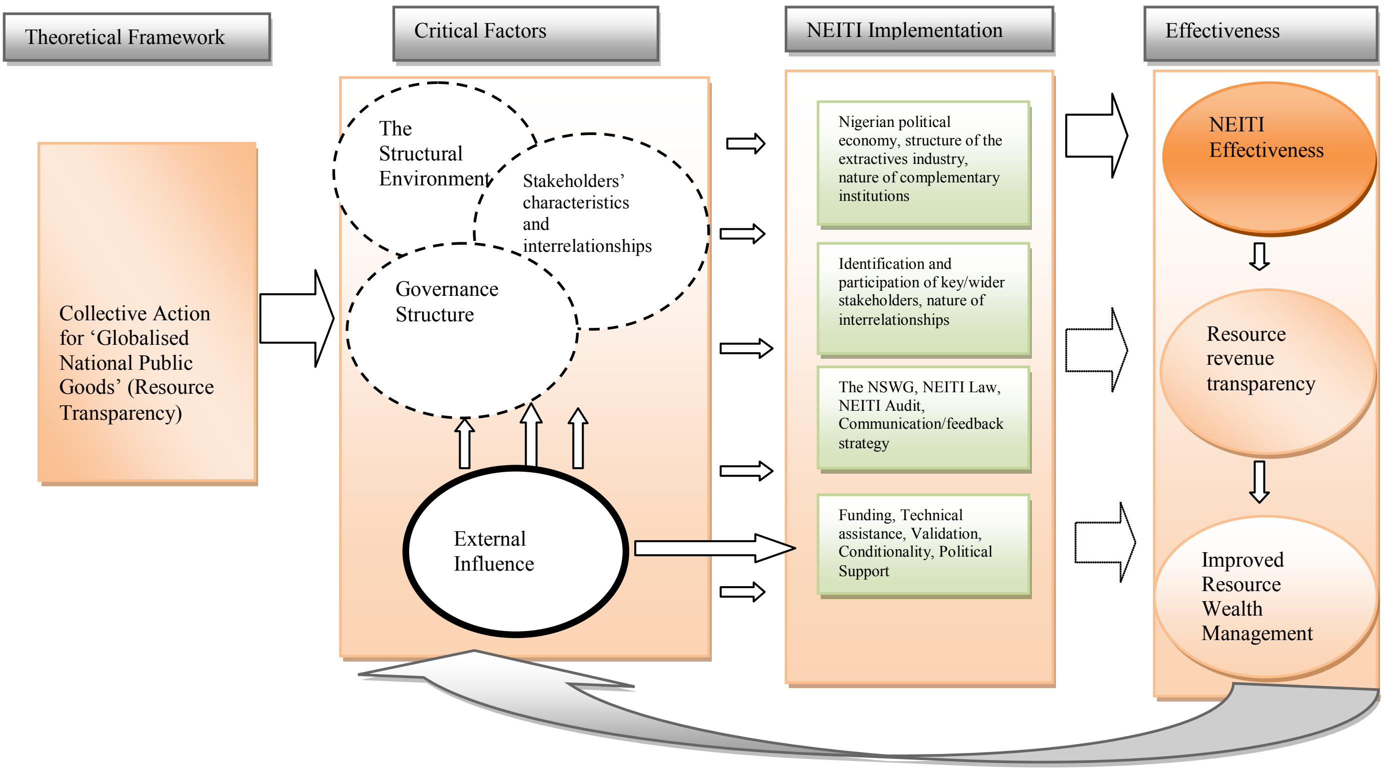
The second research question investigates the characteristics of the stakeholders to NEITI. In considering the impact of the component agents we seek answers to a host of key questions. We explore such questions as: who are the identified stakeholders to NEITI implementation? How are they identified? And are there gaps in the identification of stakeholders to the NEITI, and if so how do t he gaps affect implementation? What are their specific characteristics and their implications for collective action for resource transparency? What is the nature of the relationship between and amongst the various stakeholders and how does it affect NEITI implementation? Are there indications of dominance of any set of agents, and if so, how does the dominance manifest?

The third research question focuses on e xploring the nature of the governance structure for NEITI and how it influences the effectiveness of the initiative. First, the key task is in identifying the nature of the governance structure, and then exploring how this governance emerged, and how it affects implementation. For instance, are there indications or evidence of control or capture by any group of stakeholders?

The fourth research question investigates the nature of external influence on NEITI implementation and how and why it manifests. The key task is also in first identifying the form and level of external influence to NEITI. Such questions as what are the assumptions or explanations underlying external influence to NEITI are also explored. We also examine the impact of external support to stakeholders such as civil society organisations involved in NEITI implementation.

Fig 3.4 (below) represents the overall model adopted in this study. The resultant analytic framework takes the shape of a simple input-output model. However, these factors do not appear to be in isolation as they are somewhat also interlinked such that one shapes the other and vice versa. The pattern of interaction between these factors is also explored in order to determine its influence on the effectiveness of NEITI. Within each box (of factors) there are also interactions and linkages which all contribute to the overall effect of each of the factors on the initiative. The task is to first identify these specific factors and then determine how and why they influence the implementation and outcome of NEITI. Furthermore, the outcome of NEITI implementation also feeds back into these factors to create a continuous chain of interrelationships between input, processing and output. In all, it contributes to the argument that the effectiveness of NEITI in producing the desired output (resource transparency and accountability) would be largely dependent on the input factors. However, note that external influence appears detached from the rest of the factors in the inputs box. This is because the prevailing argument is that external influence is supposed to be a catalyst and as such not entirely part of the overall system. This is however, one of the notions challenged by this study because if resource transparency is viewed rightly as a 'globalised national public good', whose implications are both local and global, external influence could be viewed as part of the process and not just as a catalyst (see Chapter 7).

Figure 3.4 The Analytic Framework



3.6 Methods of Data Gathering and Analysis

As earlier mentioned in section 3.3, this study uses multiple sources of evidence in order to strengthen the construct validity of the research outcome (Yin, 2009). The study involves qualitative rather than quantitative techniques because of the exploratory nature of the enquiry. Semi-structured interviews, documents, and direct observations were predominantly used. In seeking answers to the research questions, data gathering was focused on the NEITI - its implementation, and the environment within which it operates. Many of the data for this study was gathered during a field work conducted in Nigeria in the first half of 2009 (February to June).

3.6.1 The Field Work and Post Field work Experience

The field work was conducted in Nigeria for a period of five (5) months from February to June, 2009. Returning to Nigeria for field research presented both opportunities and challenges. Although the NEITI Secretariat is situated in Abuja, the capital city, the researcher was based in Enugu, in the South Eastern part of Nigeria, for much of the period of the field work. Interviews and meeting appointments were arranged through phone calls and emails before trips to Abuja were undertaken from time to time. The choice of Enugu was influenced by three key factors: (a) free accommodation was available and the Enugu State Government was also kind to provide some office facilities, with access to the internet; (b) staying in Enugu also offered the opportunity to travel and observe events in the Niger Delta, which is closer to Enugu; (c) it offered the opportunity to observe events outside Abuja especially the effect of the over-concentration of NEITI activities at the centre on the overall impact of the initiative in Nigeria.

A pilot study that was conducted in Enugu was also helpful for providing direction for the rest of the field work. Much of the prior design for this study had been influenced by the overwhelming positive recommendation of NEITI by observers outside Nigeria. The pilot study conducted in the first month in Nigeria revealed the extent of the low public awareness of NEITI and its activities and also provided the hunch that the initiative lacked depth and faced fundamental challenges that inhibited its effectiveness. And this also meant that exploring how and why these challenges manifest could be mostly achieved through identifying and focusing on key individuals who had direct involvement and knowledge of NEITI and its activities for the semi-structured interviews.

- **In-depth Semi-structured interviews**: A total of 45 semi-structured interviews were conducted. Interviewees were purposively selected to cover the broad categories of key stakeholders in the Nigerian extractives industry. Interviewees were grouped into five (5) broad categories, reflecting the key stakeholders to the implementation of NEITI. Table 3.4 below contains a summary of the interviewees while Appendix III is a detailed list of all the interviewees. The full names and details of the interviewees have been withheld in accordance with the ethical requirements guiding this research and as requested by a majority of the interviewees as a condition for participating in this research.

Table 3.4: Summary of List of Interviewees

Category of Stakeholders	Gender		Total
	Male	Female	
Government	9	1	10
Civil Society (NGOs and Media)	14	2	16
Company/Private Sector	4	3	7
Donor/ International Community	5	2	7
NEITI Staff	5	0	5
Total	37	8	45

- The interviews lasted an average of one hour each and were guided by pre-arranged questions designed to identify and probe the factors that influence the effectiveness of NEITI (see Appendix IV for a list of selected questions). The

Chairman and key members (current and former) of the National Stakeholders Working Group (NSWG), the apex body responsible for NEITI implementation, and leaders of key CSOs, were among those interviewed. Some key staff of the NEITI Secretariat, consultants to NEITI, researchers, and leaders of Community Based Organisations (CBOs), involved with NEITI implementation, were also interviewed. Interviews generally took the shape of formal discussions guided by the open-ended questions that required descriptive responses from the interviewees, and follow-up questions that sought explanations and their personal opinions. Only a few interviewees allowed the recording of the interviews, majority declined for personal reasons. Notes were taken during the interviews and a detailed report was written as soon as possible after each interview session. Interviews were mostly held at interviewees' offices, but a few were held in such informal environments like hotel lobbies, and visitors' waiting rooms. However, on these few occasions, the environment was adjudged conducive to both the researcher and the interviewee for the interview to hold.

The Publish What You Pay (PWYP) Campaign in Nigeria, the largest coalition of NGOs pioneering the civil society participation in the NEITI implementation in Nigeria, was a key point of contact during the field work. Prior contacts were established with the leadership of the organisation, and on arrival in Nigeria, key officials of the organisation were interviewed and also the organisation helped to identify key civil society participants in the NEITI implementation. The researcher was also fortunate to be permitted to attend and observe the organisation's donor conference which attracted representatives of major donors in Nigeria such as DFID and USAID.

However, beyond the field work period, a number of interviews were conducted in the UK, and there were follow-up interviews especially with the Chairman of the NEITI via telephone calls and emails.

Documents: The field visit to Nigeria also yielded a vast array of documents from both NEITI and the relevant government institutions and NGOs that were visited. There were newspaper and magazine publications retrieved from the libraries and archives of key institutions such as the Central Bank of Nigeria (CBN) and the Nigerian National Petroleum Company (NNPC). The websites of both EITI and NEITI also contain key documents and publications that are very relevant to this enquiry. Relevant documents were also found on the websites of local and international CSOs, and that of international oil companies operating in Nigeria. For instance, the Civil Society Legislative Advocacy Centre (CISLAC) conducts periodic workshops and seminars on the implementation of NEITI and the communiqués issued after such events are published on the organisation's website. The PWYP Coalition and the Revenue Watch Institute (RWI) also maintain up to date online portals of research reports and publications centred on the global and country implementation of the EITI. Most of these documents provided sources of evidence to support data from the semi-structured interviews and personal observations.

- **Direct observation:** The field work also presented an opportunity to personally observe the day-to-day implementation of NEITI. A number of remarkable events relevant to the NEITI implementation also took place during the period of the field research. Notably, preparations for the first EITI Validation of NEITI were going on during the period of the fieldwork. Also a number of seminars and workshops aimed at creating awareness of the NEITI and its activities were held in strategic locations around the country. These events offered opportunities to make observations that were significant to this study. The researcher attended two (2) workshops organised by the Publish What You Pay (PWYP) Coalition and CISLAC respectively. Both workshops were organised in collaboration with NEITI. The researcher was able to take notes of the proceedings of the workshops and observed interactions and perceptions of participants and key stakeholders on the implementation of NEITI. The researcher was also privileged to be invited to some events that were not open to public participation. For instance, the PWYP Nigeria donor conference (earlier mentioned) was an excellent opportunity to observe the strategy of donor support towards civil society participation in the implementation of NEITI as portrayed by the various representatives of the donor community in attendance. In addition, the report of a comprehensive study of the Nigerian extractives industry, titled "*An Evaluation of the Nature and Character of the Nigerian Extractives Industries*" (Coalition for Change, 2010) the first of its kind, was presented in a high profile event during the period of the field visit. This report was presented in two volumes: Volume 1 covers the Oil and gas sector while Volume 2 c overs the Solid Minerals Sector. The report which was commissioned by a DFID-funded project called Coalition for Change (C4C) chronicles the prospects and challenges within the Nigerian extractives sector. Each volume contains an analysis of existing regulatory framework and an up-to date resource on the respective sectors. The launch of the report which was held in Abuja attracted a wide range of key stakeholders in the Nigerian extractives industries some of whom delivered speeches and presentations during the event. The researcher utilized the opportunity presented by this event to sample views of some participants on the subject of this study.

- **Other Sources:** This study also benefitted from evidence found in published reports and journal articles relevant to our analysis. In addition, there were television and radio programmes that covered issues relevant to this study broadcast both during and after the field work period. For instance, the African Independent Television (AIT)[13] on its magazine programme, *Kaakaaki,* featured live and recorded interviews with civil society activists, legislators and ex- Niger Delta militants during which such issues as the relevance and impact of resource transparency in Nigeria and the NEITI implementation were discussed.

3.6.2 Field work Challenges and Limitations

Gathering data from the multiple sources enumerated above cannot be without some risks and challenges. Much as the field work provided some excitement, the researcher also encountered some challenges some of which constitute considerable limitations to this study. These challenges are discussed under the following subheadings.*Sensitivity of the Subject of Inquiry and Ethical Considerations*

The oil and gas industry in Nigeria is considered to be highly sensitive, and transparency is usually not a popular topic of discussions especially among public officials. Government stakeholders particularly found it difficult to grant interviews

[13] The AIT, a privately owned Nigerian television channel, is also broadcast in the United Kingdom on Sky.

for this study. For instance, efforts made at the Department for Petroleum Resources (DPR) to interview identified key stakeholders were unsuccessful. Some key officials would rather delegate their subordinates (though some of whom, as it turned out, had sufficient information relevant to the study). Effort has been made in this thesis to protect the identities of the interviewees as much as possible. Interviewees have only been identified where necessary and in circumstances clearly devoid of any potential risk or harm.

However, in order to protect the interviewees from undue risk and exposure that might arise due to their involvement in this study, the researcher has adhered strictly to the ethical guidelines for the conduct of studies of this nature[14] The researcher acknowledges that adhering to the ethical guidelines is particularly important for this study considering the sensitivity of the subject of enquiry and especially because interviewees were often required to disclose personal opinions that they would rather want to keep confidential. Reporting those private opinions in a public domain such as in this thesis raises ethical concerns. Hence, it is important to protect interviewees by adhering to agreed ethical guidelines (Holloway, 1997).

As a necessary first step, the researcher ensured that interviewees fully understood the purpose of the research before granting their consent to be interviewed. All the interviewees for this study gave information willingly and all had the option to decline responding to questions that they were not comfortable with. However, in all cases consent of interviwees were obtained verbally.

[14] http://www.birmingham.ac.uk/Documents/university/legal/research.pdf

Access to some key informants and interviewees

Access to key industry stakeholders was among the greatest challenges that the researcher had in the field. However, the researcher was able to interview a couple of senior officers of the Nigerian National Petroleum Corporation (NNPC) who gave valuable information on the relationship between the company and government and how the NEITI has affected their operations in recent years. A few private but local operators in the oil, gas and mining industry were also interviewed.

However, the field work did not yield sufficient data from any of the International Oil Companies (IOCs) in Nigeria. Most of the companies that the researcher approached could not grant an interview. The reasons they gave ranged from lack of time to the unavailability of the appropriate personnel who could be interviewed. The researcher was sometimes referred to head offices outside Nigeria. Fortunately, the researcher attended the World Oil Forum held in London on the 14th of July, 2009, upon return to the UK from the field visit. This event attracted a number of key players in the Oil and Gas Industry. The researcher was able to interact with a few of the delegates who represented companies with interests in Nigeria. Some of them willingly gave their views on the overall EITI implementation and on NEITI. However, some relevant documents found on the websites of many of the IOCs operating in Nigeria supplemented the data gathered on industry participation in the NEITI implementation.

Security and Safety Considerations

Security and safety issues were heightened in Nigeria during the period of the field work. This was due to the incessant violent activities of the Niger Delta militants. For instance, although the researcher was allowed access to the NNPC library and some staff agreed to be interviewed, access to certain areas and key informants was restricted. At one time during the researcher's visit, the NNPC building, which also houses three key federal government ministries including the Ministry of Petroleum Resources, received major terror threats from a notorious militant movement from the Niger Delta. New security directives that barred visitors from the building during this period meant that certain key informants could not be accessed. Also the general atmosphere of insecurity during the period also meant that the researcher applied a lot of caution during the few visits made to the Niger Delta area.

However, despite these limitations, the field work and post field work period yielded an enormous collection of data. These numerous sources of data also yielded an assemblage of evidence the analysis of which tended to be time consuming. It was necessary to properly analyse every piece of evidence in order to certify not just their relevance but also their validity. It was equally important to establish a "chain of evidence" in the application of the data collected towards answering the research questions, and this reflects the strength of the data analysis technique employed.

3.6.3 Data Analysis and Structure of the thesis

The strength of the case study approach also lies in the ability to adopt a data analysis technique that would address the research challenges and also ensure that the evidence and conclusions are reported as fairly as possible (Yin, 2003). The data analysis for this study follows the theoretical propositions established in section 3.2. The evidence gathered for the study is arranged such that they show what factors influence the effectiveness of NEITI, and then how and why. Every piece of evidence is studied and two key levels of decision are made: first is to determine which of the four categories of factors that a piece of evidence contributes to; and next is to determine if it answers a what, how or why question. Each relevant piece of evidence is analysed in this way and the pattern that emerges is further studied to collate them into the key arguments of the research under the four categories of factors influencing the effectiveness of collective action for resource revenue transparency. Claims made by respondents are compared across the categories of stakeholders and with data gathered from other sources of evidence to ensure consistency and validity.

Chapters 4, 5, 6 and 7 are devoted to the detailed analysis of data towards addressing each of the research questions. Each chapter contains highlights of the key findings and a section dedicated to the analysis of the pattern of evidence that emerges. Each chapter demonstrates how and why the identified four factors influence the effectiveness of NEITI and a linkage to the overall research question of the study. Although the focus of the study is on the impact of the four factors on NEITI but where available evidence strongly suggests other influencing factors they are also highlighted.

3.7 Conclusion

This chapter has provided a detailed description of the research design and approach used for this study. The entire study hinges on the theoretical propositions that there are key factors that determine the effectiveness of a multi-stakeholder initiative designed to achieve resource transparency. Among these factors are: the structural environment for the collective action; the characteristics of the component agents; the governance structure of the MSI; and the nature of external influence on the collective action process.

Based on these theoretical propositions, this study seeks to explore how and why each of these factors manifests. Therefore, the Nigeria EITI, a country sub set of the global EITI, is identified as the specific unit of analysis in a 'holistic case study' approach adopted for this study. Since the study is mainly of an exploratory nature, the field work conducted in Nigeria was focused on gathering qualitative data from multiple sources including semi-structured interviews, documents, and personal observations. These sources of data yielded substantial evidence on how and why the identified factors above influence the organisation and effectiveness of the NEITI. The data is collated and analysed and the following four chapters of this thesis present the report of the analyses of the findings.

However, much as it has aided our enquiry, the researcher acknowledges that the research design, as described in this chapter, is not without some limitations. For instance, while a single case study design may guarantee an in-depth study, we recognize that a multiple case study involving at least one additional EITI country case could facilitate a cross-country comparison of the initiative. In this study, involving an additional country case was not possible due to the limitations of time and resources available for this study. Nevertheless, given the gap in the state of knowledge about the use of MSIs for resource transparency, it was also imperative to opt for depth of analysis rather than breadth of analysis, since such collective action efforts for resource transparency (such as EITI) tend to be essentially country-specific. However, where necessary, events and examples from other countries implementing the EITI have also been utilized.

CHAPTER FOUR

CONTEXT MATTERS: NEITI AND THE NIGERIAN STRUCTURAL ENVIRONMENT

"Transparency promises a bright future for Nigeria, so long as it is willing to let in the sunshine." (Quarterman, 2005:37)

"Transparency is the provision of enough information to satisfy the need of each stakeholder." (Interview no. 7).

"You cannot tell everybody what's going on" (Interview no. 43).

4.1 Introduction

This chapter examines the structural environment within which the Nigerian Extractives Industries Transparency Initiative (NEITI) operates. What are the implications of the Nigerian structural environment for both the organisation of a MSI, and for the objective of achieving resource transparency? The objective is to first determine the key aspects of the Nigerian structural environment that have the most implications for the implementation of the NEITI, and further explore how and why they influence the effectiveness of the initiative. Available evidence strongly supports the overall argument that the structural environment is among the key determinants of the effectiveness of collective action for resource transparency.

It is strongly believed that in Nigeria "the actions of individuals and organisations … however well intentioned, genuine and important in raising political consciousness are critically constrained by Nigeria's structural environment" (Hyemans and Pycroft, 2003: ii). Several factors are often responsible for this negative influence of the

Nigerian structural context on meaningful institutional development. However, the findings in this chapter seem to suggest that the Nigeria political economy, the structure of the Nigerian extractives sector, and the nature of complementary institutions for transparency and accountability, are among the contextual factors that have the greatest influence on the implementation and effectiveness of NEITI.

The rest of this chapter is arranged as follows: section 4.2 examines the Nigerian political economy and its implications for NEITI effectiveness, while section 4.3 discusses the structure of the Nigerian extractives industry. Section 4.4 explores the nature of existing complementary institutions to NEITI, and section 4.5 examines the implications of the findings on the overall provision of resource transparency through a multi-stakeholder initiative and section 4.6 concludes the chapter.

4.2 NEITI and the Nigerian Political Economy

The structure of the Nigerian political economy as well as its implications for various aspects of the country's development is well documented (Zartman, 1983; Ihonvbere and Shaw, 1988; Asiodu, 1993; Khan, 1994; Utomi, 2000; Ariweriokuma, 2008). However, most of these authors tend to converge on the common conclusion that the discovery of crude oil in commercial quantities in 1956 considerably defines the structure of the Nigerian economy. Oil has been crucial in financing economic growth and development over the years. The overwhelming emphasis on oil extraction has also engendered a political economy that has constantly presented more threats than opportunities for the country's development. Some authors opine that:

> "Nigeria presents a daunting combination of development challenges rooted in problems of political economy. Its development is of enormous importance to the wider prospects for Africa's economic and political recovery, yet shortcomings in domestic political processes have meant that its potential has been unfulfilled" (Utomi, Duncan and Williams, 2007:5).

Nevertheless, the literature on Nigeria's political economy scantily addresses the direct impact it has on the organisation of such institutions as MSIs for resource transparency. How then does the nature of the Nigerian political economy influence the organisation and implementation of NEITI? A university lecturer and a researcher on the politics of Nigeria's extractive industry interviewed for this study believes that:

> "NEITI is a product of this political economy and is meant to both influence and be influenced by it" (*Interview no. 39*).

Available evidence strongly suggests that the Nigerian political economy has enormous influence on the effectiveness of NEITI. However, the Nigerian political economy manifests in various ways. In this sub-section, we discuss the influence of the Nigerian political economy on NEITI under the following broad categories.

4.2.1 Weak Public Demand for Transparency and Accountability

A key consequence of the Nigerian political economy, like most *rentier* states, is the weak governance capacity which it creates. In Nigeria, crude oil production contributes about 80% of government revenue, over 90% of total exports and over 40% of the GDP. A key implication of Government's reliance on oil revenue for almost all its revenue is that there is little or no need to tax the citizens. Therefore, the bond that taxation creates between government and citizens is lacking or at best very weak. Taxation is considered necessary for creating a "fiscal social contract" between the government and the governed, which is in turn considered a prerequisite for the effectiveness of resource revenue transparency and accountability (Karl, 1987, 1997 and 2007[15]; Moore, 2004). Some analysts of the Nigerian situation note that:

> "A sense of social contract, where government is viewed as being responsible for using taxpayers' money to provide public goods and social services, is lacking in Nigeria. This has led to very low public expectations of government, and very little pressure on gove rnment to improve its performance" (Utomi, Duncan and Williams 2007:14).

Hence, the citizens lack the strong incentive to demand accountability from government. This trend also tends to persist because of the comfort and flexibility it allows those in power to pursue selfish interests with minimal scrutiny or resistance from the citizens. Even when oil revenues drop, as is often the case, "rentier borrowing" against future oil production is preferred, rather than resort to taxation, to fill the public financing gap (Karl, 2007).

A strong "social contract" such that taxation engenders is necessary for the effectiveness of NEITI. The ultimate objective of NEITI – to stimulate demand for accountability - is essentially dependent on a conscious and alert body of citizens capable of utilizing the information so provided. A survey jointly conducted by the Environmental Rights Action (ERA) and Friends of the Earth Nigeria (FoEN) (2008:19) showed that majority of the Nigerian population seem to appreciate the benefits of transparency and accountability (ERA and FoEN, 2008:19). This finding is also corroborated by the views of the majority of the interviewees for this study. What appear to be lacking are the incentives to effectively demand accountability. Karl (2007) believes that:

[15] In Humphreys, Sachs and Stiglitz eds. (2007).

> “Because petrodollars are not “their” money, citizens are not motivated to ensure that state revenues are well spent; they are not engaged; and they seldom demand better monitoring of the utilization of revenues. Like their leaders, they too often become addicted to their share of oil rents even as a type of permanent disconnect between the state and its subjects sets in” (2007:264).

A general sense of apathy pervades the Nigerian polity. There seems to be popular disbelief in most efforts towards institutional strengthening, including the NEITI implementation. The joint ERA and FoEN survey referred to above also found that “majority of the citizens are uncertain about whether the initiative (NEITI) will work” (2008:19). Many interviewees for this study also shared this same feeling about the effectiveness of NEITI. For instance, the question sometimes retorted is *“what difference does transparency make anyway?”* (*Interview no. 4 0*). Public disenchantment is considered as one of the greatest challenges facing the NEITI implementation because effective implementation depends not just on the provision of information on t he extractive industry transactions and processes, but also on t he ability of the population to effectively process and act upon information so provided. The Chairman of the NEITI Board acknowledges this challenge saying that:

> “One of the greatest challenges that NEITI implementation faces is the lack of consciousness and leadership from the Nigerian public” (*Interview no. 1*).

Lack of public consciousness is partly reflected in NEITI’s seeming lack of depth of implementation. After six (6) years of implementation, and the publication of two audits covering the periods 1999 -2005, the awareness and impact of the initiative in Nigeria is still considered very low (Shaxson, 2009; Muller, 2010). This observation further highlights the argument that a strong public demand for transparency is essential for the success of a multi-stakeholder initiative aimed at achieving resource transparency and accountability.

4.2.2 Distorted Chain of Accountability

In the absence of a strong public demand for accountability, the situation is such that 'vertical accountability' - from political leaders to the electorate - is replaced with a form of 'horizontal accountability'[16] whereby public officials tend to be accountable to their fellows, groups or individuals who facilitated their election or appointment into office (Smith, 2007). The political economy encourages intense struggle for power which tends to create strong networks that are sustained through patronage politics. Sharp ethnic and religious divisions are easily manipulated in pursuit of political agendas with often grave consequences. Some observers note that public officials see themselves as:

> "'representatives' of their villages, towns, states, or ethnic groups, with a single mission to "get their fair share of the national cake" by whatever means" (Ikpeze, Soludo, and Elekwa in Soludo, et al eds., 2004:345).

The key consequence of this form of 'horizontal accountability' is that it promotes a value system of corruption and opportunism (Smith, 2007). This notion of "national cake" mentioned in the quotation above refers to the the practice of viewing government revenues or resources as a common pool available to those who have the means and power to grab as much as they can. Therefore, access to power invariably

[16] This is perhaps a negative form of John Ackerman's definition of 'horizontal accountability'as accountability relationships between two actors of equal authority (Ackerman, 2005:5).

means access to the "national cake". Some authors argue that the prevalent value system in Nigeria has engendered a situation such that:

> "opportunism and corruption have flourished; patronage and nepotism are considered normal; winner-takes-all political competition persists; institution-building is discouraged, as are the types of investment with longer-term payoffs" (Utomi, Duncan, and Williams 2007:16).

The distorted chain of accountability and the prevailing value system present huge challenges to the NEITI because there seems to be very little premium attached to the objectives of transparency and vertical accountability. An interviewee believes that the prevailing feeling is that "those who complain are those who are not getting any or enough share of the national cake" (*Interview no. 19*). However, some interviewees contend that, due to the effect of some recent reforms, there are indications that the challenge posed by the value system seems to be on the decline. For instance, one interviewee contends that:

> "The value system is a huge challenge but the trend has started to change, especially in the extractives sector. You only have to look at the examples of EFCC (*the Economic and Financial Crimes Commission*) and Due Process (*Public Procurement Act*). We never knew that so much could be achieved in so little period of time. In this country anything is possible" (*Interview, no. 25*).

4.2.3 Defective Federal System of Government

The Nigerian political economy has also created, and is perpetuated through the aid of a faulty federal system of government. Nigeria operates a federal system with three tiers of government: the Federal, States (36 States and the Federal Capital Territory) and Local Governments (LG) Councils (774 LGs)[17]. This system was favoured after an initial attempt at a unitary system failed to cope with the challenges of a highly diverse country culminating in a 3-year civil war that ended in 1970 (Garuba, 2008). Subsequently, state creation exercises have transformed the country from a federation of four regions to the current structure with 36 states. While this structure has managed to keep the country united and also aided in development administration, it has equally created some challenges. The practice in Nigeria is far from true federalism and the prolonged period of military rule apparently hampered its development. Although the federal structure was retained during military rule, the military often favoured a unitary system of government whereby power and control were concentrated at the centre for convenience (Obasanjo, 2010). The impact of military rule seems to have lingered well into the return to civil rule. It is believed that:

> "The weakness of state-society relations is also explained by the repeated periods of military rule since independence, which has prevented the development of strong tradition of democracy, public accountability and civil society engagement in politics" (Utomi, Duncan, and Williams, 2007:14-15).

However, federalism as it is practiced in Nigeria has considerable implications for the implementation and effectiveness of NEITI. These implications are discussed under the following sub-headings.

Concentration of NEITI on the Central Government

[17] For a detailed discussion of Nigeria's federal system of government please see Dauda Garuba, 2008.

The Nigerian constitution (specifically, the Land Use Act of 1978) vests the control of all lands and territorial waters (and the resources therein) on the federal government. The federal government therefore solely controls the exploitation of natural resources. All revenues from natural resource extraction accrue to the Federal Government who in turn disburses an agreed part of it to the states and local governments according to the Revenue Allocation Formula[18]. Amidst controversies, the revenue allocation formulae over the years have ensured that the central government received at least 50% of total revenue. Incessant reviews of the revenue formula have also meant that there is little public knowledge of the exact formula. The statement below captures the prevailing public opinion on the revenue allocation formula:

> "I do not know what the exact revenue sharing formula is. In fact it is hard to know what it is because they (*political leaders*) are always changing it, and they also keep it secret sometimes to avoid public reactions. But I know that the Federal Government always takes the largest share" (*Interviewee no. 15*).

The implication of the prevailing revenue allocation formula is the tendency for the struggle for access to power at the centre to be intensified and because the opportunities for corruption and rent-seeking seem to be greater than they are at the sub-national levels. This also creates the tendency for key institutional reform efforts to be concentrated at the centre while institutional weaknesses at sub-national levels remain ill-addressed (Utomi, Duncan, and Williams, 2007). Obiageli Ezekwesili, the inaugural Chairperson of NEITI, refers to this tendency as the 'decentralization of corruption' "where the Centre … is getting increasingly cleaner while the States and the Local governments are scaling up in corrupt and inefficient use of resources" (Ezekwesili, undated: 23).

[18] The revenue allocation formula has always been a subject of heated controversy and conflict with the oil-rich Niger Delta continuously agitating for a larger share of the oil revenue.

Accordingly, NEITI implementation is focused on the Federal Government. This implies that the states and local governments are at liberty whether or not to initiate their own resource transparency initiatives. And there are little or no incentives for politicians at the lower levels to embrace transparency. Although, there are strong claims that "the implementation of EITI has begun to stimulate sub-national structures at the state levels employing the multi-stakeholder approach" (Igwe, 2010:1). The example often cited to support this claim is the Bayelsa Expenditure and Income Transparency Initiative (BEITI) which is an effort by the Bayelsa State Government, (with the support of the American-based Revenue Watch Institute (RWI)), to establish a similar initiative to the NEITI at the state level. It is believed that efforts such as the BEITI "are capable of complementing national level EITI and by so doing overcoming the constitutional constraints of NEITI as a federal institution" (Igwe, 2010:1). However, as at the time of this study, the expectation that the BEITI example would be emulated by other states or local governments has not yet materialised. For instance, in Enugu State, though a non-oil producing state but which has the largest deposit of coal and where also a regional office of the Department for Petroleum Resources for the entire South East geopolitical zone is located, a very low level of awareness of the NEITI and its activities was recorded among senior public officials approached for this study.

It is believed that, to a large extent, the effectiveness of NEITI is hindered by the inability to fully incorporate states and local governments in the implementation of the initiative (*Interview no. 13*). The success achieved with the Nigerian Economic Empowerment Development Strategy (NEEDS), Nigeria's Poverty Reduction

Strategy Paper (PRSP) is believed to be because all levels of government were adequately incorporated in the programme through the State Economic Empowerment Development Strategy (SEEDs) Local Economic Empowerment Development Strategy (LEEDs) for states and local governments respectively (*Interview no. 13*). Therefore, the chance of deepening the NEITI through states is yet to be fully utilised due to the over-concentration of the initiative at the centre.

As an alternative to the use of states and local governments, NEITI implementation is therefore mostly carried out along the geopolitical zones. A criterion on geopolitical representation on the NEITI governing board was seemingly introduced to address the issue of regional imbalance in the composition of the National Stakeholders Working Group (NSWG). However, the concept of geopolitical zones in Nigeria only emerged in 1999 as a creation of the leading People's Democratic Party (PDP) purely for the purposes of political engineering and ensuring a balanced distribution of key political positions in the federal government. Geopolitical zones have become popular ever since but it is important to note that there are no existing administrative structures to support these six (6) geopolitical zones. The states and local governments remain the only recognised administrative structures outside the central government. The implication is that the representation made on the basis of geopolitical zones has little or no effect on the implementation of the NEITI because there are no recognised constituencies based on geopolitical zones. And in fact, the NEITI Chairman, in an interview for this study, admitted that the geo-political zones representation is only implied because the letters of appointment given to the NSWG members who are assumed to be representing their geopolitical zones do not specify that they are representing geopolitical zones (*Interview no. 1*).

Dominance of the Executive Arm of Government

Effective democratic governance thrives on t he ability of the three arms of government, namely: the executive, the legislature and the judiciary, to act as checks and balances on one another. However, the executive arm of government in Nigeria seems to be considerably more developed than the other arms of government. The situation is such that:

> "The political system in Nigeria is characterised by the concentration of power in the executive, and in particular the President and State governors. Other institutions of government, including the legislature, judiciary and civil service, have limited influence and capacity" (Utomi, Duncan and Williams 2007:16).

The executive domination of governance also permeates all tiers of government. Although the return to democratic rule has offered the opportunity for the legislature to be reinvigorated and possibly create a balance, some observers maintain that:

> "the Presidency has retained its dominant position in the policy process. State Governors with their constitutionally-defined powers are important sources of patronage, and in practice are relatively unconstrained by checks and balances" (Utomi, Duncan and Williams 2007:16).

There is the tendency for policy making to bypass traditional institutions. Political decision-making is concentrated in the hands of a few 'trusted' individuals who often act as advisers, and sometimes take part in implementation to ensure success. Some observers acknowledge that there may have been little alternative for the political leadership at the return to democratic rule given the inherent weaknesses of the Nigerian civil service system (*Interviews nos. 31 and 38*). As a result "many policy decisions are taken personally by the President" because "w eak capacity and corruption in the civil service has meant that policies are often inadequately prepared and inconsistently implemented" (Utomi, Duncan and Williams, 2007:5). Hence, the Obasanjo administration relied heavily on filling key positions with individuals who have:

> "credibility and technical competence, international experience and recognition, clean image, determination to achieve results, and toughness in spite of their relative inexperience in politics." (Utomi, Buncan and Williams, 2007:22).

NEITI implementation arguably benefitted from this administrative strategy. At inception, President Obasanjo entrusted the implementation of NEITI in the hands of close allies and technocrats led by Obiageli Ezekwesili who was a Special Adviser to the President at the time. The success achieved with NEITI implementation in its first few years of implementation attests to the qualities and competence of these individuals. However, the implication is that the NEITI implementation seemed to struggle after they left office. The loss of momentum of the initiative after 2007 is partly attributable to the departure from office of both President Obasanjo and the key officials of NEITI. Therefore, while the strategy (of relying on few trusted individuals rather than established channels of administration) achieved quick wins, it was not sufficient to deepen and sustain the implementation of NEITI.

The dominance of the executive arm of government also implies that other arms of government, especially the legislature, have limited involvement in the implementation of NEITI. As at the time of this study there was no special committee of the National Assembly that supervised the NEITI implementation. The NEITI Law (see chapter six) also has limited constitutional provisions for the role of the legislature.

4.2.4 The Niger Delta Crisis

The Nigerian political economy is also linked to the lingering crisis in the Niger Delta, where most of the oil exploration and production in Nigeria takes place.

> “The production of oil and gas in Nigeria is carried out amidst social and armed conflict arising from the way in which the Nigerian state, with its heavy dependence on oil, is constituted” (Asobie, 2009:17).

The people of the Niger Delta have constantly protested the apparent lack of development and backwardness of the area despite the huge resource wealth it generates for both government and international oil companies (IOCs) (International Crisis Group, 2006). However, these agitations assumed greater domestic and international dimensions after the execution in 1995 of nine (9) Ogoni activists including Ken Saro Wiwa, by the General Sani Abacha led military government.[19] Ever since, sustained violence and militant activities in the Niger Delta have created new forces in the political economy of Nigeria and currently constitute the greatest challenge to oil production in Nigeria. Militant youths engage in a whole range of activities from hostage taking of IOCs staff to vandalization of oil production facilities, all aimed at stalling oil production to press home their demands for greater control of their resources, and a better environment. A Niger Delta chief laments that:

[19]In 2009, Shell was found guilty of complicity in the killing of the nine Ogoni activists by the Abacha government in 1995, and had to pay the sum USD16 million as compensation to the families of the activists.

> "As a major stakeholder in the production of hydrocarbon, the host communities have demonstrated that they resent the age-long economic exploitation of the past 50 years, and resorted to taking laws into their hands to demand for better deal in what has culminated into environmental decadence and neglect even though they contribute over 90 pe r cent to the federation account. The result is the development of other geo-political regions and major cities of the federation with little for host communities."(*Chief B.O.B Nabena, Chairman of Host Communities of Nigeria Producing Oil and Gas (HOSCOM) in the* ***Daily Sun*** *Tuesday, October 05, 2010*)**.**

The Niger Delta crisis presents both opportunities and challenges for the NEITI. The grievances fuelling the crisis are partly associated with lack of transparency and accountability in the management of the extractives sector (Muller, 2010). For instance, the NEITI audits reveal gaps in the metering infrastructure operational in the oil production process (see details in Chapter 6.). This revelation supports claims of a vibrant trade in stolen oil otherwise known as 'oil bunkering'. There are further claims that oil bunkering provides a significant source of funding for militant activities in the Niger Delta. The NEITI Civil Society Liaison Officer observes that:

> "…it is obvious that the conflict in the Niger Delta is a resource conflict and so the route through which these thousands of barrels of oil leave every day is the same route through which sophisticated small arms and light weapons find their way into the Niger Delta. … T he vested beneficiaries of the so-called bunkering are the same group of persons who want the crisis to continue perpetually. The NEITI audit reports recommend the installation of precision meters at flow stations and terminals so that the real amount of crude produced and lost can be determined and so that oil theft fuelling the crisis can be brought to an end" (Igwe, 2010:1).

However, the opportunities that the Niger Delta crisis creates for NEITI are connected with the belief that the crisis "can also help to shift incentives in pro-reform directions" (Utomi et al, 2007:18). The crisis appears to have heightened government and business interests in improving governance of the extractives sector. For instance, the government of late President Yar' Adua initiated an Amnesty Programme which encourages the militants to cease violence and surrender their weapons in return for unconditional pardon and some welfare packages (*several newspaper reports*). Furthermore, the late President also acceded that in addition to the 13 pe r cent resource derivation revenue allocated to oil producing states, a further 10 per cent of total oil revenue would be set aside for development projects in the Niger Delta. These initiatives have managed to placate some factions of the militants, and violence has considerably reduced in the area (*several newspaper reports*). However, militant activities have continued to hamper oil production and a general atmosphere of insecurity still pervades the Niger Delta, as it appears that a section of the militants did not embrace the Amnesty Programme. In December 2010, Chevron was forced to shut down one of its oil production facilities after it was bombed by one of the leading militant groups (*Vanguard News Online, 21/12/2010*). There is therefore an increased interest of all stakeholders in seeking flexible and more inclusive strategies for addressing the Niger Delta problem. NEITI with the multi-stakeholder platform that it promises seems to offer an opportunity.

However, violence and militant activities in the Niger Delta also mean that NEITI activities in the region are carried out with great caution. Hence, the advantages that NEITI offers in addressing the Niger Delta problem seems to be limited by the overall insecurity in the area. Asobie (2009:19) admits that the Niger Delta crisis makes it difficult for the implementation of development projects “in a meaningful and sustained manner”.

In summary, the Nigerian political economy presents huge challenges to the implementation and effectiveness of NEITI. These challenges manifest through the weak public demand for transparency and accountability, a distorted chain of accountability, lack of true federalism, and the Niger Delta crisis. These factors contribute towards undermining NEITI's ability to achieve resource transparency and accountability in Nigeria.

4.3 NEITI and the Structure of the Nigeria Extractive Industry

Several decades of operating an opaque and complex extractives sector has engendered a structure that makes it extremely challenging for NEITI to make meaningful impact. The Nigerian extractives industry is constituted of two sub-sectors: (a) the Oil and Gas sub-sector, and (b) the Solid Minerals and Mining sub-sector. Apparently, the Oil and Gas sub-sector dominates the industry, despite the considerable potential in the solid minerals sector. NEITI activities so far are largely concentrated on the Oil and Gas sector, but have gradually begun to extend to the solid minerals sector which is believed to have worse opacity than that which exists in the oil and gas sector (Coalition for Change, 2010). This section provides a brief overview of the two sub-sectors and examines the challenges within them for NEITI implementation and effectiveness.

4.3.1 The Oil and Gas Sector

Crude oil was discovered in Nigeria at Oloibiri, a town in the Niger Delta region in 1956. Two years later, Shell British Petroleum (now Royal Dutch Shell) commenced commercial production of crude oil, and ever since the Oil and Gas sector has been on a steady growth with many more discoveries both on and off the shores of the Niger

Delta region of Nigeria (Turner, 1977; Ihonvbere and Shaw, 1988; Frynas, 2000)[20]. As at 2010, Nigeria's proven crude oil reserves were estimated at 37.2 billion barrels which makes it the 10th largest in the world, and estimated gas reserves of 180 trillion cubic feet, though largely unexploited (NNPC, 2009). The global quest for alternative sources of crude oil supplies (other than the middle east) has implied that Nigeria has become of increased strategic importance to the rest of the world especially the US and Europe who jointly are the destination of about 70% of current production[21]. The United States Energy Information Administration (EIA) reports that "disruptions to Nigeria's oil production impact trading patterns and refinery operations in North America and often affect world oil market prices". Equally, Asian countries, notably China and South Korea, faced with the challenges of sustaining their growing demand for energy, are also increasing their stakes in the Nigerian oil and gas industry[22]. Also of significance is the quality of the Nigeria bonny light sweet crude which is adjudged very high because of its low sulphur content. It is believed that:

> "the significance of Nigeria's oil did not lie so much in the actual oil production but rather in its potential for future expansion." (Fryans 2000:14)

The sector, being highly capital intensive, has attracted a huge inflow of foreign direct investment (FDI) and technology to the country. Therefore, from a sector largely dominated by just one company (Shell)[23], it has grown to become the mainstay of Nigeria's economy, contributing about 97% of Nigeria's foreign exchange earnings, and about 80% of government revenues (Amnesty International, 2009). However, oil

[20] Turner (1977), Ihonvbere and Shaw (1988), Frynas (2000) contain detailed accounts of the Nigerian Oil and Gas industry.

[21] From US Energy Information Administration http://www.eia.doe.gov/emeu/cabs/Nigeria/Oil.html accessed 10/02/2010

[22] *The Guardian*, June 18, 2009, page 17

[23] Shell still visibly dominates the Oil and Gas sector, especially the onshore production where it controls over 31,000 square kilometres in the Niger Delta region (Amnesty International Report, 2009)

and gas production is dominated by six (6) major IOCs who control over 70 per cent of production through their various Joint Ventures with the government. The 'big six' includes: Royal Dutch Shell, Mobil, ChevronTexaco, NAOC/Phillips, Elf, and Pan Ocean (Asobie, 2009).

Nevertheless, it is important to note that the oil and gas sector has provided as much opportunities for growth and development as it has presented challenges for the country (Ogunleye, 2008*)*. The discovery of oil coincided with a period when Nigeria attained political independence from British colonial rule and an indigenous ruling class took over the leadership of the country. Soon, the potentials of the newly discovered oil industry attracted the interests of both the indigenous politicians and international oil companies (IOCs). The politicians fully exploited the rent-seeking opportunity which seemed to align with the desire of the IOCs to expand their businesses. These two separate groups of actors, each pursuing their egocentric objectives, contributed to institutionalising a system that makes it difficult for the positive effects of the benefits of oil to fully manifest on the lives of the people and on sustainable development (*Interview no. 15*).

The oil and gas industry in Nigeria is perceived as the most 'lucrative' sector by political leaders and public officials. This is because of the enormous amount of money that flows within this sector (*Interview no. 17*). The oil and gas sector attracts the greatest amount of interests, and appointments into offices are often used for political settlements, rather than based on merit. Garuba (2008:5) notes that although many of the people who work in the ministries and agencies that oversee the oil and gas industry have the requisite qualifications for their positions, "the criteria for their appointments are largely dependent on political affiliation". As a result, there are numerous agencies and offices created by government with sometimes unclear and overlapping roles. Many interviewees for this study believe that the complexity of the sector is a deliberate strategy to facilitate the corrupt practices and underhand dealings that take place within the sector. Making the oil and gas sector complex and less understandable to the ordinary citizens would ensure that the sector is not easily open to scrutiny (*Interviews nos.14, 20, 24, 39*). Of great concern therefore is the need to demystify the oil and gas sector in order to improve its effectiveness, and also improve the understanding of the public through the opportunity that NEITI implementation provides.

4.3.2 The Solid Minerals Sub-sector

Apparently, the oil and gas sector dominates discussions on Nigeria's extractives industry due to its impact on the economy. However, Nigeria has a relatively vibrant solid minerals sector which predates the discovery of crude oil. A growing need for the diversification of the Nigerian economy has brought the mining sector back into the limelight and some enthusiasts believe that solid minerals in Nigeria have the potential of generating more revenue than oil and gas if properly harnessed (CISLAC, 2006). Bright Okogu, a former Secretary to the NEITI, acknowledges that the mining sector "has stronger potentials than the oil sector in terms of job creation." And because solid mineral deposits are more widely distributed across the country he argues that the sector could have more positive impact on the political economy of the country than crude oil which is rather concentrated in the Niger Delta. This supports the argument made in the literature that point source resources are more likely to create "resource curse" type problems than diffuse sources (Leite and Weidman, 1999; Kolstad and Soreide 2009: 218). Okogu (2006: unpaginated) believes that:

> "politically, if all states have something to contribute to the national treasury, the clamour for resource control will be less vociferous and everyone will show more sympathy for the cry for better environmental management of the fallouts from mining activities since every state will be directly exposed to this hazard."

Nigeria has the largest deposit of iron ore in West Africa. There are about 33 different solid mineral deposits, which include large deposits of coal, iron ore, tin, gold and uranium, in 400 l ocations in the country. Yet the mining sector is largely underdeveloped, contributing only about 1% of the GDP (*This Day Newspaper* Vol. 13 No. 4757 April 30, 2008). However, the Nigerian government is only just reviving the solid minerals sector, especially with the establishment of a dedicated Ministry of Solid Minerals Development in 1995, to oversee the development of the sector.

Challenges in the solid minerals sector for NEITI are no less than those in the oil and gas sub-sector. A recent comprehensive study of Nigeria's extractives industry found that:

> "the opacity that besets the oil and gas sector is even worse in the solid minerals sector. It is not only that there is lack of accurate record-keeping, equally important, there is in the sub-sector, a dominance of illegal miners; and corruption is pervasive as well; and among the factors responsible for this is weak monitoring, supervision and enforcement of the laws and regulations" (Asobie in Coalition for Change, 2010: xvi).

Overall, available evidence suggests that the key challenges that emanate from the structure of the Nigerian extractives industry for the NEITI implication include: the regulatory and management framework for the industry, poor capacity of government agencies, and oil bunkering and illegal mining, which are further discussed in the following sub-sections.

4.3.3 How does the nature of the Nigerian Extractives Sector Influence NEITI Implementation?

4.3.3.1 The Regulatory Framework for the Nigerian Extractives Industry

The discovery of crude oil in Nigeria roughly coincided with the attainment of independence in 1960 from the British colonial government. Hence, it seems the indigenous government at the time was rather preoccupied with consolidating power and was unable to respond adequately to developments in the new extractives industry. The first conscious effort at properly developing a clear regulatory framework for the industry came about eight (8) years after independence. An observer notes that:

> "Though the search for oil started in Nigeria in 1907, it was only in 1968 that the Federal Government made the first spirited attempt to become a major player in the sector through the promulgation of the Companies and Allied Matters Act (CAMA). This law forced all companies to be incorporated in the country and provided government access to their accounts".[24]

Bold as it seemed, the CAMA ushered in a regulatory regime that was insufficient to effectively cope with the challenges of the rapidly expanding extractives industry (Asobie, 2009). Subsequently, laws and regulations were made to respond to situations as they arose. A senior official of the Ministry of Petroleum interviewed for this study confirmed that some of the laws and policies that govern the extractives industry were hurriedly made to respond to emergency situations and as such were poorly researched (*Interview no. 11*). Laura Hosman (2009) believes that contrary to the prediction that developing countries tend to progress along a learning curve in the

[24] *Thisday Newspaper*, Vol. 13, No. 5007, January 6, 2009 p33

management of their extractive industries, Nigeria seems to be different as an initial progression was reversed in the mid-70s to 80s through concessions and policies that undermined local entrepreneurial development in the industry. This has given rise to a weak regulatory system that is prone to manipulation by both public and private agents. For instance, generous incentives were often offered to foreign investors in a bid to attract and sustain foreign investment in the oil and gas sector. Decisions about these incentives do not often follow due processes and are shrouded in secrecy. Frynas (2002:22) notes that the Nigerian extractives industry was considered very favourable to IOCs because of the "...various concessions, waivers and exemptions from the provisions of Nigerian Law, including a tax holiday of up to 10 years starting from the first day of production." These were common in the early years of oil discovery and sometimes during periods of global decline in oil production. The IOCs often exploited these opportunities as these incentives were far too attractive and were not renegotiated when situations changed in the global market (Amnesty International, 2009).

Nevertheless, it is believed that some of the existing laws and regulations are either ambiguous or obsolete creating challenges for their effective implementation (Asobie, 2009). This supports the argument of Avinash Dixit (2002:713) that sometimes:

> "Many dimensions of goals are left so vague that the agency and its political superiors alike would find it difficult to say what constitutes their fulfilment, whether before or after the fact…Ambiguity exists even in economic agencies."

Kolstad and Soreide (2009:219) also argues that:

> “The more blurred this allocation of authority is and the wider the room for discretion, the more difficult it is to place responsibility and hence corruption becomes less risky for those involved.”

Some of the laws also contain “omnibus clauses that allow the operators not to be transparent in the information on their activities” (CISLAC, 2006:9). These laws are not also frequently reviewed to reflect changing circumstances in the domestic and international markets. Apparently, this is because they are beneficial to some key stakeholders, notably the IOCs. This follows the argument that “since regulations are an attempt to restrict privately beneficial options, private agents may want to undermine their effectiveness” (Kolstad and Soreide, 2009:221). There is ample evidence to suggest that IOCs greatly influence the regulatory framework of the Nigerian extractive industry. Some interviewees believe strongly that the IOCs in Nigeria have a firm control on the regulatory framework of the oil and gas industry (*Interview nos. 14, 20, 21, 23, 24*). The Amnesty International report referred to above also alleges that IOCs are sometimes involved in conducting studies and researches that form the basis of making laws and regulations for the extractives industry in Nigeria (Amnesty International, 2009: 47).

4.3.3.2 The Petroleum Industry Bill (PIB)

In order to address the apparent deficiencies in the oil and gas industry, the Oil and Gas Implementation Committee (OGIC) was set up in 2006. This committee was charged with the responsibility of reviewing the regulatory framework of the industry and making recommendation on how to update it to international best practice. The outcome of the work of this committee was the Petroleum Industry Bill (PIB), which seeks to introduce a new and comprehensive regulatory regime that will introduce fundamental changes to the management of the oil and gas sector. It is expected that this law, when established, will address the numerous problems of the poor regulatory framework especially of the oil and gas industry. Asobie (2009:14) acknowledges that:

> "The energy sector in Nigeria is undergoing a radical transformation. The oil and gas reform bill currently being processed for passage into law at the Nigerian national legislature embodies far reaching changes that are likely to provide a completely new playing ground for exploration, exploitation and production of oil and gas and refined petroleum products."

There is an overwhelming optimism about the effectiveness of the provisions of the bill. "The PIB combines 16 different Nigerian petroleum laws in a single transparent and coherent document. This is the first time that such a large scale consolidation has happened anywhere in the world" (Lukman, 2009:3). More significantly, the PIB acknowledges the NEITI and attempts to give the resource transparency campaign in Nigeria a greater push. It seeks to eliminate the confidentiality of licenses, leases, contracts, government receipts and company payments, geological and geophysical, and well data, approved budgets of JVs and PSCs, production and lifting data. The bill also seeks to institutionalise an open and competitive bidding process, uniform but flexible royalty and tax terms that apply to all, equal conditions to regulated installations through open access rules, clear guidelines for the revocation of licenses and leases (*Interview no. 1*). Asobie (2009:15) further acknowledges that:

> "The overall and fundamental objective of the reform was to infuse the principles of transparency and accountability, as well as an orientation of professionalism in the governance of the petroleum industry. … T he PIB sought to establish a comprehensive legal and regulatory framework, clarifying jurisdictional boundaries between institutions or regulatory authorities and creating new ones for the industry."

However, the optimism over the PIB notwithstanding, the passage of this bill into law has been stalled due to formidable opposition especially from the IOCs. The delay in the passage of the PIB into law is a source of concern to stakeholders to the Nigerian extractives industry. This delay further illustrates the extent of the challenge that the Nigeria structural environment poses to genuine institutional reform efforts such as the NEITI implementation. Despite the hopes that the PIB holds for the oil and gas industry, many interviewees believe that its passage into law by the legislators has been stalled because it is believed to be a challenge to the interests of certain key stakeholders who are benefitting from the status quo (*Interview nos. 14 -27*).

However, there is equally a widespread belief that the weakness of the regulatory framework notwithstanding, the management system for the extractives industry also constitutes a challenge. It is argued that the inability of government to regulate the industry "has not been for want of laws or statutes on t he books" (Amnesty International, 2009: 40). This emphasis on appropriate implementation is also reflected in the statement below:

> "As the country is now faced with an opportunity of reasserting control over its oil resources through the enactment of a Petroleum Industry Act, it is an opportune time to state that though legislation is cardinal in the pursuit of national aspirations, it is not sufficient that we have well thought out legislation that provides for ideal situations without the stakeholders not making adequate efforts to implement the policy directions stipulated in these laws. We express fear that so long as those who find themselves in the corridors of power continue to align their selfish interests with the somewhat predatory attitude of the multinational oil firms that have over the decades found refuge in the environment of compromise and policy ambivalence created by successive governments, Nigeria and Nigerians would remain

> strangers in the control and fortunes of the country's oil wealth" (*Business Day Online, Tuesday, 13 October 2009*[25])

There seems to be a general agreement however, that regardless of the amount and quality of the laws, the capacity and political will that are required for proper implementation are sometimes lacking. This highlights the significance of an effective management structure of the extractive industry as discussed in the following sub-section.

4.3.3.3 The Management Structure of the Extractives Industry

The Federal Government carries out its management functions of the extractives industry through three key ministries: the Ministry of Petroleum Resources oversees the oil and gas sector and supervises the agencies and government-owned companies that operate within it; the Ministry of Solid Minerals oversees the solid minerals sub-sector; while the Ministry of Finance supervises the agencies that are responsible for the collection and management of revenues from the extractives sector. However, it is believed that five government agencies play crucial roles that are vital to the implementation and effectiveness of NEITI.

First, the Department for Petroleum Resources (DPR) is the government agency that regulates and monitors the oil and gas sector. The role of the DPR specifically includes:

> "…overall responsibility for regulating the oil industry …monitors and collects royalties; …compiles production data used in calculating royalty and

[25] www.businessdayonline.com/ARCHIVE *accessed 23/11/2009*

> petroleum profit tax; ...approves exploration licenses, drilling programmes, development and production activity and capital equipment imports" (Asobie, 2009:12).

Second, the Nigerian National Petroleum Company (NNPC) is the state-owned petroleum company. The NNPC plays a key role in the management of the oil and gas sector. The NNPC comprises of subunits with dedicated functions that include a mixture of regulatory and purely commercial functions. However, the role of the NNPC in the oil and gas sector is considered as one of the greatest challenges to achieving transparency in the sector. Through the NNPC, the government is directly involved in the business of oil production in Nigeria.

Third, the Federal Inland Revenue Service (FIRS) is the government agency responsible for the determination and collection of revenue (especially taxes) accruing to the federal government from the extractives sector. The FIRS is responsible for assessing and enforcing taxes paid by the companies. It performs this function through its Petroleum and International Tax Department (PITD) which assesses and collects PPT and other direct taxes from the Joint Ventures and Production Sharing Contracts. (NEITI, 2005).

The fourth key agency is the Central Bank of Nigeria (CBN). The CBN acts as a depository for all revenues accruing to the federal government. It is believed that the dual role of receiving oil revenue on behalf of government, and the record keeping of same, which the CBN plays "creates important issues of transparency and accountability" (CISLAC, 2007[26]).

[26] Contained in a Communiqué issued by CISLAC after a Workshop on NEITI implementation in December, 2007

The fifth is the Office of the Accountant General of the Federation (OAGF). The OAGF is constitutionally the managers of government's accounts and is expected to "exercise control over information pertaining to revenue flows and to anticipate problems or shortfalls" (Asobie 2009:12). However, in reality, the OAGF merely "plays a reactive role because revenue collecting agencies bypass it" (*Interview no. 6*).

The Ministry of Solid Minerals is also a key player in the Nigeria's extractive industry. However, as discussed in section 5.2.2, the mining sector is still largely underdeveloped and as such its contribution to the NEITI implementation is tangential. However, in anticipation of its future role and under pressure from Civil Society (*Interview no. 14*) the NEITI has included the Solid Minerals sector in its agenda and has carried out some activities geared towards sensitizing the sector for revenue transparency (*Interview nos. 1 and 20*).

However, the problems associated with the management of the Nigeria extractives industry and the challenges they create for NEITI are adequately highlighted in the various reports of the NEITI Audits. In this subsection, we highlight some of the key challenges to the NEITI that arise from the management structure of the extractives industry under the following sub-headings.

Role of Government and Domination of IOCs

The key challenges within the Nigerian extractive sector for NEITI implementation are often linked with the role of government in the sector. Through the Nigerian National Petroleum Corporation (NNPC), the state-owned oil company, government is both a partner in, and regulator of the oil and gas industry. This has given ample room for large scale corruption and mismanagement and the sustenance of a very weak and inadequate regulatory framework for the industry.

The weak capacity of government regulatory agencies such as the Department for Petroleum Resources (DPR) has also allowed the IOCs to easily manipulate the system to maximize their advantage. The result is a very complex industry that makes transparency extremely difficult (Asobie, 2009). Contracts and agreements are kept secret and tightly guarded with "omnibus clauses" because they often contain the most unfavourable terms for the country, sometimes masked with the argument of "the need to attract investment" (CISLAC, 2006).

Poor Capacity of Government Agencies

By implication the ineffectiveness of the DPR especially results in enormous loss of revenue for the government. Prof. Asisi Asobie, the Chairman of NEITI notes that:

> "The auditors reported serious anomalies in the royalty regime. It was found, for instance, that some oil companies, notably Shell, based their royalties on export figures rather than production figures as required by law, while others based theirs on production. It was reported, too, that the assessment, by the DPR, of royalties to be paid differed significantly from those of oil companies that produced the oil. The differences arose from the manner in which each agency or company factored quality, production and price into their calculations" (Asobie, 2009:12).

Many believe that majority of the problems within the oil and gas industry in Nigeria is created by the structure and ineffectiveness of both the DPR and the NNPC. The Oil and Gas Implementation Committee (OGIC) which was set up in 2006 by the President Olusegun Obasanjo concluded in their final report that:

> "The Ministry of Petroleum remains essentially a civil service outfit that is ill-equipped to conceive and formulate the required policies for such a complex and sophisticated industry. The regulatory body, the Department of Petroleum Resources (DPR) is, by and large, similarly constrained being a body tucked away within the Ministry. The most problematic, however, remains the National Oil Company, the NNPC. It is simply a typical Nigerian state institution that operates as a huge amorphous cost centre with little or no sensitivity to the bottom line" (OGIC Report, 2008:5).

However, as the NEITI Audit Reports show, the major challenge that these agencies pose to resource revenue management in Nigeria is that of inadequate record keeping (NEITI, 2007; 2009). Asobie (2009) notes that:

> "…the Federal Inland Revenue Service (FIRS) … was found to be inefficient and incompetent. Its record keeping was found to be incomplete in the sense that it failed to record all company data on taxes sent to the CBN. And it did not use double-entry book-keeping or maintain a cash book or ledger. Moreover, the FIRS was unable to develop and enforce a PPT [petroleum profits tax] regime on the companies. Consequently, the PPT regime for the period covered "amounted to 'unregulated self-assessment' by the companies" themselves. The inefficiency and incompetence of the FIRS created room for potential loss of petroleum tax revenue by Nigeria. One evidence of this loss was that the operating costs reported by the joint venture companies for PPT differed significantly from the costs stated in their audited financial statements (Asobie 2009:12).

In addition to the deficiencies of the various government agencies, there is a concern about the lack of coordination between and amongst them. In an interview, the Special Business Adviser to the Minister of Petroleum resources acknowledged that the effective management of resource revenue is greatly impeded by this lack of collaboration between the agencies. An adequate system for sharing information across the agencies is lacking.

Oil Bunkering and Illegal Mining

The weakness of the management structure and lack of adequate monitoring facilities have also given ample room for a substantial and thriving international trade in stolen crude oil otherwise known as oil bunkering. Oil bunkering is "the use of siphoning to steal and then transport large volumes of fuel in the Niger Delta" (RWI, 2007:4). This constitutes significant challenges to NEITI as much as for the entire country. A top official of NEITI laments that:

> "Nigeria loses 100-500 thousand barrels per day to oil theft. We are a bleeding nation! Oil theft is a transnational crime and indeed a crime against humanity. It is the key cause of the problem in the Niger delta today. Shall we continue to ignore this as a global movement focusing on revenue?" (Igwe, 2009:4).

It is difficult to estimate the amount of revenue lost through oil bunkering. In 2007, the amount of crude oil lost through oil bunkering was estimated to range between 70,000 to 300,000 barrels per day (RWI, 2007), while in 2009, some observers close to the Niger Delta believed that it had risen to between 100,000 to 500,000 barrels per day (Igwe, 2009). Hence, it is estimated that Nigeria loses over 1.6billion dollars annually through oil bunkering.

The challenge in addressing oil bunkering seems to be the strength and depth of the network that supports and sustains the trade in stolen oil. It is alleged that there is the involvement and connivance of top security agency officials who are supposed to fight against the practice. It is reported that "some top naval officers, serving and retired, have private pipelines that run from the Port Harcourt area to Eket and that these pipes serve as conduits through which they siphon crude oil, load unto vessels and ship to refineries in other shores including South Africa" (ERA, 2009:8). Another illustration is a popular incidence in 2003 involving the MT African Pride, a Nigerian oil tanker vessel that was intercepted by the Nigerian Navy on suspicion of carrying about 11,000 barrels of stolen crude oil:

> "It had on boa rd 13 R ussian crewmembers that were equally arrested by officers of the Nigerian Navy. By August 2004 it was suddenly found that the MT African Pride had slipped out unnoticed from custody. When it was tracked down it was found that its cargo of 11,000 barrels of crude oil had been transferred to another vessel while its hulk was loaded with seawater". (Environmental Rights Action, 2009:3).

Hence, oil bunkering in Nigeria demonstrates two key points that are of immense significance to the effective implementation of NEITI. First is the extent of the weakness of the monitoring and management system in place especially for the oil and gas sector. The second is that it demonstrates the strength of the network of vested interests especially the high profile of local and international players who are directly and indirectly linked with oil bunkering. Some interviewees were pessimistic on how well NEITI can fare in the face of the challenges presented by oil bunkering (*Interview nos. 15, 16 and 17*).

A similar challenge faces the NEITI implementation in the solid minerals sector. Activities in the sector are predominantly informal and illegal mining is quite common. An interviewee for this study with ample experience in the mining sector believes that it w ill be difficult for NEITI to make any meaningful impact in the sector given the complex nature of activities within it (*Interview no. 14*).

In summary, the structure of the Nigerian extractives industry presents a challenge to NEITI implementation. Bogus and incoherent regulatory regimes, low capacity of regulatory agencies, corruption, direct government involvement in business, and criminal activities are all major threats to NEITI implementation and effectiveness. The Nigerian extractives industry is such that a strong network of vested interests has been created over the years which will take time and unprecedented political will to dismantle. A whole lot of reorganisation is required and the existing network is quite large and powerful (extending beyond the country in some cases) that this may be a very daunting task. In fact, a senior staff of the CBN interviewed for this study admitted that "NEITI needs to tread carefully to avoid sparking off upheavals in the industry" (*Interview no. 7*).

4.4 NEITI and the Strength of Complementary Institutions

Achieving the objectives of transparency and accountability depend heavily on the existence of institutions that allow and promote the free flow of information and popular participation in governance (Besley, 2006). Available evidence also suggests that the effectiveness of NEITI also depends on the existence and strength of certain key complementary institutions. However, as earlier mentioned, a long period of military rule in Nigeria has meant that key channels of transparency and accountability, as well as means of popular participation in governance are either completely lacking or very weak (Idemudia, 2009). These key complementary institutions are identified along two broad categories as channels of transparency and channels of accountability and are discussed in the following sub-sections.

4.4.1 Channels of Transparency

NEITI aims to achieve its key objectives through the provision of information on the management of the extractives industry to the public. NEITI makes publications and organises public events as a means of disseminating information on its activities, especially the Audit reports. Prolonged military dictatorship negatively affected the development of strong and effective channels of transparency (Idemudia, 2009). Some laws that inhibit the free flow of information and public disclosure or demand for information were inherited from the military era. Examples of such provisions that "forbid the disclosure of information" include Section 108 of the Evidence Act, Section 2 of the Federal Commission (Privileges and Immunities) Act, Section 13 of the Statistics Act, the Secrets Act, and Section 97 (1) of the Criminal Code (Osemwigie, 2005, in PWYP Nigeria, 2005:18). Since the return to democratic governance in 1999 there has been some progress made towards a gradual review of some of these laws and the enactment of new laws that are in tandem with the principles of democratic governance. However, available evidence suggests that there are gaps in two key areas which constitute challenges to the implementation and effectiveness of NEITI. These areas are discussed below.

The Media

The role of the media in the implementation of NEITI is considered crucial, hence the close involvement of the media in the implementation of the initiative in Nigeria. The media is properly recognised as a key stakeholder in NEITI and as such is represented in the governing board of NEITI.

However, two journalists interviewed for this study share the opinion that although press freedom might have improved since the return to democratic rule, but what seems to persist is government's control of the media, especially the electronic media (*Interview 26 and 27*). Most radio and television outfits are government-owned, which reduces the chances of information deemed unfavourable to government having a wide public coverage. Research shows that the electronic media in Nigeria achieve the widest reach in terms of information dissemination in the country (ERA, 2008). Some civil society activists acknowledge that the communication strategy adopted for NEITI is crucial towards its effectiveness stating that:

> "This (revenue transparency) campaign is a worthwhile task that should not end as mere media hype. There is also the need to understand that Nigerians don't like reading and as such, information packaged by the extractive industries may be meaningless to the ordinary man. Their level of education is a problem and as such taking action may be problematic, unless the CSOs and CBOs break them down to understandable messages" (PWYP, 2005:15).

However, NEITI audit reports and activities are covered more in the print media. Although the print media may be more vibrant and less controlled by government, its reach is considerably lower than that of the electronic media and this limits the chances of NEITI's activities and reports reaching a wider audience. Despite its potential for achieving a wider coverage, the electronic media has been rarely used for NEITI activities or programmes as at the time of this study (*Interview no. 5*).

Nevertheless, NEITI also maintains a website which is regularly updated with relevant information, reports, and publications. The challenge however is that NEITI is yet to fully utilise the opportunity presented by digital and social media to reach out to a wider and diverse audience, given the rapidly growing internet penetration of the

Nigerian population. Believed to be only about 0.1% in 2000, internet penetration in Nigeria has grown to about 28.9% in 2010[27].

Freedom of Information Law

Another setback to NEITI implementation is the lack of a Freedom of Information (FoI) Law. The growing significance of transparency has generated a g lobal acceptance of the importance of this regulation. Over 70 c ountries have already established the FoI law (Gillies, 2010). A bill to establish this law in Nigeria has been pending with the National Assembly since June, 1999 when it was first presented to the legislature. Despite considerable public demand for the FoI Law, its passage has been stalled. The FoI Law is considered crucial to NEITI's implementation because:

> "The link between NEITI, the budget and The Freedom of Information Bill is like a three folded cord that must not be broken. Recognizing this link and showing commitment to the trio is the only way NEITI will not be recorded in future as another failed attempt to achieve better result while doing things the same way" (Environmental Rights Action, 2008:49).

According to Prof. Pat Utomi, a renowned politician and university lecturer, the FoI Law is necessary in Nigeria because of the:

> "... need to lift the veil of silence that enables people, whether in or out of government to manipulate the machinery of government and make a mockery of the judiciary and the legislature in order to achieve their Machiavellian ends of using the system to target the very people the system is meant to protect" (Utomi, 2010:1[28])

27 http://www.internetworldstats.com/africa.htm accessed 20/11/2010
28 http://www.utomifornigeria.com/component/content/article/1-blog/29-foi)

It is believed that the legislators and the indeed the political leaders are reluctant to support the passage of the FoI bill because of the exposure the bill might portend. For instance, an observer notes that:

> "It appears, the *honourable men* have confined the FOI Bill to the mortuary because it is likely to work against the self-perpetuation bid of a great many of them who are bent on foisting themselves on the masses" (Idumange, in *Vanguard Online*, 29/07/ 2010 a ccessed 10/12/2010).

Many interviewees for this study also acknowledge the significance of the FoI law to the implementation and effectiveness of NEITI. Although NEITI provides information to the public through the periodic audit reports, it is believed that the FoI could empower the public to demand for information beyond what the audits make available. An observer notes that:

> "Government officials may want to argue that even without legislation on the freedom of information, interested person can still have access to government information. There may be a plethora of publications sent out to depository libraries, rains of press releases, reports and statements from government officials, and piles of rules and opinions and orders and manuals that are made available through various government agencies, but without FOI legislation, access would be limited to what government officials are willing to release" (Idumange, 2010, Vanguard online 29/07/2010, accessed 14/08/2010).

Therefore, the enactment of the FoI law is yet another test of key stakeholders' commitment to the overall resource transparency campaign. The current delay to the passage of the bill is considered a hindrance to the effective implementation of the NEITI[29].

[29] The FoI Bill was eventually signed into law in 2011.

4.4.2 Channels of Accountability

Beyond the provision of information, what options are available for citizens to effectively hold political leaders and public office holders to account? One interviewee thinks that the problem in Nigeria tends to be "more of accountability than transparency" (*Interview no. 21*). The objectives of NEITI would not be satisfactorily achieved if transparency does not transform to the accountability of key stakeholders especially government stakeholders. A civil society activist in Nigeria acknowledges that "revenue transparency and an accountable government must always go together. Where one is absent the other cannot be present" (von Kemedi in PWYP Nigeria, 2005:33). The nature of the following key channels of accountability is therefore examined in the following sub-headings.

Lack of Effective Checks and Balances

For adequate checks and balances, the legislature and the judiciary are expected to play vital roles in governance, especially as it concerns transparency and accountability. However, as earlier noted in section 4.2.3, r esource management in Nigeria is dominated by the executive arm of government, with the legislature and judiciary playing minimal roles. Again, this is often explained by the long period of military rule during which the executive arm became more developed than the other arms which were virtually inactive during military rule (Idemudia, 2009). Since the return to civil rule in 1999, there have been considerable efforts at strengthening the capacity of the legislature to adequately play its role. The National Assembly comprises the Senate (the Upper House) and the House of Representatives (the Lower House). Many observers believe that the National Assembly can be an adequate tool for democratic governance in Nigeria. For instance, the National Assembly is designed such that:

> "The Senate has 109 seats with three elected members from each of the 36 states of the federation and one from the Federal Capital Territory (FCT), Abuja, all under principal officers headed by the Senate President. The House of Representative is a 360-member House headed by a Speaker. The number of seats per state in the House of Representatives is determined by population. Election into the National Assembly is by popular votes of a maximum of four-year term, which could be renewed for another legislative term of four years. Both the Senate and the House of Representatives of Nigeria make laws with which the country is governed" (Garuba 2008: 4-5).

The National Assembly, by its structure, presents an adequate platform to further the implementation of the NEITI. Law makers who represent local people at the National Assembly could be utilized to sensitize their constituencies on revenue transparency (*Interview no. 14*). However, in a communiqué issued at the end of a civil society workshop, it was noted that:

> "…there is a lack of an existing formalised and coordinated structure by the NEITI secretariat in building the capacity of the legislature and relevant committee staff of the National Assembly on the NEITI process to carry out its legislative oversight functions on the process."[30]

This suggests that even in the NEITI implementation, the legislature is not yet fully incorporated. An interviewee for this study whose organisation has taken up the challenge of updating the law makers on NEITI implementation insists that having a few lawmakers on the NSWG Board is insufficient and suggests that there should be:

> "a committee with oversight responsibility of the NEITI process in the National Assembly and the process is too important to be an addendum to the roles and responsibilities of any committee in the National Assembly" (*Interview no. 14*).

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[30] CISLAC Communique, July 25, 2008

Another interviewee, a journalist who covers events at the National Assembly for one of the leading media houses in Nigeria, also agrees that:

> "There is a need for the NEITI Secretariat as part of its structuring process to put in place an adequate institutionalised mechanism for building the capacity of the legislature around issues of the NEITI process" (*Interview no. 27*).

The Judiciary is also an important arm of government that is not yet properly incorporated in the NEITI process considering the crucial role it plays. The judiciary is often involved in the settlement of disputes between stakeholders in the Nigeria extractives industry. The judicial system in Nigeria also suffers from the effect of prolonged military rule and there are strong feelings that presently it is not completely independent and this also presents some challenges to resource management. The result of a survey carried out by Frynas (2000) "indicates that the judiciary and the legal process may be more biased in favour of oil companies than the opposing litigants in oil-related litigation" (2000:7). The case below illustrates how the judiciary in Nigeria influences the outcome of events in the Nigeria extractives industry:

> On 14 November 2005, the Federal High Court of Nigeria ruled that gas flaring was a violation of the constitutionally guaranteed rights to life and dignity, and ordered that flaring end in Iwerekan. On 10 April 2006 the Federal High Court granted a conditional stay of execution of the court order. Three conditions were attached, including that Shell and NNPC stop gas-flaring activities in Nigeria by 30 April 2007. The court also told SPDC [Shell] to produce a detailed plan of action, showing how they would stop gas flaring in Iwerekan. Jonah Gbemre's legal representative attended the court on 30 April 2007. He discovered that, not only had no detailed scheme for stopping the flaring had been submitted, but that the judge had been transferred to another court district and the court file was not available. No representatives of the company or government turned up. SPDC subsequently obtained a further stay of the court order, with no known conditions attached. As of May 2009, two years after the expiry of the original deadline, gas flaring continues in Iwerekan (Amnesty International, 2009:77).

It is acknowledged that this lack of dependability on the judicial system in Nigeria as an effective means of seeking redress for social injustice often “leaves the oppressed with little option than to resort to anomie” (Asobie, 2009:17).

Weak Electoral System

Of greater significance to the overall objective of accountability is the weak electoral system which has been a subject of controversy over the years in Nigeria. The electoral system in operation is believed to be responsible for the poor conduct and controversial outcomes of elections in Nigeria. The implication is that elections fail to be a reliable tool for voters to demonstrate disapproval of unsatisfactory political agents, political parties or policies. Many believe that the existing electoral system cannot guarantee a free and fair election in Nigeria. As at the time of conducting this study, reform of the electoral system is also being debated at the National Assembly. The effectiveness of NEITI also hinges on a successful reform of the existing electoral policy to ensure that elections become a valid tool for holding public officials to account. Presently, the situation is such that:

> “Nigerian politicians have no compelling reason to genuinely struggle to secure the mandate of the people; democratic legitimacy is not on their agenda. On the contrary, they use the revenue accruing from oil to, among other things, placate the leaders of various groups or to purchase coercive instruments to beat them into line” (Asobie, 2009:17).

Groenedijk (1997) argues that the voters in a resource-rich country are the principal, while the government is the agent and democracy is the contract between the parties.

Hence, elections are considered very vital means for the voters to demand accountability from political leaders. Dimeari von Kemedi further believes that:

> "The other leg of accountable governance of course is legitimate, free and fair elections without which governments can neither be truly representative or accountable. Where the votes of the people do not determine what government comes into power, as appears to be the case in Nigeria today, revenue transparency is a tall dream. An expectation of self-regulation may not entirely be realistic" (PWYP Nigeria, 2005:33).

4.5 The Implications of the Nigerian Structural Environment for the NEITI implementation and Effectiveness: Revisiting the Research Question

In this chapter, we explored answers to the research question: *how and why does the structural environment influence collective action for the provision of resource transparency?* In the foregoing, sections we have examined the aspects of the Nigerian structural environment that have key implications for the implementation and effectiveness of NEITI.. This section summarises these findings with emphasis on how and why these factors manifest on the NEITI outcome. The overall argument in this chapter so far seems to be captured in the statement below that the objectives of NEITI:

> "while going a long way in establishing transparency and accountability may in itself be a dead end when the chain of values expected to bring about genuine national development is circumscribed by structural deficiencies" (CISLAC, 2008).

Specifically, evidence analysed in this chapter suggests that there are key interconnected factors within the structural environment that have implications for the effectiveness of collective action for resource transparency. These factors include the prevailing political economy, the structure of the industry and the strength of complementary institutions. In the NEITI example, these factors present challenges to achieving the two key objectives of collective action and resource transparency. The findings in this chapter seem to be consistent with many studies conducted on the Nigerian structural context. For example, Idemudia (2009:18) argues that "it is the governance-failure complex that informs the lack of an enabling environment for the emergence of a developmental state that can equitably redistribute and efficiently utilize natural resources revenue". The Nigerian structural environment overall seems to evoke a feeling of pessimism about the ability of NEITI to achieve the objectives of resource transparency and accountability. NEITI, as a result of the inherent structural problems in the Nigerian environment, is often viewed as a "little drop in an ocean" (*Interview no. 17*). This feeling of pessimism in itself also constitutes a challenge for the implementation of NEITI as the current NEITI Chairman acknowledges in the following statement during the inauguration of the current governing board of the initiative:

> "Our leadership shall be transformational, rather than transactional. We shall work to effect a fundamental shift in the deep orientation of all stakeholders in the extractive industries, in the way they see the world and the way they define the future and what is possible" (Asobie, 2008:2).

At the same time the expectations from NEITI seem to be too high. The effect is that the NEITI implementation is therefore unable to stick to the narrow focus of the global EITI strictly as an initiative for information disclosure on resource revenue only. The expectations of many interviewees and observers is that the NEITI implementation should reflect the complexities and realities of the Nigerian structural environment by including such areas as contract and expenditure transparency, solid minerals, and expansion to sub-national levels. In trying to cope with these expectations, the resources available for the NEITI implementation appears apparently stretched. The initiative tends to lack focus hence weakening its effectiveness.

However, even though it seems apparent, the significance of some of the contextual factors highlighted above seem not to have attracted due considerations in the NEITI implementation. For instance, the fact that the complementary institutions necessary for NEITI effectiveness are lacking seems to be taken for granted. There are strong suggestions from the foregoing that government's level of commitment towards overall governance institutions building seems to be key to the effectiveness of NEITI. Hence, NEITI can hardly achieve higher than the ambitions of the government of the day. And the ambitions of the government agents in Nigeria are strongly shaped by the structure of incentives occasioned by the factors within the structural context. In fact, the NEITI objectives seem to be a threat to vested interests in the existing incentives structure. Overallthe evidence discussed in this chapter strongly supports the argument that the local context is crucial in determining the effectiveness of collective action for resource transparency.

4.6 Conclusion

The key aspects of the Nigerian structural environment that have significant implications for the implementation and effectiveness of NEITI have been discussed in this chapter. The main argument is that the Nigerian political economy, the structure of the Nigerian extractives industry, and the nature of existing complementary institutions to NEITI are among the significant determinants of the effectiveness of NEITI in achieving the objectives of resource transparency and accountability. These factors combine to engender an incentives structure that runs contrary to the objectives of NEITI. Therefore, any chance of NEITI making any meaningful impact depends on the ability of the initiative to alter the existing incentives structure.

Furthermore, these contextual factors also inhibit NEITI's ability to successfully restructure the incentives structure. The evidence analysed in this chapter strongly supports the view that NEITI's effectiveness is strongly tied to complementary efforts at improving other requisite governance institutions, such as the electoral system and the Freedom of Information Law. However, because improving these complementary institutions and removing the obstacles to NEITI implementation present some level of threats to some key stakeholders, a lot would depend on the perceptions and commitment of these key stakeholders. This highlights the strength of the incentives structure in the domestic environment towards determining the outcome of a MSI aimed at strengthening institutions at the domestic level. The overall design of the EITI gives little consideration to these domestic and structural factors yet the effectiveness of the country implementation is essentially determined by the structural factors. What this demonstrates is that resource transparency as desired by the proponents of the EITI will hardly be achieved, and even if it is, its impact would be limited by the structure of the local context. However, the local context also includes the stakeholders who also shape the process and outcome of the MSI. The next chapter explores the nature and characteristics of the stakeholders to NEITI and how they also influence the effectiveness of the initiative.

CHAPTER FIVE

NEITI AND THE STAKEHOLDERS

Our operational philosophy shall be informed by the assumption that the "answer lies within", that each one of us is the decisive element in whether we succeed or fail. It is our personal approaches that will create the climate and shape the environment within which we will operate. I believe that, individually and collectively, we possess the tremendous power to make life joyous or miserable for our people. We have a choice to be a tool of torture or an instrument of inspiration for Nigerian people. - Prof. Assisi Asobie, NEITI Chairman, during the inauguration of the second National Stakeholders Working Group (NSWG) on the 29th of January, 2008.

5.1 Introduction

This chapter deals with the second research question of this study which explores how and why the characteristics of the component agents to collective action, and the relationship between and amongst them, influence the effectiveness of collective action for resource transparency. Particularly, this chapter examines the character of the stakeholders to NEITI, their interrelationships and how and why these influence the implementation and effectiveness of NEITI. It is strongly believed that the effectiveness of collective action for resource transparency would be influenced by both the character of the component agents, and the nature of the relationship between and amongst them (Hemmati, 2002). This is mainly because while the characters of the stakeholders define their disposition and commitment to collective action, the nature of their interrelationships prior and during collective action also reflects in the balance necessary for the success and effectiveness of collective action. Thus, the EITI draws its strength from the multi-stakeholder framework which has the potential of bringing all stakeholders to a common platform for a chance to harmonize their diverse interests (Hemmati, 2002). However, achieving a truly multi-stakeholder platform remains a challenge to the implementation of EITI in Nigeria.

The key argument is that the diverse and sometimes competing interests of agents together with the disparity in their relative capacity of influence on o ne another, would constitute challenges to collective action (Bandiera et al, 2005; Shapiro, 2005:267). Stakeholders' commitment and contribution to the provision of resource transparency tend to be influenced by their perception of the benefits and costs that resource transparency presents (Kolstad and Soreide, 2009). Kolstad and Soreide particularly believe that "an analysis of agents and their incentives in the natural resource sectors are [sic] important to understand how rules and institutions should be designed to reduce the risk of corruption" (2009:223).

The greatest strength of the EITI may well lie in its multi-stakeholder framework, but what conditions are necessary for its effectiveness? While a balanced composition of all key stakeholders is considered a critical success factor for MSIs (Hematti, 2002, Biermann et al 2007), identifying and engaging the right stakeholders could constitute challenges (Wood and Gray, 1991). This chapter therefore explores the character of the NEITI stakeholders and the relationship amongst the identified stakeholders. However, evidence also suggests that there are challenges also emanating from the identification of stakeholders to the NEITI. Therefore, how are the NEITI stakeholders identified and are there challenges posed by any gaps in identification?

The rest of this chapter is arranged as follows: In section 5.2, we discuss the three broad categories of stakeholders who constitute the NEITI 'key' stakeholders. Section

5.3 examines the nature of the relationships between the 'key' stakeholder categories and the implications for the implementation of NEITI while section 5.4 considers the possible gaps in the identification of 'key' stakeholders to the NEITI and the implications for the implementation and effectiveness of the initiative. Section 5.5 concludes the chapter.

5.2 Identifying NEITI Stakeholders: Key or Wider Stakeholders?

The concept of 'multi-stakeholder initiative' tends to conjure an image of a village square setting involving all parties affected by an issue, perhaps in a face to face round table discussion. Of course, in reality, this is scarcely obtainable. The challenge therefore is in achieving a truly representative platform capable of accommodating the interests of as many stakeholders as possible (Hemmati, 2002). Apparently, a first step in this direction would involve a proper definition of the stakeholders to the issue requiring collective action. First, the conceptualization of the term 'stakeholder' and deciding "who really counts" is considered critical to the effective organisation of collective action. (Rowley, 1997). This is to ensure that the resultant platform is as inclusive as possible, and hence reduce the chances of possible free-riding.

Freeman (1984:46) defines the term 'stakeholder' as "any group or individual who can affect or is affected by the achievement of the firm's objectives". Similarly, Clarkson (1995) views a stakeholder as having something to lose or gain, depending on the behaviour of an organisation. However, the global EITI in its sourcebook defines a 'stakeholder' as "an individual, community, group or organisation with an interest in the outcome of the EITI, including both those who are affected by it (positively or negatively) and those who are able to influence it (in a positive or negative way)" (EITI, 2005:5). As earlier noted in Chapter 3 of this thesis, resource transparency and accountability have varied implications for a wide range of stakeholders. Hence, the global EITI further acknowledges that stakeholders would be classified into "key" and "wider" stakeholders according to their "level of interest" and "degree of influence" (EITI, 2005: 5-6). Therefore, the EITI emphasizes that the key stakeholders to the initiative are essentially the government, industry, and civil society. Expectedly, the NEITI implementation tends to follow this recommendation and in the sub-sections below we explore each of these categories of stakeholders in the case of NEITI.

5.2.1 Government Stakeholders to NEITI

As discussed in Chapter 3, the role of government in any effort to provide globalised national public goods such as resource transparency is very vital. Among other things, it is essential because governance reforms and regulations are required for the effort to be effective and sustainable. In Nigeria, government is not only the regulator of the extractives industry but is also directly involved, through the state oil company, in every stage of crude oil production. Therefore, the government stakeholders to NEITI include all the government ministries, departments and agencies that are directly or indirectly involved in the extractive industries in Nigeria. However, in practice, only a few of these entities are actively involved in the NEITI implementation process. They include: the Department for Petroleum Resources (DPR) – the regulatory agency; the Federal Inland Revenue Service (FIRS) – the revenue agency; and the Central Bank of Nigeria (CBN) – the government's funds repository.

Overall, government involvement in NEITI implementation reflects the dominance of the executive arm of government (discussed in Chapter 4) as the other arms of government are marginally involved. For instance, the role of the legislature, as elected representatives of the citizens, is not fully recognised. In the current multi-stakeholder governing board of NEITI, for instance, there is no member of the legislature, nor is there a dedicated committee in the National Assembly overseeing the activities of NEITI. However, the stakeholders who control and determine government interests in NEITI are the top level politicians and technocrats to whom the outcome of NEITI in terms of accountability may have larger implications. The arrangement is such that any major impact that NEITI would have on the structure of the agencies above would need to be sanctioned by the "higher" authorities, which again would depend on their disposition and political will towards the objectives of NEITI. The NEITI audit reports for instance have made a number of revelations about the improper functioning of the DPR, but remediation of these findings have been slow because they seem to touch on "vested interests". A senior staff of the CBN, who has also served on the governing board of NEITI, acknowledged that "government needs to be genuinely interested in transparency for NEITI to succeed. NEITI alone cannot achieve so much" (*Interview no. 24*).

The successful implementation and effectiveness of NEITI is therefore strongly linked to the role of government in the initiative. A considerable amount of political will and government buy-in is hence required for the initiative to achieve any meaningful progress. Available evidence indicates that this enormous reliance on government, particularly on the disposition of key political actors, creates both opportunities and challenges for NEITI. Government actors are often motivated by their perceived incentives from the outcome of NEITI. NEITI benefitted immensely at inception by the positive disposition of some key government officials. It is believed that such key government official such as Ngozi Okonjo Iweala, the former Finance Minister (currently President of the World Bank), and Obiageli Ezekwesili, the former minister for solid minerals development, and inaugural chairperson of NEITI, influenced the resource transparency movement in Nigeria.

For instance, it is also believed that the revenue transparency reform apparently started under the former finance minister. Her initiation of the publication of revenue allocations made to all tiers of government in major national newspapers attracted positive public reactions and created a lot of discomfort to political leaders especially at the states and local governments. She also introduced the Fiscal Policy that gave rise to the Fiscal Responsibility Act (FRA) which initiated the stabilisation of excess crude oil proceeds. Specifically, and of considerable significance to the NEITI implementation, she established the Oil and Gas Accounting Unit (OGAU) in 2004 to boost the role of the ministry of finance in monitoring government revenue from the oil and gas sector. An interviewee for this study, a policy and financial analyst and a former staff of the OGAU, acknowledged that the work of the unit provided key technical support for the NEITI implementation which was crucial to the initial success recorded (*Interview no. 25*). The functions of the OGAU, among other things included:

- Review of petroleum profit tax and royalties paid by oil companies;

- Monitoring of revenue flows to government – a model was specifically designed for this purpose;
- review of Memoranda of Understanding (MOUs) between government and companies – this review revealed that the letters of the agreements were not strictly adhered to, especially by the IOCs, leading to a shortfall in government revenue of up to $326 million in 2004 alone (Shaxson, 2009); and
- Development of models that can explain the operations of the oil and gas industry.

While the foregoing represents an example of commitment to transparency from government agents, available evidence suggests that it may be an aberration rather than the norm. Predominantly in Nigeria, government agents are rarely interested or committed to resource transparency. This became quite apparent when some of these key officials departed office, as the resource transparency drive appeared to lose the momentum achieved by the key officials. This highlights the argument that the characteristics of the government agents and their perception of resource transparency influence the implementation and effectiveness NEITI.

5.2.2 Industry Stakeholders to NEITI

Key industry stakeholders to NEITI include all the public and private companies who operate within the Nigerian extractives industry. These companies are also both local oil companies (LOCs) and IOCs. However, the Oil and Gas industry is dominated by the IOCs, especially by the big six IOCs: Royal Dutch Shell (Shell), Mobil, ChevronTexaco, NAOC/Phillips, Elf, and PanOcean. These big six IOCs, through their Joint Venture (JVs) Agreements with the NNPC, control over 70% of oil and gas production in Nigeria. There are also about 19 other oil and gas companies who operate Production Sharing Contracts (PSCs) with the NNPC on be half of the Nigerian government (Asobie 2009). With the expansion of NEITI to the solid minerals sub-sector, mining companies are becoming gradually concerned with the implementation of NEITI, but there overall contribution and involvement is still marginal (*Interview no. 1*).

It is widely believed that the basic interest of industry stakeholders in resource transparency is the hope that it would contribute towards engendering a favourable environment for their activities (Morrison and Wilde, 2007). Oil and gas companies in Nigeria have often been direct victims of the agitations from aggrieved citizens and civil society activists, especially in the Niger Delta. There are claims that the IOCs play a part in the mismanagement of Nigeria's resource wealth. This claim is also supported by emerging facts about allegations of corruption, bribery, and collusion with government, involving major IOCs operating in the country (Shaxson, 2009). As a result, the IOCs' face incessant violent attacks on their personnel and investments that not only disrupt their production but also threaten their continued operation in Nigeria. The need to redress this situation and perhaps clear the 'wrong' perception of the public seems to provide a strong incentive for the IOCs commitment and participation in the NEITI implementation.

Therefore, the NEITI appears to be a test of how companies value their reputation and public perception. Some IOCs in Nigeria have shown strong support for NEITI and have followed up on their commitments to the implementation of the initiative. Many have used their websites and other available means to declare their support for the NEITI and the overall resource transparency. For instance, Shell is often cited as one of the companies at the forefront of the resource transparency campaign. Shell was the first to independently publish its payments to the Nigerian government. Although it appears that Shell's efforts towards resource transparency in Nigeria are yet to produce the desired effects as it has recorded the highest number of militant attacks in recent times (*Interview no. 34*). It is believed that this may be due to the fact that Shell controls a large share of onshore exploration in Nigeria and as such most of its facilities are easily within the reach of protesters and militants. Shell is the most visible oil company in the Niger Delta.

Similarly, ExxonMobil have also been supporting resource transparency and have been involved with the implementation of NEITI and in other countries such as Azerbaijan, Kazakhstan, Cameroun, Equatorial Guinea, Madagascar and Chad. On the company's website they declare that:

> "As part of our commitment to honest and ethical behaviour, ExxonMobil constructively participates in transparency and anti-corruption programs. We offer our assistance to countries seeking to implement greater transparency in order to increase disclosure of financial information, which is fundamental to good governance. This can help stabilize the investment climate of a country, which is critical for attracting the large-scale investments necessary for meeting the world's growing energy demands" (ExxonMobil website, accessed 03/10/2008).

However, what seems to be evident from the IOCs' commitment to resource transparency in Nigeria is that it usually is limited to what is considered acceptable within the extractives industry in Nigeria. IOCs are still ultimately driven by their desire to advance their businesses and guarantee returns on investments for their shareholders and investors which "can be reduced to a single or scalar bottom line like quarterly profit or share price" (Dixit, 2002: 712). Some interviewees believe that the commitment of the IOCs can only be minimal considering that they are often more concerned about their global reputation where their significant markets are than they are for their reputation within the country (*Interviews nos. 4 and 32*). Despite their global declarations of support for transparency, many of the IOCs in Nigeria still engage in practices that fall short of the international standards which they claim to subscribe to. A report on the operations of Statoil, a Norwegian IOC, notes that:

> "Many consider Statoil to be in front among the oil companies when it comes to financial transparency. To us, the company does not seem to have any problems fulfilling the requirements of the Nigerian Extractive Industries Initiative. The fact that Statoil follows what seems to be the general Nigerian modus and does not make the Environmental Impact Assessments for their Nigerian operations publicly available, to environmental organizations or any other stakeholders apart from the Nigerian Department of Petroleum Resources, weakens Statoil's image of transparency, however. It thus seems clear that Statoil runs on double standards from its country of origin, where it would be unacceptable not to disclose such environmental information of public interest" (Amadi, Germison and Henrikson, 2006:3).

Moreover, the NEITI chairman revealed that while some IOCs have shown genuine commitment to the NEITI implementation, apparently the story is not the same for all the industry stakeholders in Nigeria. Some IOCs have had to be cajoled to as much as meet the minimum requirements of the NEITI implementation. The NEITI auditors also report that their job is sometimes hindered by the failure of some companies to promptly submit information necessary for the NEITI periodic audit exercises (EITI, 2006 and 2009). This also supports the argument that commitment would sometimes depend on stakeholders' judgment of the benefits and costs of participation in collective action. Although the NEITI law makes it mandatory for all companies to participate fully in the implementation of the initiative and also stipulates penalties for non-participation, no company has yet been punished. So far the greatest motivation has been from companies' perception of the potential incentives that the NEITI offers. Therefore, while the bigger companies who have bigger reputational and investment risks in Nigeria appear to be more committed to the NEITI implementation, the relatively smaller companies do not seem to show serious commitment. This supports the argument that individual firms commitment and contribution to collective action for global standards of good practice is usually influenced by their judgment of the benefit and cost implications because sometimes "the high cost of changing practices to meet a system's requirements acts as a deterrent" (Bernstein and Cashore 2007: 356). It is believed that IOCs are also not unmindful of the consequence of information disclosure. The International Crisis Group in one of its reports on the Niger Delta notes that:

> "Out of fear of having their position publicly undermined by activists, criminals or corporate competitors, companies hesitate to disclose information, particularly on funding and security but also on the environmental impact assessments they are legally obliged to make" (International Crisis Group, 2006:24).

A gap also exists in the coverage of the oil and gas industry by the NEITI implementation as there appears to be little attention paid to the local oil companies (LOCs). With the emphasis on IOCs there is the tendency that LOCs are overlooked, yet they influence resource revenue in no mean way. The 2005 NEITI audit report revealed that most of the LOCs do not pay tax at all (NEITI, 2009). Moreover, with government emphasis on growing local content (see section 5.4) in the extractives industry, it becomes a great concern because LOCs are not yet fully incorporated in the NEITI implementation (*Interview no. 11*).

5.2.3 Civil Society Stakeholders

The global EITI recommends that it is essential that civil society drives the local implementation of the initiative and in fact one of its criteria is that civil society must be "actively engaged as a participant in the design, monitoring and evaluation of this process and contributes towards public debate."[31] However, this element of the initiative is arguably one of the greatest challenges to the local implementation of the EITI as the capacity of the civil society in many of the implementing countries is a source of concern. This is important because involvement is usually not sufficient to guarantee that representation is adequate. Edmund and Wollernburg (2001: 245) argue that "securing an invitation to the negotiation table does not mean such groups will have their issues heard by other stakeholders."

The NEITI has adhered to this criterion, at least to the satisfaction of the global EITI monitors, and the initiative is also quite popular among the civil society community in Nigeria. The civil society in Nigeria is a broad name that includes Non-Governmental Organisations (NGOs), Trade Unions, the media, and Community and Faith Based Organisations (CBOs and FBOs). However, the recognised CSOs participating in the NEITI implementation are mostly NGOs who are formally registered with government and who claim to have objectives and activities that are connected with resource transparency (*Interview no. 11*). Many CSOs claim to operate within the area of resource transparency but very few are actively involved in the implementation of NEITI (*Interview no. 18*). In addition, it was observed that the few CSOs involved with the NEITI implementation do not devote their resources to the resource transparency campaign. The reasons range from their need to attract funding from

[31] Global EITI website http://eitransparency.org/eiti/principles accessed 25/02/2010

other activities since relying on resource transparency alone may not guarantee all their funding needs. During the field visit to Nigeria, it was difficult to identify any CSO solely dedicated to the implementation of NEITI.

For instance, the Africa Network for Environment and Economic Justice (ANEEJ) is among the CSOs at the forefront of the NEITI implementation. ANEEJ has carried out numerous activities and made a handful of publications on the NEITI implementation and the overall resource transparency campaign in Nigeria. However, it states on its website that its focus is "sustainable development, the alleviation of poverty and economic empowerment" (ANEEJ Website[32]). Similarly, the Civil Society Legislative Advocacy Centre (CISLAC) has also done a great deal of work on the NEITI and in partnership with the NEITI but its major objective is on legislative advocacy (CISLAC, 2008). However, the Publish What You Pay Coalition (PWYP) in Nigeria is believed to be the lead civil society movement which anchors civil society participation in the NEITI implementation. But the PWYP, with a membership of over 150 CSOs in Nigeria, appears to be a weak coalition bedevilled with funding and organisational problems.

Therefore, a number of challenges have been identified as inhibiting the effective participation of civil society in the implementation of NEITI, hence weakening the effectiveness of the initiative. The foremost challenge seems to be the apparent low level of capacity development of the civil society in Nigeria. It is believed that many of the CSOs in Nigeria lack the requisite funding and expertise to actively engage with the other stakeholders in the Nigerian extractives industry, especially the IOCs.

[32] www.aneej.org, accessed 28/03/2009

Civil society activism in Nigeria seems to be only just developing. Many organisations that exist as CSOs today transformed from pro-democracy groups who fought against military dictatorship (Igwe, 2009). Hence there are very few CSOs with an established track record of resource transparency advocacy. The strongest CSOs in Nigeria seem to be the local branches of global CSOs such as Transparency International (TI). Although there are a few strong CSOs in Nigeria who seem to focus on campaign and advocacy on environmental, gender or human rights issues, especially in the Niger Delta. But the activities of such organisations sometimes include agitations for resource control which does not seem to be truly representative of the overall agenda of resource transparency in Nigeria (*Interview no. 18)*.

In addition to the apparent lack of capacity, there is also the problem of "assumed representation" which is considered insufficient to effectively mobilise wider public participation (Rosenau, 2000; Gulbrandsen 2008; Houtzager and Lavalle, 2009). In fact, Rosenau (2000: 192) believes that involving NGOs in governance would always create accountability issues because "it is not clear to whom these organizations are responsible or answerable." Many of the CSOs engaged with the NEITI, are barely in touch with the constituencies they claim to represent, and in fact some have no clear mechanism for communicating with them. The few that are very active concentrate efforts on what an interviewee called 'elitist sensitization' with efforts concentrated at major cities in the country (*Interview no. 6*). Therefore, apart from there apparent lack of capacity in driving the NEITI, the CSO body in Nigeria, as presently constituted, cannot be relied upon as representing the key civil society stakeholders. There appears to be:

> "two main groups of people: first, a cluster in the Niger Delta and especially Port Harcourt – activists who are actively engaged, often heroic – and second,

> Abuja people, who spend their time whispering sweet nothings into donors' ears. There are one or two people somewhere in between. One question with civil society is the question of representation – who is representing whom – when do you hit bedrock?" (Shaxson 2009:26)

Another hindrance to effective civil society participation in the NEITI process is the internal division within the civil society community in Nigeria. An interviewee, a civil society leader, laments that the civil society:

> "do not seem to be with a collective voice… There is a lot of unnecessary competition for leadership. There is a lot of individualism in us, which we need to purge if we must succeed… We need committed and dedicated critical mass of action, lest government form their NGOs to be countering us" (*Interview no. 5*)

Many interviewees acknowledged this lack of unity within the civil society community as a challenge to NEITI implementation. The civil society leaders seize every opportunity to highlight the magnitude of this problem. A part of an address by another civil society leader and pioneer member of the NEITI governing board, to a civil society gathering reads thus:

> "we are here to share ideas, improve on our works and campaigns. Let us desist from "side talks" and "complaints" and rather come up with useful suggestions on how to improve the work of the coalition" (Ugolor, in PWYP Nigeria 2005:66).

Prof. Asobie, the NEITI Chairman, who himself has been a representative of the civil society since the inception of NEITI, also recalled that a certain dispute within the civil society body regarding who would represent them on the NSWG board meant that they could not meet for a while and as such could not make adequate input into the draft of the NEITI law (*Interview no. 9*).

However, there are also suggestions that effective civil society participation in NEITI is also hindered by the belief that the general feeling of insecurity that characterised the military era still persists. An observer comments that:

> "People don't want to commit themselves to such actions (resource transparency campaigns) because there is insecurity in the land. If the oil companies or government know you to be the leader of such campaign, there is the likelihood of their coming after you" (PWYP Nigeria 2005:16).

Due to the need to attract external funding, the CSOs often structure there programmes to reflect the yearnings of donors, who in turn have specific guiding principles. The CSOs are also engaged in an intense competition for funding amongst themselves. In addition, because these funding opportunities are limited, the CSOs are also limited in the strategies for deepening the NEITI that they can adopt hence their effectiveness is equally limited. Most of the civil society stakeholders interviewed confirmed that their activities are limited to organising workshops, seminars and conferences, and town hall meetings (which are often times ill-attended) and making publications (leaflets and fliers) about the NEITI and the NEITI audit reports. This finding is also corroborated in a recent report on the NEITI by Marie Muller of the BICC who found that:

> "Some interviewees were sceptical about the political strength of most of these NGOs, arguing that they were mainly interested in 'eating and surviving'. (Muller, 2010:36)

Again, this also emphasizes the role of incentives in the overall implementation and effectiveness of the NEITI. Bernstein and Cashore argue that:

> "Like firms, environmental and social groups ... make choices driven by strategic calculations that fit their own core values and organizational self-interest." (Bernstein and Cashore 2007:357).

How does the NEITI address the challenges associated with civil society participation?

Despite its importance, the evidence that civil society participation in the NEITI is weak and sub-optimal is quite robust. NEITI implementation and effectiveness is considerably impaired by the low level of capacity of the civil society. For instance, at the launch of NEITI in February 2004, civil society was not adequately represented. The PWYP Coalition in Nigeria was initiated just two days before the inaugural conference of the NEITI in Abuja (PWYP Nigeria, 2005:3). The implication is that the civil society was not properly involved in the designing phase of NEITI. It has been recognised that the adequate involvement of all stakeholders in the designing phase of collective action is crucial to its implementation (Hemmati 2002). In the book *Drilling Down*, edited by David Goldwyn (2008) it is noted that:

> "Many of the most important decisions pertinent to a country's EITI stakeholders are made in the very early stages of deployment, when civil society groups are weakest in terms of understanding the EITI and least equipped to participate in key decisions that will determine the usefulness of the EITI process" (2008:22).

However, in order to ensure that the NEITI implementation at least satisfies the minimum requirements regarding civil society participation, it became necessary to set up a Civil Society Steering Committee "which is the platform through which the various organisations can effectively participate and contribute to the achievements of the NEITI objectives (NEITI, 2006[33]).” A Memorandum of Understanding to this effect was signed between the NEITI governing board and civil society participants in February, 2006 (NEITI, 2009). The MOU, among other things, further established the importance of effective civil society participation in the NEITI implementation process, and also established the portfolio of a Civil Society Liaison Officer in the NEITI Secretariat, whose role is to act as a link between the governing board and the civil society community.

However, many interviewees contend that while these efforts have helped to bolster civil society participation in the initiative, the quality of the impact of civil society is still undermined by the overall governance structure of the NEITI (*Interview nos. 2, 3, 5,6,11, 18, 22*) (please see Chapter 6 for a detailed discussion). Out of the 15 members of the governing board only three represent the civil society and this sometimes means that the civil society has little influence on the outcome of decisions (Muller, 2010).

In summary, evidence shows that what often determines the commitment of stakeholders to the NEITI implementation is their various perceptions of the incentives and costs that are involved in the process.

5.3 The Nature of the Relationship between and amongst the Identified Stakeholders

What is perhaps more significant for NEITI implementation is the nature of the interrelationships between the key stakeholders (Fransen and Kolk, 2007). Since the

[33] Minutes of NSWG Board meeting held on 15th February, 2006, page 3

stakeholders have not just divergent goals and interests, they also have different levels of power and influence and these have implications for the outcome of implementation (Hemmati 2002). Fransen and Kolk (2007) believe that:

> “Multi-stakeholder standards’ development is not only affected by the quality and nature of the stakeholders, but also by the specifics of the interaction between stakeholders and companies.” (Fransen and Kolk, 2007:670)

Achieving harmony among diverse stakeholders is believed to be the greatest challenge to MSIs. This is often influenced by the nature of the interrelationships between stakeholders both prior and during the collective action. Minu Hemmati (2002) further argues that achieving consensus:

> “can represent an enormous challenge since many multi-stakeholder partnerships bring together stakeholders of very different perspectives and power – such as local or indigenous communities and transnational corporations. To do j ustice to the various points of view and interests, participants need to treat each other as equals…This requires tolerance, mutual respect, the willingness to find consensus and a strong sense of justice. It is equity in practice. (2002: 47)

In the following sub-sections we explore the nature of the interrelationships between the stakeholders to the NEITI, highlighting how and why it influences the implementation and effectiveness of NEITI.

5.3.1 Government and Industry (IOCs): A ‘Marriage of Convenience’

The constant interaction between the IOCs and the public officials tends to provide substantial scope for collusion and corruption (Kolstad and Soreide, 2009:219). In the relationship between the Nigerian government and the companies, especially the IOCs, there are three key issues that are clearly evident. First, the government agencies responsible for regulating and managing the extractives industry, especially the Department for Petroleum Resource (DPR) lack the requisite capacity to effectively regulate and monitor the IOCs. This situation many believe gives the IOCs undue advantage to manipulate the system, and thereby hampers resource transparency. The level of the capacity of the DPR, the agency that regulates the oil and gas industry, is no match to the sophistication of both the technology and processes of the IOCs (*Interview nos. 2, 7,11, 34, 42).*

The second is that the government is not only the regulator of the EI but also a partner in EI projects (Asobie, 2009). This relationship manifests especially in the JV agreements that the government has with the IOCs. As partners in business, the oil companies and government are locked in a mutually beneficial relationship or what Karl (2007) describes as a ‘marriage of convenience’ and as such are less likely to pursue divergent objectives. It is widely believed that in implementing the JVs, the companies have a greater advantage over the government especially since they control the technology, expertise and sometimes financing necessary for oil extraction and production *(Interview no. 34).* For instance, an observer notes that:

> “Before the revenue is shared between the oil companies and the Nigerian state, the production cost of the oil is deducted. And the oil field operators, the oil companies, determine that production cost. The production cost includes everything from the food the company workers eat, the cars in the company's car pool, the fines for gas flaring and whatever else they can think of. The production cost sharing formula in use today were negotiated 10-20 years ago when oil price realities were much different than today. (Environmental Right Action, 2009:5)

An interviewee, a tax expert who has been involved in auditing the tax payments of major IOCs in Nigeria for eight (8) years, corroborates the above statement, maintaining that the IOCs have various ways of manoeuvring their tax payments to keep it at the barest minimum at the expense of the government. She also agrees that the low level of knowledge and expertise within the FIRS makes the situation even worse (*Interview no. 43*).

The third key issue is that the companies also share secrets of the details of the oil deals and contracts with government agents. This has been a major source of contention especially as it concerns the implementation of the NEITI. Many believe that the NEITI implementation will achieve very little impact with the contract details remaining sacred (*Interview no. 1*). For instance, details of agreed signature bonuses are often kept secret and a writer observes that:

> Oil blocks licensing has become a bazaar in Nigeria. Huge signing fees are exchanged as though the players in the game were soccer or music stars. It is sad that these huge revenues are not adequately accounted for. The NEITI auditors recorded that they could not confirm all Signature Bonus payments in the year 2005 reported to us by DPR and the companies. The management of signature bonus in 2005 was not transparent. We need not add to this. (ERA, 2009:8)

However, despite this 'marriage of convenience', companies would be quick to admit that Nigeria is one of the toughest places to do business. This is largely due to the high level of corruption among public officials and the inconsistency of government policies. Lately, the Niger Delta crisis has also become a major source of disagreement between the government and the companies. While the government accuses the companies of insufficient corporate social responsibility (CSR), the companies blame the crisis on government weakness, insisting that CSR cannot replace effective governance (International Crisis Group, 2006). Also the IOCs have been known to have resisted certain government policies. Although most of the companies support the implementation of the EITI in Nigeria, greater pressure was required from government to make them accept the disaggregated reporting format for NEITI Audit Reports [34] (Shaxson, 2009). IOCs were also not comfortable with the recent decision by government to review all Memoranda of Understanding with companies in order to bring them up to date with prevailing circumstances (NNPC, 2008).[35] Government and the IOCs have also often disagreed on such other issues as gas flaring and the local content policies. But the companies almost always find strategies of manoeuvring these policies to ensure that they have minimal negative impact on their business. Public officials on their part are also not unwilling to be flexible with the application of the policies knowing that whatever affects business interests invariably affects their own interests as well (*Interview nos. 1, 3, 9, 34*).

Therefore, the argument is that although they may sometimes disagree, the fundamental relationship between government and the IOCs which is a mutually beneficial 'marriage of convenience' is rarely affected. The implication is that the NEITI outcomes most often are easily predictable because as partners, the oil companies and government are less likely to pursue significantly divergent objectives. (Environmental Rights Action, 2009:8). Many believe that the overall effectiveness of NEITI depends, to a considerable extent on fundamental changes to this 'marriage of convenience' between government and key industry stakeholders (*Interview nos. 2, 7, 11, 34, 42).*

[34] Companies often prefer the aggregated reporting format to the disaggregated format, which discloses all information contained in the audit according to specific companies. Nigeria was among the first countries to adopt the disaggregated format

[35] NNPC News

5.3.2 Companies and Civil Society/Communities: Mutual Suspicion and Distrust

In addition to a cordial relationship with the government, the IOCs also understand the significance of a 'social license to operate'. In their bid to secure this, they face enormous challenges especially from the communities in the environment they operate and civil society organisations. The relationship between companies and the civil society in Nigeria is anything but cordial. The communities especially believe that the companies, with government collaboration, deprive them of their human rights and degrade the environment without restraint. The IOCs often claim that their Corporate Social Responsibility (CSR) projects in Nigeria are sufficient to earn them the 'social license to operate'. However, communities and CSOs maintain that some of the CSR projects are ill- executed and sometimes divisive. A civil society activist notes that the IOCs are:

> "... enmeshed in project diversion hence their community projects are not done on the basis of needs assessment in most cases. The whole thing is like stealing a shirt from a man and throwing the button back at him and you expect him to be happy" (Publish What You Pay Nigeria, 2005:36).

An interviewee for this study also revealed that a road constructed by Shell in Uzere Community in Delta State is recorded as a CSR project even when this road leads to the Shell facility in the community (*Interview no. 7*). Furthermore, CSOs also accuse the IOCs of fuelling the crisis in the Niger Delta through their discriminatory strategies in their relationships with communities (International Crisis Group, 2009), and through their employment of militants to provide surveillance and protection for their facilities (International Crisis Group, 2006). For instance, communities accuse

IOCs of indirectly funding violence and militant activities in the Niger Delta through payments that they make to:

> "… militant leaders in return for "surveillance" and protection of pipelines and other infrastructure. This practice, frequently cloaked as community development, has fuelled conflict through competition for contracts and by providing income to groups with violent agendas. Oil companies also pay allowances, perks – and sometimes salaries – to "supernumerary police", as well as regular duty police and soldiers deployed to protect oil installations. Security forces consider these plum postings and are alleged to use excessive force to protect company facilities and their jobs" (International Crisis Group 2006:1).

The relationship between CS and IOCs is characterised by mutual suspicion. Aware of the implications, the IOCs are often unwilling to grant the request of the CS activists for access to their vital information especially as it regards contract details and their environmental impact assessments. Access to company information is an impediment to the resource transparency campaign and NEITI implementation. A recent report by the Amnesty International on the Niger Delta acknowledges that:

> "Communities frequently do not have access to basic information on oil projects – even when they are the "host" community. An internal SPDC [Shell] report highlighted the lack of transparency in the company's operations in relation to many issues that affect communities, and the negative impact this has. According to this 2003 report, SPDC does not "provide substantial information about the scope, impact and duration of major projects" and "there is a widespread corporate assumption that any information can be used by communities against the company… As there is no mechanism available to communities to obtain accurate information the company leaves itself vulnerable to misinformation and rumours that feed grievances." (Amnesty International, 2009:62)

The IOCs' unwillingness to yield vital information is linked to their fear of the consequences of such exposure on their reputation and competitiveness. This is a challenge to NEITI because without the release of relevant information the confidence of the civil society, and indeed that of the Nigerian population, on the effectiveness of

NEITI is weakened (*several interviews*). It is believed that the implementation and effectiveness of NEITI is also hinged on t he nature of the relationship between industry and the civil society and communities where they operate.

5.3.3 Civil Society and Government: Distrust and Antagonism

The nature of the relationship between government and the civil society also has a considerable impact on the implementation and effectiveness of NEITI. As earlier noted, before the signing up t o NEITI, the nature of the relationship between government and CSOs was largely characterized by the antagonism that existed during the period of military rule (Lakemfa, 2005 in PWYP Nigeria, 2005: 28). NEITI ushered in a new era in this relationship but there is evidence that the feeling of mutual distrust and antagonism still pervades. The NEITI civil society Liaison Officer notes that:

> "One thing that lingered from our days under the military is the atmosphere of mutual suspicion that existed between civil society groups and government" (*Interview no. 20*).

He aptly describes the nature of this relationship as "us and them" whereby the civil society and government view each other to belong to two different antagonistic factions rather than part of the overall governance process. The implication is that government fails to carry the civil society along, while the civil society on the other constantly opposes government. Some interviewees note that the problem is that government is often poised to win these battles. This is because government can easily weaken the civil society through patronage, lobbying or through the use of sheer force.

This relationship is a challenge to the NEITI implementation as government is often accused of being "hesitant in carrying genuine civil society working on the issue [of *resource transparency*] along" (PWYP Nigeria 2005:35). A civil society activist claims that there seems to be "competition for space" between the government and the civil society. While the civil society body acknowledges that the NEITI, especially with its multi-stakeholder framework, offers a genuine opportunity for it to advance the resource transparency campaign in Nigeria, observers believe that government seems to be weary of allowing civil society to have considerable control of the initiative.

In summary, managing these interrelationships has presented some challenges to the implementation of NEITI. However, evidence also suggests that there are yet some stakeholders beyond the three broad categories whose role in the resource transparency campaign are considered crucial. How does the NEITI implementation recognise these other key stakeholders considered crucial to the deepening of the initiative but who do not clearly fall within the three broad categories?

5.4 Gaps in the Identification and Involvement of Stakeholders and Implications for NEITI

The recognition of key stakeholders along the broad categories recommended by the global EITI is not without some consequences. There is the tendency that given the characteristics of the NEITI key stakeholders discussed above, the wider stakeholders seem to be alienated from the implementation process. Many interviewees acknowledged that the hope of deepening the NEITI implementation depends on the ability to incorporate the wider stakeholders who are the ultimate principal in the resource wealth management chain. The Nigerian population including workers, youths, women, students, the unemployed, farmers, etc., especially in the hinterland across the country need to be somehow involved in the NEITI implementation for any chance of achieving optimal effectiveness (CISLAC, 2007). The NEITI currently relies on the CSOs participating in the NEITI to carry out the role of extending the initiative to the wider stakeholders. However the challenges highlighted under section 5.2.3 above greatly undermine the ability of the CSOs to effectively discharge this function. It is believed that NEITI lacks a systematic strategy for achieving an inclusive implementation.

NEITI has attempted to mitigate these consequences by introducing slight adjustments to its implementation process such as representation according to geopolitical zones. However, evidence suggests that there are some stakeholders who are considered key to the NEITI but who are not yet properly integrated in the implementation process, and this also undermines the effectiveness of the initiative. Despite the suggestion of the three categories of stakeholders above, the global EITI also acknowledges that:

> In some countries the number of stakeholders will be relatively few and easy to identify. However, in many countries the size and complexity of the sector has led to a proliferation of interested parties. In these cases, a fuller, formal analysis of these parties and of the drivers for EITI implementation will help to inform a country's decision on how to implement the EITI. (EITI, 2005: 17)

But certain considerations are necessary in order to reflect the domestic realities that are inherent in individual implementing countries. As Dr. Emmanuel O. Emmanuel of the Centre for Social and Corporate Responsibility (CSCR), and an ardent campaigner for resource transparency in Nigeria, has noted:

> The oil industry is complex and the Nigerian oil sector is no exception. The EITI template should be designed to reflect the complexities of the oil industry (Emmanuel, 2004:2).

The extractives industry in Nigeria is the mainstay of the nation's economy and as such there are varied stakeholders beyond the categories recognised by the NEITI implementation. It is believed that the ability to include certain key stakeholders whose power to influence decisions in a multi-stakeholder setting is only limited by the "social status, their representation in public fora or their negotiation capacities" is critical to the effectiveness of collective action (Edmund and Wollenberg, 2001: 249). The non-inclusion of these groups of stakeholders may mean that the opportunity of building "situated alliances" and agreements among some, if not all stakeholders, may be lost.

For instance, the Niger Delta crisis has created new key stakeholders whose involvement in the resource transparency campaign is highly imperative (ICG 2006). Ex-militants are increasing being recognised as key players in the extractives sector and in the overall political economy of Nigeria. The Federal Government's Amnesty Programme (which has recorded some success in addressing the Niger Delta crisis) seems to present an opportunity for a possible engagement of the ex-militants some of whom have assumed the role of opinion leaders even beyond their local communities after embracing the government's amnesty programme. The possible role of the ex-militants in the NEITI implementation has not yet been explored. A staff of NEITI interviewed for this study acknowledged that there are challenges in involving ex-militants in the NEITI implementation especially considering their wider public perception as criminals. However, Mitchell et al (1997:878) suggest that:

> "... failure to identify dangerous stakeholders would result in missed opportunities for mitigating the dangers and in lower levels of preparedness, where no accommodation is possible. Further, to maintain the integrity of our approach to better define stakeholders, we feel bound to "identify" dangerous stake-holders without "acknowledging" them, for, like most of our colleagues, we abhor their practices. We are fully aware that society's "refusal to acknowledge" after identification of a dangerous stakeholder, by counteracting terror in all its forms, is an effective counteragent in the battle to maintain civility and civilization. The identification of this class of stakeholder is undertaken with the support of this tactic in mind."

Nevertheless, there is ample evidence that despite the negative public perception of the militants, key stakeholders including government are increasingly (but reluctantly) recognising the need to engage with the militants in non-violent strategies. For example, before the Amnesty Programme was introduced, a "Stakeholders' Forum" convened in April 2006 by President Obasanjo to discuss the rising unrest in the Niger Delta "was attended by the governors of the Niger Delta states, national security force officers and international oil company representatives, as well as politicians and *some militant groups"* [emphasis mine] (International Crisis Group, 2006:190). Furthermore, IOCs have organised similar seminars and workshops involving militants and have sometimes engaged well-known militant groups for business and security activities. A report on the Niger Delta crisis notes that:

> … in May 2006, Shell admitted that two companies owned by known militant leaders "are on the list of approved contractors from the Shell Petroleum Development Company" to carry out pipeline surveillance and waste disposal. The companies – Shad-Ro Services and IPPS – were owned by two leaders of another well-known militant group, the Federated Niger Delta Izon Communities, which led Ijaw militants during ethno-political violence against rival Itsekiri and government forces in 2003 and 2004. The conflict resulted in hundreds killed and more than $500 million in infrastructure damage, including sabotage to ChevronTexaco facilities. The violence also forced the shutdown of 40 per cent of Nigeria's oil industry for several weeks (International Crisis Group, 2006:11).

However, it is understandable that limiting the NEITI implementation to the ‘manageable’ elite stakeholders could be essential for the smooth take off of the initiative in Nigeria. Observers believe that at some point, the initiative should be able to broaden its scope of participation to be more reflective of the Nigerian context in order to deepen the impact of the initiative and also indicate the seriousness of implementation in achieving the objective of resource transparency and accountability. Hemmati (2002) suggests that a two-tiered or an Electoral College form of representation could be considered if necessary in order to broaden the participation of wider stakeholders.

5.5 The Research Question Revisited

In this chapter, the research question explored is: how and why do the characteristics of the component agents (stakeholders) influence the effectiveness of collective action for resource transparency? The evidence analysed in this chapter shows that in participating in collective action for resource transparency, different stakeholders are driven by different interests and their perception of the benefits or costs associated with collective action differ considerably. The divergence of goals and interests hinders implementation and effectiveness as it is usually a ch allenge to build concensus. For instance, evidence shows that government’s commitment in the NEITI implementation seems to be influenced by the underlying concern that the initiative could threaten some vested interests in the management structure of resource wealth in Nigeria. As a result, there is often the tendency to maintain considerable control of events and outcome of the initiative. Similarly, while industry commitment to resource transparency at the global level is motivated by the need to address reputational concerns and growing risk to investments, IOCs operating in Nigeria seem to have less need to demonstrate this commitment in the NEITI implementation because their interests are strongly tied to that of government through their joint venture (JV) agreements.

Furthermore, the NEITI example shows that the system or process for defining or identifying stakeholders can complicate the problem. This is particularly because the identification of stakeholders to the NEITI implementation seems to leave gaps in participation as certain stakeholders considered to be key to the effectiveness of the initiative are not yet properly integrated into the process. Evidence shows that there is a focus on ' key' rather than 'wider' stakeholders (see section 5.2). In practice the NEITI implementation treats government and industry as the key agents involved in the management of resource wealth. Civil society organisations are merely involved as monitors of the process in order to fulfil the key requirements of the the global EITI.

Available evidence also shows that the implementation and effectiveness of NEITI is also influenced by the nature of the interrelationships between the participating stakeholders (see section 5.3). For instance, crude oil production in Nigeria is dominated by JVs between government and IOCs and as such there is a 'marriage of convenience' between the two groups of stakeholders. The implication is that NEITI outcomes are often predictable and are rarely contrary to the objectives of this 'marriage of convenience'. Civil society organisations also lack the requisite capacity to make considerable impact especially in the face of the strength of the alliance between government and the IOCs.

5.6 Conclusion

The evidence presented in this chapter demonstrates that the character of the stakeholders to the NEITI determine the implementation and effectiveness of the initiative. The perception of the various stakeholders of the benefits and costs of their participation in the NEITI process influences their commitment and contribution. Furthermore, available evidence also suggests that the entire implementation process is shaped by the nature of the interrelationships between and amongst the key stakeholders to the NEITI namely government, industry and civil society. For instance, the strong ties between government and industry through common business interests (Joint Ventures) imply that they hardly pursue divergent objectives in the implementation of NEITI. This alliance seems considerably stronger than the CSO participation in the initiative and as such the outcome of NEITI implementation is often easily predictable.

There are also suggestions that the strict adherence to the identification of the key stakeholders to the NEITI based on the broad categories of government, industry and civil society does not sufficiently represent the overall stakeholders to resource transparency in Nigeria. The complexity of the Nigerian situation implies that the exclusion of some stakeholders weakens the effectiveness of the NEITI as an inclusive platform for achieving the objective of resource transparency and accountability in Nigeria.

However, the challenges presented by the nature and character of the component agents to collective action as highlighted in this chapter could be overcome or reinforced through the governance structure that emerges for the collective action. Therefore, the next chapter explores the influence of the governance structure of NEITI on its implementation and effectiveness.

CHAPTER SIX

THE GOVERNANCE STRUCTURE, INSTITUTIONS AND PROCESSES OF NEITI

> *"Who gains, who loses in these ... policy arenas is rarely an accident. More often than not, the distributional consequences of public policies are the intended result of the private interests which have been instrumental in their design, passage and implementation." (Soludo, et al, in Soludo, Ikpeze and Chang eds. 2004:342)*

6.1 Introduction

In Chapter 5, we examined how the characteristics of the stakeholders to the Nigerian extractives industry, and the interactions between them, influence the implementation of the Nigerian Extractive Industries Transparency Initiative (NEITI). However, a key argument often made is that "multi-stakeholder standards' development is not only affected by the quality and nature of the stakeholders, but also by the *specifics* [emphasis mine] of the interaction between stakeholders and companies" (Fransen and Kolk, 2007:670). It is generally believed that the challenges to collective action for public goods provision could be overcome through appropriate governance mechanisms, institutional arrangements and strategies. For instance, Ostrom (2000) argues that "the rate of contribution to a public good is affected by various contextual factors including the framing of the situation and *the rules used for assigning participants, increasing competition among them, allowing communication, authorising sanctioning mechanism, or allocating benefits*" [emphasis mine] (p141). Hence, for effective implementation, multi-stakeholder initiatives often depend on appropriate governance mechanisms to coordinate diverse interests towards achieving desired objectives.

Therefore, the key question explored in this chapter is: to what extent is the implementation and effectiveness of NEITI influenced by its governance structure and processes? We examine how the NEITI governance structure is designed, the institutions, processes and strategies that the NEITI operates with, and how effective they are in addressing the inherent challenges to collective action towards resource transparency in Nigeria. Essentially, this chapter analyses evidence from the study that shows what the NEITI implementation reveals about the organisation of collective action for the provision of 'globalised national public goods'. Specifically, we examine three key aspects of the NEITI: the design, the institutions, and the processes.

This chapter is organised in five broad sections. This introduction is followed by section 6.2 which focuses on the design of NEITI, while section 6.3 discusses the key NEITI institutions including the governing body of NEITI - the National Stakeholders Working Group (NSWG); and the governing law - the NEITI Act. Section 6.4 discusses the key NEITI processes which we identify as the NEITI Audits and the Communication Strategy, while section 6.5 concludes the chapter.

6.2 The Design and Structure of NEITI

Apparently, the NEITI design is shaped, to some extent, by the global EITI which requires that:

> "All EITI programmes must follow the internationally-agreed EITI principles and criteria. In addition, implementation should be carried out by a multi-stakeholder group, consisting of government, companies and civil society. Beyond these two core requirements, however, the country can decide which structures are most effective" (EITI and IBLF 2008:17).

The EITI Principles and Criteria (see Appendix I and II) embody the minimum requirements for countries wishing to implement the initiative. They emphasize the basic assumptions that underlie the achievement of resource revenue transparency through a multi-stakeholder initiative. Implementing countries draw from these principles and criteria to interpret and create their local design and structure for the initiative ensuring, however, that they "must regularly publish payments by companies to governments, and governments must publish their revenues" and that "these reports must be regularly audited, and the company and government data reconciled" and also guarantee "civil society participation through a multi-stakeholder process." (Haufler, 2010:66)

Beyond these minimum requirements, the global EITI also presupposes that participating countries should establish institutions for the implementation of the initiative. A key objective of the global initiative is that local implementation would form part of institutional capacity building in implementing countries and as such would require the evolution of appropriate frameworks and processes that would ensure its sustainability. Therefore, the global initiative acknowledges that it is equally imperative that participating countries adapt the initiative to their local circumstances. With the flexibility that the global initiative allows, and also driven by the need to ensure local ownership of the process, implementing countries strive to evolve their own distinct designs and governance structures for the local EITI. The NEITI, for instance, is widely acclaimed as unique because it has made some introductions far beyond the prescriptions of the global EITI. But it has also fallen short of the prescriptions in a number of ways. We identify and analyse the unique aspects of the NEITI governance structure and their implications to the overall implementation of the initiative in Nigeria.

6.2.1 Multi-stakeholder Initiative or Government Agency?

At first, popular opinion across the categories of interviewees for this study was that NEITI is a multi-stakeholder initiative. NEITI is also often identified, both locally and internationally, as a multi-stakeholder initiative. The global EITI criteria stipulate that a multi-stakeholder initiative, independent of government, and equally the enabling law (the NEITI Act) provides for the establishment of "an autonomous self-accounting body". However, closer observations of the governance structure of the initiative suggest that NEITI is rather implemented as a government agency established under the office of the Presidency. An obvious suggestion to this conclusion is an inscription on the sign post in front of the NEITI Abuja office, which clearly acknowledges that the NEITI is an establishment under the "Office of the Presidency". Furthermore, a former secretary to the NEITI referred to the NEITI as a government agency during a speech at a public function organised by NEITI[36]. In fact, NEITI may not be alone in this practice as it is not uncommon to find heavy

[36] *"NEITI: A Collective Responsibility"* A Speech by Mallam Haruna Yunusa Sa'eed, the Executive Secretary of NEITI at the NEITI South West Road Show July, 2010

government involvement in many of the EITI implementing countries (Goldwyn, 2008). The question therefore is: why does the global initiative seem to accept this practice as normal, when it emphasizes that the initiative should be implemented as a multi-stakeholder initiative? Is the overwhelming control of government in the local implementation somewhat inevitable?

There are some explanations often given for the substantial control of government in the local implementation of the EITI. First, is that there is need for government to lead the initiative. The global EITI recognises that for any meaningful achievement to be made in the provision of resource revenue transparency, government leadership of the initiative is inevitable. This is more so when implementation involves some form of governance reforms (Hemmati 2002:219). As earlier highlighted in chapter 3, the EITI is essentially an attempt to provide a 'globalised national public good'. The problem targeted is largely due to the inability of the national government and key stakeholders in the local environment to guarantee the transparent management of natural resource revenue. Therefore, the solution would include efforts to influence positive governance changes in the local environment. The global EITI, in recognition of the vital role of government, advocates a government-led multi-stakeholder initiative akin to what Heritier and Eckert (2007) refer to as 'a shadow of hierarchy'. Bernstein and Cashore (2007) also acknowledge that the need for political legitimacy further justifies the inclusion of governments in collective action. The need for an international standard that codifies resource revenue transparency suggests that there are gaps in domestic regulation which need to be addressed. An example is the adjustment of national trade policies as necessary for changing the conditions for diamond trade under the Kimberley Process Certification Scheme (KPCS). However, Fransen and Kolk (2007:676) note that "in such situations, governments cannot always be expected to assist in enforcement and compliance, because they are themselves parties subject to the standard."

Therefore, the indispensability of government leadership of the initiative raises enormous concerns about the effectiveness of the EITI in achieving resource revenue transparency. The foremost attempt at resource transparency made by the Publish What You Pay (PWYP) Campaign, was targeted at the extractive industry companies and required minimal or no participation from national governments, perhaps mindful of the challenges that government involvement could engender. Apparently, involving national governments appeared to be the next best option when the PWYP Campaign was not popular especially amongst industry stakeholders. Haufler (2010) notes that:

> "Blair shifted the focus of the EITI away from company reporting, which is the target of PWYP activism, to reporting and membership by governments. This latter shift mollified many firms concerned that public disclosure of payments would create tension with host governments and potentially put contracts at risk. It remains a point of contention for some activist groups." (2010:65).

Presently, the decision to implement the EITI and the direction of implementation seems to rest almost entirely on government leaders. Although, there may be a few other factors that play a role in this government decision (see Pitlik et al, 2009). But evidence from the NEITI example suggests that a lot of political will is required to sustain local implementation of the initiative. The influence of President Obasanjo was undoubtedly required to ensure that the initiative was first established and sustained. Okonjo-Iweala and Osafo- Kwaako (2007) acknowledge that the EITI was introduced in Nigeria personally by President Obasanjo. The success achieved in the first few years of NEITI implementation in Nigeria is also attributable to the influence of President Obasanjo who ensured that the right people were involved, and those people in turn took advantage of their relationship with the President, and his personal interest in the initiative, to set the appropriate momentum.

Government also provides the political and regulatory framework required for the enforcement of the agreed standards of the initiative. The provision of 'globalised national public goods' often times require adjustments in local institutional arrangements which can only be achieved with the political authority that resides with governments. It would be extremely difficult, if at all possible, to achieve this without the involvement of governments. However, as the NEITI example illustrates, the design leaves a lot of room for the initiative to be hijacked by government and the implication is that in an attempt to create a government-led MSI, a government agency is created instead.

Furthermore, the extractive industry is considered the mainstay of the Nigerian economy, and as such is the pivot around which all political and economic activities revolve. Expectedly, information about the management of the extractive industry is perceived as very sensitive and critical to any government in power. Therefore, it becomes important for government to be very much in control of such an initiative as the NEITI. The NEITI, with its objective of resource transparency, is perceived as a threat to both government agents and their company partners' control of the extractives sector. Therefore, it becomes imperative for government to ensure as much control of the NEITI as possible to ensure that key interests are adequately protected (*Interviewee Nos.6, 7, 11, 13, 31, and 43*).

Another explanation for the overwhelming government influence is that the NEITI evolved at a time that the Obasanjo administration was implementing an elaborate governance reform agenda. This included major reforms in the area of anti-corruption including the establishment of the popular Economic and Financial Crime Commission (EFCC) which aims at fighting fraud and economic and financial malpractices in both the public and private sectors. The NEITI was thus perceived as part of this reform agenda albeit targeted specifically at the extractives sector. This heightened the fears of the political and industry elite considering the exploits of the EFCC, and coupled with the pedigree of the inaugural Chairperson of the NEITI, Mrs Obiageli Ezekwesili, who had become popular with her reform of Public Procurement processes popularly known as the "Due Process" mechanism.

6.2.2 The NEITI Design and the Local Context Argument

In chapter four, we highlighted the key contextual challenges to the NEITI implementation and effectiveness. The design and governance structure of MSIs is also aimed at dealing with identified challenges within the structural context. One way that the NEITI attempts to deal with the environmental (and stakeholder) challenges is through the governance structure and processes. The explanation often given for the marked deviations from the global EITI design is the need to reflect the local context (*Interview nos. 1-5)*. However, how well does the NEITI design reflect the political and administrative configurations in the country? Muller (2010) believes that the inability of NEITI to recognize and respond the Niger Delta crisis suggests that it does not truly reflect the Nigerian local context. Some interviewees (especially the civil society activists) also believe that the NEITI design was deliberate in order to reduce the risk exposure of government that could come from expanding the scope of the initiative. Government would rather be content with the *'elitist sensitization'* which characterizes the current implementation of the NEITI. One interviewee specifically noted that:

> In the end, it is the poor masses who lose out because NEITI, as currently designed, does not reflect the yearnings of the citizens and as such cannot deliver the desired objectives of providing greater transparency and stimulating accountability in the management of resource wealth in Nigeria (*Interviewee No. 17*).

The implication is that the argument that NEITI is designed to reflect the local context seems to be weak.

6.2.3 How does the Design Influence Implementation?

Kolstad and Soreide (2009) believe that:

> Improving the institutional environment is not necessarily easy, and it is particularly difficult where key players benefit from dysfunctional institutions. It is unlikely that corrupt government officials would support or implement reform significantly reducing their take (2009:218).

The 'government agency' structure of NEITI pervades the implementation of the initiative in Nigeria. However, while this structure may not be acceptable by all stakeholders, it h as facilitated the establishment of the initiative in Nigeria, and introduced the much needed entry point towards achieving resource revenue transparency in Nigeria. Nevertheless, it is not without some implications. For instance, like most other government agencies in Nigeria, NEITI is subject to political configurations and seems to depend heavily on the aspirations and disposition of political leaders, especially the president. There appears to be a general belief that NEITI "will therefore hardly be able to overcome the political patronage that engulfs Nigeria's political system" (Muller, 2010:40).

This is also highlighted by the apparent loss of momentum in the NEITI implementation in the years following President Obasanjo's departure from office. The first phase of implementation, from 2004 t o 2007 w itnessed a number of landmark achievements in quick successions. But there was a noticeable lull in the period after 2007. It is believed that this was partly because late President Yar' Adua, who took over from Obasanjo in 2007, had a weaker vision for the initiative than his predecessor, coupled of course with his prolonged period of inactivity due to illness (Shaxson 2009; Müller, 2010).

The key objective of NEITI is to monitor and publicize the activities of both government agencies and companies in the extractives sector. It is imperative therefore, that for success, the NEITI should be as independent as possible of both government and companies. NEITI lacks the adequate level of independence required to effectively carry out its functions. How well can a government agency monitor the government of which it is a part? Most of the civil society participants interviewed for this study believe that NEITI in its current designed, lacks the level of motivation required to achieve the desired objectives of resource revenue transparency (*Interview* *nos. 14-24*). This breeds a feeling of disenchantment especially among civil society activists who were initially attracted by the prospects of a multi-stakeholder initiative. The Programme Officer of PWYP Nigeria acknowledges that:

> "Of course, the current practice of NEITI was not what we expected at the beginning of the initiative in Nigeria. Most of us who are still involved are just hanging on because, in the fight for revenue transparency, something is better than nothing" (*Interviewee No. 20*).

This feeling is shared by many civil society participants who follow the implementation of NEITI. They believe that the views of the civil society are not appropriately incorporated in the design of NEITI. This is more so considering that NEITI was initiated at a time in Nigeria when an adequate co-ordination of Civil Society was lacking. Hemmati (2002:100) believes that there is an "often reported experience that participants' commitment to a process largely depends on their involvement in the process from the outset, including the design", and that "involving stakeholders in every aspect of the design process is crucial to achieve the best design, commitment to the process, credibility, legitimacy and trust" (Hemmati 2002:213). The first Civil Society gathering to articulate views on revenue transparency in Nigeria was on the eve of the inauguration of NEITI (PWYP, 2006). There are claims that the late invitation given to the Civil Society Organisations to the inauguration of NEITI was deliberate (*Interview No. 24*). This is coupled with the general feeling of distrust and apathy often expressed by citizens about government programmes. For an initiative expected to generate public debate on the resource revenue management, the overall potential impact of the initiative is further diminished by this perception of the initiative as just another government agency.

6.3 The NEITI Institutions

6.3.1 The National Stakeholders Working Group (NSWG)

Collective action involving a diverse group of stakeholders requires a form of facilitating or governing body. A facilitating body is equally important because it is practically impossible to involve every stakeholder in a collective action in decision making and coordination of the initiative. As a multi stakeholder initiative, such body is required for the effective coordination of the initiative. There are various forms that this facilitating body can take and it has been suggested that this body could also be an independent body constituted from outside the stakeholders to the collective action as a way of ensuring that the process is managed by a "trustworthy honest broker" (Hemmati, 2002:223). Hemmati (2002) also believes that for such governing bodies to be effective they need to be:

- Explicit about their interests or possible interests;
- Of diverse composition themselves – that is made up of representatives of various stakeholders; and
- Acceptable to everybody involved.

The establishment of a stakeholder working group is a mandatory requirement for the implementation of the EITI. The governance structure that exists at the global level, made up of representatives of the various stakeholders, is essentially advocated for the local level implementation. The global EITI Programme Officer notes that "adopting a clear governance structure like this will provide a very powerful and efficient decision-making system and it will help widen buy-in and participation" (EITI Website[37]). However, it is imperative that great care is taken when constituting this body as it has a direct influence on the outcome of the initiative (Fransen and Kolk, 2007) and could sometimes hinder its operation. It is believed that, given the significance of a stakeholders' working group, its organisation could indicate how serious a country is with its commitment to the EITI. Kolstad and Soreide (2009) argue that the composition of the stakeholders working group could indicate how serious a country is with the implementation of the EITI. They note that:

> "Analyzing the composition of this group suggests whether a government is committed to real reform, as would not be the case if the group consists of government cronies and clients" (Kolstad and Soreide, 2009:224).

The National Stakeholders Working Group (NSWG) is the apex body of NEITI charged with the responsibility of facilitating and overseeing the implementation of the initiative in Nigeria. In this section, we discuss the details of the NSWG including its establishment and functions, composition, leadership, and how it deals with identified challenges. Although, we find further evidence to demonstrate the overwhelming dominance of government in the NEITI implementation, the objective is to highlight the role that a governing body plays in the organisation of collective action, and how effective the NSWG is in performing this role.

Establishment and Functions of the NSWG

Section 5(2) of the NEITI Act (discussed in 6.3.3 below) establishes the NSWG as a body "responsible for the formulation of policies, programmes and strategies for the

[37] http://eiti.org/node/689 accessed 15/07/2010

effective implementation of the objectives and the discharge of the functions of the NEITI" while the NEITI Handbook describes it as "the platform through which the Federal Government of Nigeria is implementing the global initiative." The NSWG is charged with the overall responsibility of overseeing the implementation of the EITI in Nigeria. The global EITI expects that a stakeholders' working group should, among other things, take charge of the overall strategic decision making and implementation of the local initiative (World Bank, 2008). In Nigeria, the NSWG draws its powers from the NEITI Act which empowers it to initiate and undertake necessary actions and programmes towards achieving the overall mandate of resource revenue transparency and accountability in the country. However, the greatest challenge to its effectiveness appears to be emanating from its very constitution.

At inception, a NSWG made up of 28 members, and led by Mrs Obiageli Ezekwesili, was constituted by former President Olusegun Obasanjo. This inaugural board successfully established the initiative in Nigeria and set the motion for the rest of the implementation of the initiative. Among its major achievements was the first ever comprehensive audit of the extractives sector in Nigeria covering the period 1999 – 2004; establishing the NEITI law; and achieving candidate status – the first nod of approval from the global EITI indicating acceptable progress with the implementation of the initiative in Nigeria (Goldwyn, 2008).

But the new NEITI Act signed into law on the eve of Obasanjo's departure from office in May 2007 required that the NSWG should be re-constituted with reduced membership strength of 15. Therefore, after much hesitation, President Yar' Adua constituted the current board in January, 2008, chaired by Prof. Assisi Asobie, a civil society activist who is also a member of the global EITI governing board. The NEITI Act also introduced a new consideration for representation on the NSWG based on geopolitical zones. Therefore, six (6) out of the 15 members of the board, besides representing their stakeholder groups, equally represent the geopolitical zones of their origin.

Some interviewees from the NEITI Secretariat think that this reduction in the size of the NSWG has enhanced the decision making process and cut down on the administrative requirements (*Interviews nos. 1-5*). However, a former member of the 28-member board whose position was made redundant by the downsizing of the NSWG board thinks that on the contrary this would have a negative effect on implementation. He believes that the new NSWG is a far less representation of the key stakeholders to the NEITI implementation, and disagrees with the claim that decision making was encumbered in any way by the size of the first board (*Interview no. 7*). For instance, he argues that the government agency he represented on the NSWG is very vital to any meaningful progress on implementation of the initiative. There are further worries expressed that with the NEITI plans of extending the implementation to cover the solid minerals sub-sector, there would be need to expand the size of the NSWG as the current board does not include representatives of the sector (*Interview no. 14).*

However, the global EITI equally recognizes the challenges that achieving adequate size of the governing board could pose. It acknowledges that:

> "No single formula has emerged as to how different stakeholder groups are represented on the steering groups, and the issue of weighting has been

> debated extensively in several EITI countries. In countries where there are a very large number of major companies, where there are no other subsidiary forums that bring stakeholder groups together, or where there are numerous government agencies involved in the revenue collection process, it has sometimes been necessary to give greater weight to the participation of company and government representatives than to representatives from other sectors. In such cases, countries have needed to be particularly careful to ensure that civil society groups are adequately represented and involved in the process" (World Bank, 2008:16).

We discuss the key issues with the NEITI NSWG under the following headings.

Selection Process: There seems to be a general agreement that many of the NSWG members probably deserve their appointments on the board, given their individual credentials. However, what seems to be controversial is that their appointments are made solely by the President. Many believe that this casts a credibility doubt on the entire NEITI implementation. Ikubaje (2006:66) argues that the NEITI implementation is challenged by "the manner in which the NSWG was constituted by the federal government; it deliberately imposed representatives on different constituencies that are represented. This has impacted negatively [on] the transparency and democratic credentials of NEITI". The need for stakeholders to have an input on who represents them is emphasized in the literature. Hemmati (2002) argues that:

> "The integrity and hence the effectiveness of a process can be compromised if the participating stakeholders are not given the opportunity to determine their representatives through their own processes and mechanisms" (Hemmati 2002: 221).

Goldwyn International Strategies (GIS) LLC, advisors to the NEITI, also suggested that:

> “The NSWG would be enhanced if some of its members were selected by the legislature or by private organizations to ensure its effectiveness in the event that future president is less committed to NEITI than the incumbent President”.[38]

The global EITI also acknowledges that:

> “Countries with successful EITI programs are those that have allowed different stakeholder “constituencies” to select their own representatives. When governments directly appoint members of steering groups, it is more difficult for governments to demonstrate that civil society representatives are operating independently” (World Bank and EITI, 2008:17).

Civil society participants in Nigeria have requested that even if they cannot elect their representatives, they should at least select nominees from which the President can make his appointments (*Interviewee No.20*), but this request has not been given due consideration in the selection of the NSWG members.

Composition: While it may not be possible to achieve an exact balance of representation of stakeholders, it is important to achieve a fairly acceptable balance to ensure effective implementation (Hemmati, 2002). The global EITI again advocates that:

> “Since the number of stakeholders is likely to be large and membership of a co-ordination committee will necessarily be limited, a pragmatic decision needs to be made about membership – reflecting the diversity, inclusivity and representation of stakeholders” (EITI, 2005:20).

Civil society activists believe that the NSWG composition has been negatively skewed against civil society participants even though their participation is recognised

[38] Goldwyn International Service in a memorandum to Obiageli Ezekwesili, Chairperson of NEITI dated

as key in the implementation of the EITI. The first NSWG board, with half of it comprised of government representatives, had only 3 civil society representatives. However, the NEITI Chairman argues that in numerical terms, the composition is in fact skewed against the industry stakeholders (*Interview no. 1*). However, the imbalanced composition was more pronounced in the first board of 28 members than the current board of 15 members. The first board had all half of its membership drawn from the government (NEITI, 2008).

Even with the adjustments made in the constitution of the second board, certain composition issues, especially gender and regional imbalance, were yet to be properly addressed. For instance, the NSWG composition is considered to be gender insensitive. The first board had only the Chairperson, Ezekwesili, as a female representative. The second board, for a long time, had only the representative of the Federal Inland Revenue Service (FIRS) - the government agency responsible for the determination and collection of extractive companies' taxes, as a female representative. With the exit of the former Executive Secretary, a woman was appointed as his replacement. But some gender activists believe that more opportunities should be given to women in the NSWG. An interviewee believes that women constitute a very important constituency in Nigeria especially in the campaign for resource revenue transparency and accountability and should be adequately represented on the board for effective implementation (*Interview no. 18*).

However, a vital observation is that it is sometimes difficult to determine which constituency each of the NSWG members represent. For instance, the FIRS Chairperson (mentioned above) primarily represents the FIRS, which is a government agency, on the NSWG but is sometimes considered as a representative of 'Nigerian women' on the board, which is an entirely different constituency. In addition, the representatives of geopolitical zones also belong to professional bodies and institutions who are also stakeholders to the Nigerian extractives industry. This further complicates the relationship between representatives and the (perceived) constituencies. Hemmati (2002) notes that:

> "People should not be expected to represent more than one stakeholder group because individuals can only 'wear a limited number of hats'… it makes no sense to count a woman from Zimbabwe who is working with an environmental NGO as representing the views of women, developing countries NGOs, and environmental NGOs. Expecting such representation is, quite simply, ridiculous" (2002: 226).

Interestingly, most civil society interviewees do not seem to be overly concerned by the inadequate numerical representation of civil society in the NSWG even though it is apparently evident. There are a couple of reasons why this may be so. First, as earlier mentioned, there is still a strong feeling of euphoria that civil society is involved at all in such a sensitive issue as resource transparency in Nigeria. Second, some civil society participants are confident that if properly organised, the little representation so far achieved has the potential of achieving the key objectives of the civil society. Participants at a capacity building workshop on NEITI implementation organised for members of Transparency International, Nigeria (TIN) noted that:

> "Even if they were unable to get their candidates into the NSWG, they could engage with the eventual persons and outline the interests of CSOs and thus establish a mandate from their constituency." (TIN 2009:28).

However, the NEITI implementers are not unaware of the implications of an inadequate participation of civil society on the entire process, and on the global EITI perception of the credibility of the initiative in Nigeria. The Civil Society Steering Committee, discussed in Chapter 5, is among the strategies that the NEITI implementers have adopted to make up for imbalanced composition of the NSWG and bridge the participation gap.

The Role of Leadership/ Key Personalities

Leadership plays a vital role in the organisation of collective action. Ostrom (2000) argues that:

> "The world contains multiple types of individuals, some more willing than others to initiate reciprocity to achieve the benefits of collective action.", and that "…not all players enter a collective action situation as pure forward-looking rational egoists who make decisions based solely on i ndividual outcomes. Some bring with them a set of norms and values that can support cooperation." (2000: 138 and 146).

Apparently, the role of leadership seems to be even more critical in the early stages of the organisation of collective action. Ostrom (2000:149) also acknowledges that the presence of an individual or group of individuals with the essential leadership qualities is often an 'important initial stimulus' for effective collective action. This is more so when "the political sensitivity or the lack of definition of a problem require strong leadership to overcome obstacles for collaboration" (Biermann et al, 2007:12).

Similarly, the NEITI process has also benefitted from the vital roles of some key personalities. President Obasanjo is often credited with the implementation of the initiative in Nigeria and the international recommendation achieved in the first few years following inception. However, the leadership of the NSWG itself have equally been quite instrumental.

In the opinion of many of the interviewees, the inaugural Chairperson of the NSWG, Mrs Obiageli Ezekwesili, deserves a lot of credit for most of the achievements recorded under her leadership of the NSWG. With her background in good governance campaigns especially from Transparency International she was able to adequately drive the implementation of NEITI in Nigeria. She is identified as belonging to the 'reform team', a group of technocrats under the Obasanjo administration who were popular for their commitment towards far-reaching governance and institutional reforms in Nigeria (Shaxson, 2009). Her vision for the NEITI implementation in Nigeria was quite glaring and she made maximum use of her proximity to power as captured in the statement below:

> "She had a very good relationship with the president, and got things done for NEITI through sheer political will and executive decree – and saying 'it should be so'. When we started the audits and the oil companies were not cooperating, they were summoned to the 'presidential' villa and ordered to cooperate. Politically you have to have the strong support of the president to do this" (Shaxson 2009:17).

The global initiative equally recognises that it is essential for the leadership of the governing body to be as close to power as possible as a means of ensuring effective implementation. It acknowledges that a "sustained high-level political leadership has often been helpful to maintain the momentum of the EITI and resolve issues as they arise during implementation" (EITI, 2005:19). Hence, the global EITI recommends that:

> "The government should appoint an individual to lead on EITI implementation who is sufficiently senior and whom all stakeholders trust. EITI implementation typically requires the collaboration of several ministries and agencies so the individual will need to be empowered to manage this process" (EITI, 2005:19).

However, many interviewees strongly agree that the fact that Ezekwesili worked closely with President Obasanjo both as a Special Adviser and as Minister made a lot of difference (Shaxson 2009:17). In contrast to Ezekwesili, Prof. Asobie, the current chairman of the NSWG, is known to have neither additional executive portfolio nor is there a clear evidence of a strong link with the presidency, especially considering his (Asobie's) well-known civil society activism background as a unionist and political activist. Although both Ezekwesili and Asobie belonged to the Transparency International (alongside the President Obasanjo), it is believed that Asobie's lack of a strong linkage to power may have also contributed to the dwindling momentum of the NEITI implementation during the early years of his leadership of the initiative. However, Asobie enjoys enormous goodwill from the public and especially from the civil society body and expectations are quite high. Nevertheless, some observers are rather sceptical insisting that a NEITI leadership without clear and strong linkage to the President can only record minimal achievements. A writer notes that:

> "Fixing this mess is beyond NEITI. It will take the willingness of Mr President to cleanse the rot because experience has shown that the chief perpetrators of the rot are not the angry uninformed mob on the streets; rather they are highly-placed persons in the Presidency or those close to them" (Ugbechie, 2010[39])

Interestingly, much as it propelled NEITI implementation in Nigeria, Ezekwesili's leadership of the NSWG was not without some negative effects. Some interviewees

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[39] Ken Ugbechie, "Asobie Thesis on the Nigeria Paradox" *Businessday Online*, Thursday 10/06/2010. Accessed 02/09/2010

felt that her leadership alienated certain key players who had strong opinions about the entire reform agenda of President Obasanjo. Her leadership underlined the heavy involvement and domination of government in the whole process. She perhaps unconsciously, personified the 'government agency' structure of NEITI as she never hesitated to invoke the ultimate political power which was often readily available (*Interview nos. 25, 31 and 39*). As earlier noted, the initiative suffered because this strategy could not be easily sustained after her departure.

NSWG Administrative Institutions

The NSWG relies on special committees constituted by its members and the NEITI Secretariat to carry out its functions. The committees handle specific issues relating to the achievements of the objectives of the NEITI while the Secretariat is responsible for the day-to-day administration of the initiative. The NEITI Executive Secretary heads the Secretariat and also acts as a secretary to the NSWG.

The NEITI Secretariat is particularly significant in the implementation of NEITI. It takes care of the day-to-day activities of NEITI. However, while it facilitates the smooth running of the initiative, the secretariat has also presented some challenges to the implementation of the initiative. Prominent among these challenges was the apparent tension that existed between the Executive Secretary and the NSWG leadership in the period between 2008 and 2010. This tension seemed to characterize events in this period and also had some negative impact on the implementation of the initiative. An interviewee noted that:

> "The way things are playing out at NEITI's secretariat in recent times, is a source of worry for most civil society groups in the country. Internal wrangling between top officers of the secretariat has turned the place into a notorious centre for corruption and this calls into doubt the country's commitment to implementing the EITI principles" (*Interviewee No. 14*).

Furthermore, in 2010, widespread allegations of financial mismanagement levelled against the then Executive Secretary (*several newspaper reports*) presented threats to the credibility of NEITI as a prime institution for transparency and accountability in Nigeria. The Executive Secretary in question has since resigned and a new one was appointed in late 2010.

However, in an interview for this study in May 2009, Asobie, the NEITI Chairman emphasized that one of the challenges that faced the NEITI implementation was that the Secretariat lacked the requisite capacity to meet its responsibilities. He noted specifically that the Secretariat required a total overhaul of its structure in order to reposition it for a new phase of implementation of the initiative. A key issue in this transformation was the need to improve the staff strength of the NEITI Secretariat (*Interview no. 1*). Muller (2010:40) also acknowledges that "for a long time the [NEITI] Secretariat operated without full capacity and complement of the required staff strength". Presently, this problem seems to have been substantially addressed. An elaborate staff recruitment exercise was initiated in July, 2009, and the newly recruited staff assumed duty in September, 2010. Three new Directors were among the newly recruited staff and the Chairman believes that this recruitment of staff to fill vacancies would boost the activities of the NEITI especially as they launch a new phase of the implementation in Nigeria (*Interview no. 1 – follow-up*).

The NSWG has also increased its in-house committees from 5 to 8. It is evident that events surrounding the allegations of fraud and malpractices against some of the staff of the NEITI Secretariat must have necessitated the creation of additional 3 committees on Procurement; Ethics; and Staff Appointment, Promotion, and Disciplinary. The initial 5 committees are:

- Finance and General Purpose Committee.
- Oil and Gas Committee.
- Solid Mineral Committee.
- Civil Society Committee.
- Communications Committee.

These committees are constituted by the 15 NSWG members who are supported by relevant staff of the secretariat.

Overall, the NSWG reflects the overwhelming government dominance on the implementation of the NEITI. To ensure this, government wields enormous influence on the NSWG through the control of its composition. A significant observation is that the selection process of members of the NSWG is not transparent. The members are appointed by the President while many interviewees think that it would be best for stakeholders to have some input into the appointments. Even if they may not elect these representatives they want to be able to at least suggest nominees for the president's appointment. However, while the government dominance helped the inaugural NSWG board to record rapid achievements, the dwindling momentum in the period 2007 – 2010 heightened concerns about the future of the initiative in

Nigeria. Will the initiative stand the test of time? Many believe that the NEITI Act offers a key source of confidence that the initiative, at least, can be sustained in the medium to long term.

6.3.2 The NEITI Act

When Nigeria signed up to the EITI in 2004, there were doubts that the initiative would outlive the Obasanjo administration that established it (*Interview no. 20*). The civil society activists particularly were sceptical that the political elite would willingly embrace resource revenue transparency. One way of forestalling this was through enacting an establishing law that would confer some legal and constitutional status to the existence of the NEITI in Nigeria. The NEITI bill was initiated in December, 2004 and it took about two years for the legislators to pass the bill, after extensive consultation and lobbying by mostly civil society activists who were keen on resource revenue transparency and accountability (*Interviewee No.14*). Interestingly, President Obasanjo assented to the NEITI bill on the eve of his departure from office in 2007.

In this section, we examine the role of an enabling law in the organisation of collective action and how effectively the NEITI Act plays this role. What does the NEITI Act represent in the overall MSI or collective action architecture? In addition to ensuring continuity of the initiative in Nigeria, The NEITI Act also establishes the structure of the initiative and defines the rules governing implementation as well as spelling out punishments for non-compliance of targeted stakeholders. Therefore, we explore the question: how effective is NEITI Act in achieving these objectives?

Establishing and Institutionalising the NEITI

The NEITI Act is considered as the greatest achievement of the initiative in Nigeria so far. This is essentially because it confers confidence that the initiative would at least last for some time. Radhika Sarin, the International Co-ordinator of the PWYP Campaign, acknowledges that "the NEITI Act serves as insurance that the progress Nigeria has made in implementing the EITI to date will continue to be built upon." (CISLAC, 2008: iv). Although quite a few EITI participating countries are enthusiastic about following Nigeria's example of establishing a law to back up the implementation of the initiative, the global EITI acknowledges that:

> "In some cases it may be necessary to enshrine EITI legally; create new transparency, revenue and industry policy and legislation; or make changes to existing EITI related policies and legislation" (EITI, 2005:18).

In addition, the NEITI Act also extends the mandate of the initiative in Nigeria, thus introducing some unique components to the implementation of the EITI in Nigeria. The law, among other things, empowers NEITI to:

> "Ensure due process and transparency in the payments by extractive industry companies and accountability in the revenue receipts of the Government and other statutory recipients" (Section 2a);

And also to:

> "Ensure transparency and accountability by government in the application of resources from payments received from extractive industry companies and eliminate *all forms of corrupt practices in the determination, payments,*

receipts, and posting of revenue accruing to the Government from extractive industry companies [emphasis added] (Section 2b).

These provisions of the Act empower the NEITI to go beyond the requirements on payments disclosure to also venture into transparency of resource revenue expenditure, extending its coverage of the resource transparency chain (see Chapter 3). However, at the moment NEITI is yet to exercise this empowerment. The Chairman believes that it is a gradual process and that NEITI would surely ask questions about revenue expenditure but needs to first consolidate on the achievements made so far on resource revenue transparency (*Interview no. 1*).

Defining Incentives/ Disincentives

One of Mancur Olson's hypotheses on collective action is that there must be some form of coercion or 'special device' to facilitate co-operation towards the provision of public goods. Most authors equally agree that some form of incentive or disincentive is required for collective action to be effective. For instance, Fehr and Gachter (2000) argue that the existence of sanctions to non-cooperative behaviour is likely to boost cooperation not just because it is a deterrent but because of the confidence it gives co-operators that no one is free riding. While acknowledging the importance of such instruments, Ostrom (2000) also admits that they can sometimes "frustrate, rather than facilitate, the private provision of public goods." (Ostrom 2000:138) and that "if some users get all the benefits and pay few of the costs, others become unwilling to follow rules over time." (Ostrom, 2000:150). In addition, Bernstein and Cashore (2007) argue that political legitimacy is essential for collaborative efforts because relying on the strategic interests of stakeholder for compliance cannot be effective.

Hence, it seems imperative for NEITI to create a level playing field for the implementation of the initiative in Nigeria to ensure that certain stakeholders are not unduly disadvantaged by their participation in the initiative. This is essentially important for industry stakeholders who are constantly in competition with one another and mindful of the impact that information disclosure could have on their competitive edge. The NEITI Act attempts to address this by making it mandatory for every company operating in Nigeria country to participate in the initiative, and also stipulating punishment for non-compliance.

Is the NEITI Act Sufficient? How does it reflect the MSI principle?

Much as the NEITI Law has been widely commended, there have been some concerns about its sufficiency in achieving the desired objectives. There were calls for its amendments even before it was signed into law. And afterwards, there have been persistent calls from civil society activists for amendments to the law. Expectedly, prominent among these concerns is the enormous power that the law confers on the President especially in the appointment of members of the NSWG as representatives of the stakeholder groups. Many interviewees believe that this greatly undermines the credibility of the NEITI and hence its effectiveness (*Interview nos. 14, 20, 24 and 31*). This supports Edmund and Wollenberg's (2001:240) argument that "the relationship between a representative and his/her constituency is perhaps most politically-charged when representatives of a group are designated by outsiders or are accountable to them". Although they acknowledge that achieving adequate representation is a challenge in itself noting that "even a carefully planned effort to represent a constituency – with frequent and broad consultations and mechanisms of accountability – may founder on the enormous number of interests associated with such contradictory and fast-changing identities" (2001: 241).

It is also believed that the process of drafting the law was not inclusive and this may be responsible for the inherent deficiencies in the law. There is evidence that civil society participants were not adequately incorporated in the process of drafting the bill. The statement below from the PWYP Coalition in Nigeria captures the lack of inclusiveness of the process:

> "If NSWG had done extensive consultations before drafting the Bill, the perception of the civil society would have changed" (PWYP Nigeria, 2005: 70).

Although a public hearing was held to provide an opportunity for the public to make contributions towards the bill but the PWYP Nigeria further notes that:

> "The public hearing recently conducted on the Bill was nothing short of window dressing as there was virtually poor attendance on such an important Bill, which 24-hour notice was given to civil society to appear for hearing"[40] (PWYP Nigeria, 2005:2).

This did not however diminish the civil society strong support for the passage of the Bill because as one interviewee put it "something is better than nothing at all" (*Interviewee No. 20*).

However, many believe that the NEITI Act leaves a lot of areas considered critical to the achievement of resource revenue transparency uncovered. Therefore, the clamour

[40] PWYP Nigeria, *Transparency in the Extractive Sector*, No.1 Oct – Nov 2005 p2

for an amendment of the law has been constantly rising. Among the issues agreed in a recent workshop organised by one of the leading CSOs was that:

> "There should be an amendment to the NEITI Act, especially on the provisions that help protect multinationals from divulging information, also the issue of oil prospecting and licensing and other grey areas that would help strengthen the effectiveness of the NEITI Act in meeting its mandate" (CISLAC Communiqué July 25 2008).

The provisions referred to above are the provisos contained in Sections 3 (d) and (e) and further reaffirmed in in Section 14 (1) of the NEITI Act. These provisions are believed to have been added because it was necessary to protect industry and government entities from any possible abuse or misuse of information that they provide in the course the implementation of NEITI (*Interview nos. 3, 6, 7, 11, 28*). For instance, Section 14 (1) of the NEITI Act requires, among other things, that:

> "…the independent auditor shall submit the [NEITI Audit] 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 m anner prejudicial to the contractual obligations or proprietary interests of the audited entity."* [emphasis added].

These provisions appear to be somewhat contrary to the objectives of the NEITI. Asobie (2009: 8) notes that "it is NEITI that is mandated to publish the report; and as a Multi-Stakeholder Group, it would, or should know how to do it in a manner that protects the interests of all". All the civil society activists and some analysts interviewed for this study believe that this provision gives some leeway to government and industry stakeholders and is capable of undermining the role of the NEITI in effectively achieving the objective of resource transparency and accountability (*Interview nos. 14-25, and 39, 40, 41, 43*).

Furthermore, the NEITI law is also believed to be unclear and ambiguous in certain areas. For instance, an observer notes that:

> "With regard to expenditure, the NEITI law names "transparency and accountability by governments in the application of resources" merely as an objective of NEITI, without conferring upon NEITI any related precise function" (Muller, 2010:31).

This lack of clarity has also created challenges to the NEITI implementation. There are implications for the enforcement of the NEITI Act, despite its identified shortcomings. The NEITI Chairman also acknowledged that interpreting and enforcing the law has contributed in slowing down the pace of implementation of the initiative (*Interview no. 1*). As is often acknowledged by ardent followers of developments in Nigeria, the problem is often not the absence of laws but their appropriate implementation (Frynas, 2000). An interviewee notes that:

> "Just like other critical legislations in the country, the NEITI law came with good intentions but many people fear the inability of government to implement its contents for the apparent reason of 'vested interests'." (*Interviewee No. 14*).

There are fears that operating in its current design as a government agency; the NEITI seems to be subject to the same factors that engendered the poor management of resource revenue in Nigeria. A writer notes that:

> "The political context also has repercussions on NEITI's ability to enforce compliance of oil companies with the legal requirements of information disclosure (NEITI Act of 2007, N o. 16)… This is a crucial issue because NEITI can only reduce corruption by international companies (bribing officials to reduce actual payments) if compliance is enforced" (Muller, 2010:40).

However, what the enactment of the NEITI Act in Nigeria further reinforces is the uniqueness of collective action efforts towards the provision of 'globalised national public goods'. The Law makes participation for all stakeholders mandatory while voluntary participation is a common feature of most multi-actor collective action for the provision of global public goods. At the global EITI level participation is also voluntary. This also supports the view that NEITI cannot be viewed purely as a multi-stakeholder initiative, but rather as a government agency. Wood and Gray (1991) believe that if participants in collaboration agree to relinquish all their autonomy to the collaborative alliance, the resultant organisational form is no longer collaboration.

In addition, The NEITI Act also reflects the control of the political elites, in collaboration with their company counterparts, which runs through the entire implementation process. For instance, most of the provisions of the Act that appear to be targeted at the companies contain "get out" clauses (Shaxson 2009:38). Recently, it was alleged that NEITI invoked some provisions of the Act to justify its refusal to publicly disclose information on companies found to be engaged in malpractices in its recent review of the crude oil metering infrastructure (NDEBUMOG 2010:8). This further reinforces the belief that:

> "While the enactment of the NEITI Act 2007 is a very bold and commendable initiative, the Act can only be meaningful if faithfully implemented." (TIN 2009:50).

A test for the law, however, seems to be its application towards the findings of the NEITI Audits.

6.4 The Processes

6.4.1 The NEITI Audits

The NEITI Audits are closely linked with the core objectives of the EITI framework which is the improvement of resource revenue management through the disclosure of information on extractive industry payments and government receipts:

> "The general provisions of the EITI are that members must regularly publish payments by companies to governments, and governments must publish their revenues. These reports must be regularly audited, and the company and government data reconciled" (Haufler, 2010:66).

However, in order to achieve this objective it is not only important that information about company payments and government receipts is published, it is also imperative that the required type, amount and quality of such information are guaranteed. To achieve this, the EITI requires that "where such information is not readily available….an independent audit should be conducted" The entire framework is targeted at addressing the agency problem through the provision of information to the public who are the principals. Audit is essential to ensuring transparency in the extractives sector. It ensures that the information provided is reliable. Asobie (*Interviewee No.1*) insists that the main objective of the audit reports is to generate public debate on the management of the extractives sector.

> "To achieve this major objective of the NEITI, Nigerians and the whole world need to know what happens in the extractive industry, and especially how revenue is generated across the chain" *(Interviewee No.1)*

Therefore, there are three key roles that the audits are expected to play: to produce information and data that can stimulate public debate on the management of the extractives industry; to ensure the validity and reliability of information so provided and; to identify lapses and issues for possible remediation. The NEITI Audits have received enormous credits internationally as the most elaborate (Goldwyn, 2006). Of all the EITI implementing countries, the Nigerian audits are adjudged the best and most complete and often used as a standard. An analyst notes that "the audit report remains the single most useful and credible publicly-available document on Nigeria's oil sector" (Alexander Gillies, quoted in Shaxson 2009:5). NEITI Audits are quite comprehensive covering not just financial audits but also physical and process audits. Information contained in the audit reports are also disaggregated both by company and by payment type. Commenting on the first audit, an industry expert notes that it was:

> "…a remarkable feat of political courage. Nigeria's leaders were keenly aware that the audits would reveal great weaknesses in government systems in a very public way yet they sought to make the audit as broad and deep as possible" (Goldwyn, 2006: unpaginated).[41]

The disaggregation of information by company, for instance, was keenly resisted by industry stakeholders who were concerned about the potential exposures that it could portend. As at the time of writing this chapter, two audit exercises have been successfully completed and published: first for the period 1999 -2004 (published in 2006); and the second for the year 2005 (published in 2009). However, in this sub-section, the three forms of the audits are explored further. We examine the role of the

[41] David L. Goldwyn, President, Goldwyn International Strategies, LLC in a testimony on the EITI Implementation in Nigeria before the US Congress International Relations Committee Subcommittee on Africa, Global Human Rights and International Operations, May 18th, 2006)

NEITI audits by exploring how the audit processes are conducted, what the key findings of the audits are, how the audit reports are published or disseminated, and how the remediation of the audit findings are carried out.

The Audit Process

The audit exercise begins with the appointment of independent auditors by the NSWG However, the NSWG takes such key decisions as the agencies and companies to be covered by the audit (called 'covered entities'), the level of materiality and the disaggregation of audited information both by company and by payment type. This is in line with the global EITI requirement that:

> "It will be necessary to appoint an administrator to collect and evaluate the revenue data provided by companies and government. It is essential that there is stakeholder trust in the administrator's impartiality and competency. The administrator may be a private audit firm, an individual or an existing or specially created official body that is universally regarded as independent of, and immune to influence by, the government" (EITI, 2005:23).

For the 1999 -2004 audit, the NSWG chose to first appoint advisors who would assist it in designing the scope of the audit and in the selection of the eventual auditors. For the purpose of selecting the advisors, a sub-committee made up of four members of the NSWG was set up to "prepare the scope of work for the engagement of Advisors", and another sub-committee made up of three members was also set up to evaluate the bids received for the role (NEITI online archive[42]). With the assistance of DFID, the advertisement for Expressions of Interest (EOIs) was widely publicised in local and international print media, and eventually Goldwyn International Services (GIS), an

[42] www.neiti.org.ng accessed 14/09/2009

American based international consulting firm, was chosen and contracted as advisors to the NEITI. GIS then went on to draft a comprehensive programme for the audit exercise and also assisted the NSWG in selecting auditors for the audits. The Hart Group, a UK-based firm, leading a consortium made up of both local and international firms was selected as auditors.

The selected auditors designed templates that would enable them to obtain required data from the 'covered entities'. The 'covered entities include "extractive industry companies that have oil blocks allocated to them for exploitation, and the regulatory agencies of the Federal Government, as well" (Asobie, 2009:7). The audit templates are only administered to 'covered entities' and is considered confidential amidst requests by some civil society activists that it should be made public (NDEBUMOG 2010:28). An interviewee argued that it would be necessary for the templates to be made public in order to improve the credibility of the entire audit process (*Interview no.23*).

A key challenge to the audit process is that when the templates are administered to the 'covered entities' 'the audit could only progress when the data was returned by the slowest provider' (NEITI, 2009:9). In addition, there were varied interpretations of the data required by auditors making the audit analysis a bit complicated. This was due to the inconsistency inherent in the management of the sector in Nigeria and the unwillingness of some of the 'covered entities' to cooperate with the auditors. DPR, for instance, was specifically mentioned as uncooperative in the 2005 audit exercise.

Another challenge to the audit process is that when the audit reports are eventually produced, the NSWG, after consultation on t he audit, submits the Audit to the President for his approval. This sometimes creates delays in the publication of the audit reports. For instance, the 2005 Audit exercise which was concluded in October, 2008, was published almost a year later in August 2009, because presidential approval was delayed. The need for presidential approval before publication of the audits also gives room to suspicions of manipulations of the audit findings. Civil society activists have insisted that:

> "Since the Act establishing NEITI does not require it to submit the audit report of the extractive industry companies to the President or the Federal Executive Council (FEC) for approval before making it public, there can be no basis for the current practice where the report is tabled before the FEC before it is released. This practice should be discontinued forthwith" (CISLAC Communique, 2009: [43]).

Many observers of the NEITI implementation also agree that this practice of seeking presidential approval raises credibility concerns about the entire audit process (*Interviews 39-45*). The argument is that if the audits were carried out by competent auditing firms, applying international standards, why should further approval of the President be required for the publication of the audit reports, rather than just that of the NSWG?

The Forms/Types of the Audits and some Key Findings

[43] Communiqué issued at the end a Civil Society Workshop organised by CISLAC on the 7th of July, 2009

The NEITI Audit of the 1999 – 2004 periods was conducted in the three different forms. This precedence was maintained in the 2005 audit. Below, we highlight the key points of these two audits under the three different forms.

1. The Financial Audits

The objective of the financial audits is quite straightforward: it is aimed at verifying the material payments made by oil and gas companies to the federal government and the receipts confirmed by the revenue receiving agencies. The objective is to discover discrepancies in the records of these financial flows and to also identify their chain of custody and the role and performance of specific players (NEITI, 2007). Essentially, the audit:

> "Compared the amounts oil producers said they paid in Petroleum Profits Tax (PPT), royalties and other revenues, with what the Central Bank of Nigeria (CBN), the government's banker, said it received. It compared this data with notifications from the Federal Inland Revenue Service (FIRS) which is responsible for assessing taxes, and from the Department of Petroleum Resources (DPR), the regulator. Then the auditor sampled some companies' tax returns and royalty statements in depth to verify the calculations, and the assessments of FIRS and DPR" (NEITI, 2007:3).

The 1999 – 2004 financial audits revealed that $16 million could not be reconciled. However, before arriving at these figures the initial discrepancies found were quite higher than the reported amounts. In the first audit, a total amount of $232 million was initially reported and was eventually reduced to $16 million. The auditors explained that this adjustment was required when some evidence emerged after the audit exercise. This raised some doubts about the credibility of the audit exercise because the reconciliation was prompted on the initiative of President Obasanjo and was secretly conducted, which left room for possible collusion between the indicted 'covered entities' and the government (Shaxson, 2009).

However, for much of the discrepancy recorded, the financial audit reveals that accounting, timing, and classification problems were responsible. For instance, the government accounting system is based on 'cash basis' while companies use 'accrual basis' accounting. Furthermore, there were problems created by the:

> "inadequacy of systems at government level, including the absence of independent records by the Accountant General of the Federation (AGF), the failure of the CBN to maintain complete records, the failure of the FIRS to effectively audit the accounts of state owned or private companies, and the failure for the DPR to regulate the calculation and payment of royalties by companies operating in the sector" (Goldwyn, 2006: unpaginated).[44]

Many interviewees believe that the findings of the financial audits do not reflect the true situation in the management of resource revenue in Nigeria. An interviewee (*Interview no. 39*) particularly noted that the differences of about 0.02% and 2% reported in the 1999 – 2004 and 2005 audits respectively which are in fact within the acceptable margin of error for such audits, were misleading. Yet the common belief, as noted by an observer, is that:

> "The final revenue discrepancy identified in the report suggests important details about the nature of revenue mismanagement in Nigeria. The relatively small percentage of unaccounted for revenue … to total transactions suggests that, in general, revenues are not disappearing because companies make official payments to the central bank that are then diverted by public officials at the federal level" (RWI, 2007:3).

[44] Testimony of David L. Goldwyn, President, Goldwyn International Strategies, LLC before the US House International Relations Committee Subcommittee on Africa, Global Human Rights and International Operations May 18th, 2006

But many Nigerians are not easily deceived by the findings of the financial audits. An interviewee noted that:

> "Going by the findings of the financial audits, there is little or no difference between what the companies pay and what the federal government agencies receive. But we all know that resource revenue somehow disappear into people's pockets. These financial (audit) reports suggest that the companies are actually doing the right things and that the government officials are the thieves. I don't accept that. This report does not show where the companies go wrong" (*interviewee No. 24*).

However, by its objective, the financial audits are limited in the role they can play towards achieving resource revenue transparency. Interestingly, the global EITI often emphasizes an audit of material payments and receipts. It is evident therefore that financial audits alone cannot reflect the often complex configurations within the extractive sector that serve to protect the interests of key agents at the expense of the principals.

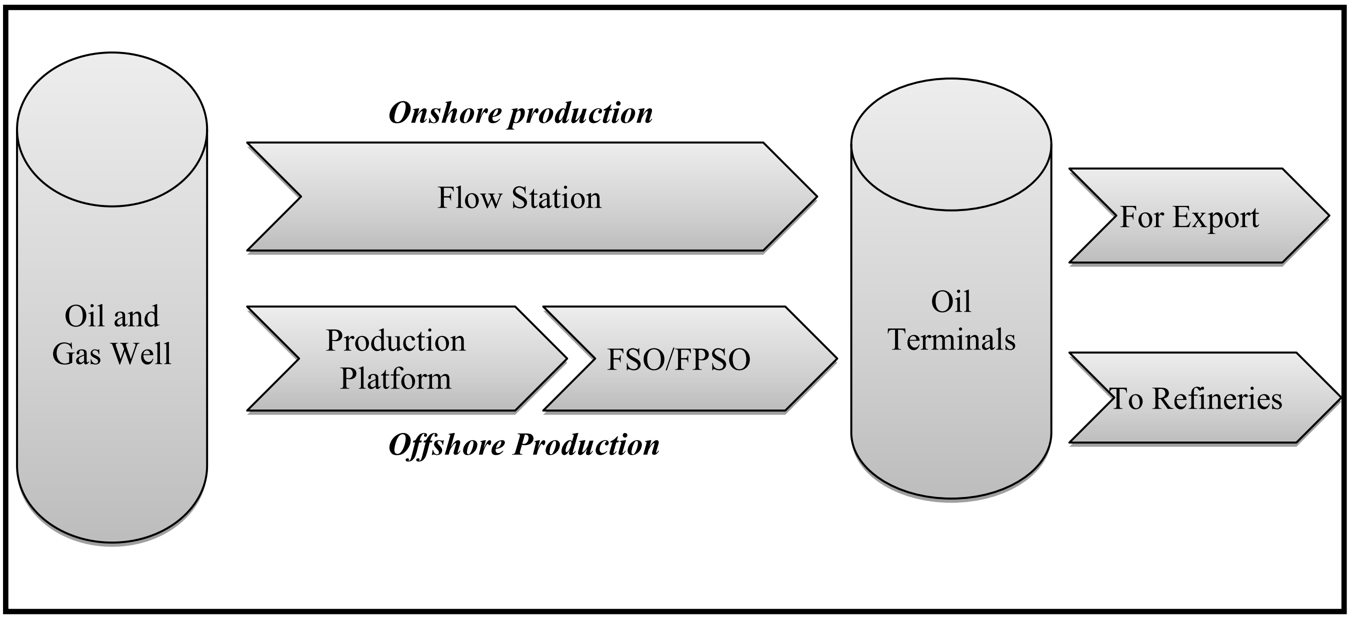
2. The Physical Audits

The Physical Audits are aimed at examining the management of hydrocarbons (crude oil and gas) flows from extraction to sale. The audits cover the chain of oil and gas production from the oil wells to the terminals where crude oil and gas are either lifted for export or transported (through flow lines) to the refineries in Nigeria (figure 6.1). However, production in Nigeria takes place both onshore (on land, and in the swamps); and offshore (in shallow and deep waters) and the chain for both differ slightly.

The Physical Audit of the year 2005, for instance:

> "encompasses the mapping of hydrocarbon flows, the assessment of the quality of procedural systems, the technical assessment of measuring hydrocarbon streams, the volumetric analysis and reconciliation of data, recommendations for improvements and reporting templates, and the aggregate reporting of hydrocarbons produced and fiscalised in the audit period 2005" (NEITI, 2009:58).

Figure 6.1 Crude Oil Production Chain



Adapted from the NEITI 2005 Audit Report (NEITI, 2009)

The audit findings highlight avenues of revenue leakage along the crude oil production chain most of which arise from the poor hydrocarbon metering infrastructure. The findings, among other things clearly indicate that, given the existing infrastructure, it is impossible to effectively determine the amount of crude oil production in Nigeria (NEITI, 2009). However, a combination of improper management, greed, and corruption, by both government and company officials, has engendered an enduring inefficient system which has characterized the management of resource revenue in Nigeria. The auditors reported that:

> "The quality of data available on product movement is insufficient to validate the reconciliation of product flows. This is due to the widely varying measurement practices in place at downstream depots" (NEITI, 2009:62).

The Physical Audits are particularly significant because the determination of revenue is essentially based on the amount of production of crude oil. Unlike the Financial Audits, issues concerning what 'ought to be paid' to government, as opposed to what 'is paid' which are considered more pertinent for meaningful resource revenue transparency to be achieved, are addressed in the Physical Audits. (*Interviewee No. 1*). For instance, the poor monitoring system gives room for 'oil bunkering' - a seemingly intractable problem in Nigeria considering the strong networks of both national and international actors involved in this crime cum business (discussed in Chapter 4).

With the inability of the financial audits to meet the expectations of many who believe that a lot of funds have been stolen from the extractive sector in Nigeria, the physical audits appear to be the greatest achievement of the audit exercise (*Interview no. 14*). This is in consideration of the amount of information relating to the operations of the sector that are now available in the public domain. An observer notes that the audits provide plenty of "information on the structure of and activities within the oil and gas sector, thus truncating poverty of information about the sector" and "insights into the effects of hi therto "black box" operations within the sector" (Ariyo, 2010: unpaginated).

3. The Process Audits

The Process Audits examine the policies and procedures involved in the licensing rounds and award of contracts; crude oil marketing, refining and product imports; and budget and management of capital and operating projects in the extractives sector (NEITI, 2009). These policies and procedures are compared to international best practices to ascertain their suitability. The Nigerian National Petroleum Company (NNPC) - the state-owned oil company, and the IOCs, especially those operating the joint venture agreements with the federal government are the key focus of the Process Audits. However, the DPR as the regulatory agency is also covered by the Process Audit.

Similar to the Physical Audits, The Process Audits conducted so far have been quite revealing. According to the reports, the management of the extractives industry in the periods reviewed was characterised by lack of transparency; low capacity of the DPR; political interference; complex, bogus, and out-dated policies; poor documentation; and lack of clarity of rules and procedures (NEITI, 2007). These factors leave ample room for manipulations and corruption, and hence immense loss of government revenue (Okonjo-Iweala and Osafo-Kwaako, 2007). For instance, the statements below, on the 2005 oil licensing round, are typical of the management of the extractives sector as reported in the Process Audits:

> "Complex and unwieldy bidding criteria deterred well-capitalised and experienced companies, while others were put off by the granting of rights of first refusal on some blocks to selected firms *on the eve of the auction*. Both problems ran counter to the principles of transparency proclaimed for the round... It is still unclear how so many ill-suited companies managed to prequalify, given their opaque ownership and finances. The implication is that the DPR was negligent in due diligence, partly because it was swamped by sheer numbers, and partly perhaps because of discretionary political intervention on behalf of these companies' owners" (NEITI, 2007:22-23).

Like the Physical Audits, the Process Audits are equally revealing. Many transactions were discovered to be carried out without recourse to due process. It was also discovered that the capacity of the regulatory agency DPR was weak and it lacked adequate human and material resources to effectively carry out its functions. There was also a weak interaction first between the government agencies, and also between government agencies and the companies. This made it extremely difficult for online information sharing and gave ample room for manipulations and mismanagement.

However, of greater interest to many citizens would be the findings that partly explain the incessant shortages of petroleum products in the domestic market, in a country with abundant oil and gas production. Petroleum products are imported from the international market to meet domestic demands because the four (4) existing refineries in Nigeria, with a combined design capacity of 445, 000 ba rrels per day were performing at an average of 42.7% capacity utilization for the period covered in the 1999 – 2004 (less than half of the global average of 85%). It was noted that:

> "Nigeria's refining, or downstream sector is the Cinderella of the industry. The country's four refineries have underperformed for decades, forcing the government to import oil products such as gasoline, kerosene and diesel at vast cost, and in a reputedly chaotic manner – evident in port congestion, late deliveries and occasional product shortages" (NEITI, 2007:27).

It was also revealed that although sabotage and vandalization of oil pipelines which occasionally disrupted the flow of crude oil to the refineries contributed to this problem, "the poor performance was due mainly to management failure to allocate enough resources to repairs and maintenance" and in 2004 a lone, savings of about $120 million would have been made if the refineries had worked more efficiently (NEITI, 2005:30).

Remediation of Audit Findings

Overall, the audit exercises reveal anomalies in the management of the Nigerian extractive industry which make remediation of the audit findings a key aspect of the NEITI implementation. To this end, the Federal Government set up an Inter-Ministerial Task Team (IMTT) in 2007 to implement the recommendations of the audit reports. The IMTT is charged with the responsibility of devising and implementing strategies for rectifying the gaps (NEITI, 2007). The team consists of representatives of core government agencies such as Department of Petroleum Resources (DPR), the Nigerian National Petroleum Company (NNPC), the Federal Inland Revenue Services (FIRS), the Office of the Accountant General of the Federation (OAGF), and the Central Bank of Nigeria (CBN). NEITI was mandated to coordinate the remediation effort. The team thereafter developed a comprehensive remediation programme, which was also approved for implementation. The remediation plan covers five key areas: developing a revenue-flow interface among government agencies; improving Nigeria's oil and gas metering infrastructure; developing a uniform approach to cost determination; building human and physical capacities of critical government agencies; and improving overall governance of the oil and gas sector (NEITI website).

However, as at the time of this report, it was difficult to confirm the impact of the remediation exercise on the overall management of the extractives sector. The best way to confirm the impacts would be perhaps in subsequent audits because the remediation of the findings of the 1999-2004 which was published in 2006 would reflect in the 2006 audits which are yet to be conducted as at the time of writing up this chapter. However, there have been reports of improvement in a number of areas. Regarding the audit findings of deficiencies in crude oil metering infrastructure, the

NEITI commissioned a comprehensive study of the metering infrastructure in 2009 titled "The Nigerian Oil and Gas Upstream and Downstream Sector Measurement (Metering Infrastructure) and Handling Study" by Telemetry Nigeria Ltd, an indigenous company specializing in custody transfer accuracy measurement, oil and gas measuring equipment installation, calibration and verification in the oil /gas industry in Nigeria (Telemetry Website)[45]. Although, the details of the report of this study were yet to be made public as at the time of writing up this chapter, the erstwhile NEITI Secretary, commenting on the study, hinted that "the era where Nigerians do not know how many barrels of oil is produced will become history when these recommendations [of the study] are implemented" (NEITI Website[46]). NNPC has also conducted a study of its products pipeline network and it was reported that "its $15 million plan includes replacing 33 sections of pipeline between Atlas Cove and Mosimi, and other sections between Port Harcourt and Abia" (NEITI 2009:35).

Some observers do not seem to be impressed with the progress of remediation so far made. Ikubaje (2006) thinks that "the willingness to correct what the NEITI audit reports found to be wrong with the Nigeria oil sector remains one of the greatest challenges to the Nigerian government" (2006: 66-67). There is a widespread perception across the interviewees for this study that the IMTT set up to implement the remediation of the audit findings has not been effective. In fact, one of the leading CSOs in the resource revenue transparency campaign recommends that the IMTT "should be disbanded and a new one to be headed by the EFCC [Economic and

[45] Telemetry Nigeria Ltd website http://www.telemetryng.com/industry_History.html Accessed 03/03/2010

[46] Mallam Haruna Yunusa Saeed, Executive Secretary, NEITI Speech at the High Level Stakeholder Roundtable 01/04/2010

Financial Crimes Commission] set up with NEITI serving as Secretary of the Team." (NDEBUMOG 2010:29). However, one interviewee believes that:

> "The inability of NEITI management to assert itself and demand accountability from erring companies has been the main reason why a lot of things have been swept under the carpet in recent times" (*Interviewee No. 14*).

However, a great deal of the lapses uncovered by the audits is expected to be addressed by the proposed Petroleum Industry Bill (PIB) currently being deliberated in the National Assembly. Although the PIB has attracted enormous opposition especially from the IOCs, proponents are optimistic that the bill would be passed, and when passed, is capable of ushering in a new era of a more efficient, and transparent management of the sector. Again, some interviewees feel that even if the PIB is passed, the greater challenge would be in the proper implementation of the dictates of the law which promises to overhaul the management of the sector, especially the state-owned oil company – the NNPC.

NEITI Audits and Achieving Resource Revenue Transparency: An Analysis

The NEITI audits are targeted as instruments for observing and monitoring the activities and behaviour of the key agents in resource revenue management. It is expected to address the information asymmetry between the agents: the government and companies; and the principals - the Nigerian population, in the management of resource revenue. Therefore, the information provided by the audits is expected to empower the citizens to request the agents to give account of their stewardship and hence ensure a better management of resource revenue. The general belief is that accountability is the important issue, and transparency is only one aspect of this

(Kolstad and Soreide 2009:224). The key question therefore is: how effective are the NEITI audits in engendering resource revenue transparency and accountability? We examine the strong points of the audit, as well the impediments towards its effectiveness in achieving the desired objectives of resource revenue transparency and accountability.

Many analysts believe that because the audits are unprecedented in Nigeria, they would arguably have far reaching impacts, if sustained. The audits attempt to open up discussions and create public knowledge on what was hitherto a 'no-go area'. One interviewee acknowledged this impact of the audits stating that:

> "Today, everything is in the open. One would visit websites and see operational processes and actual figures and data about oil companies' operations, which was not the case before" (*Interviewee No. 41*).

The disappointment often expressed about the financial audits notwithstanding, the physical and process audit reports are quite revealing. They seem to be the more significant audits especially because rather than focusing on payments made, they address the key question of 'what ought to be paid'. Critiques believe that a narrow focus on payments, as encouraged by the global EITI, would reveal little and hence not deliver the desired results towards resource transparency. Probing how the payment figures are arrived at reveals fundamental and institutionalised structures that undermine effective management of the extractives sector.

However, many believe that the failure of the audits to address the area of contracts leaves a huge gap. It is widely believed that the mismanagement of the sector often begins from the contract deals which are always kept secret. Shaxson (2009) expresses doubts that the more sensitive issues about contract transparency would ever be covered by the NEITI Audits. He notes that the initiative:

> "... for all its good intentions, so often finds obstacles put in its way once it starts to touch on an issue of real significance ... NEITI cannot easily force change; it c an only fit into the political environment that already exists" (2009:36).

Furthermore, as at 2010, only the audits of the periods 1999-2004, and 2005 have been conducted. That leaves a backlog of 5 years yet undone. This makes it difficult to assess the impact of the remediation done so far. As a result, the two audits so far conducted only serve the purpose of revealing the deficiencies in the management of the extractives and do not reflect the impact of NEITI because they are for periods predating the implementation of NEITI. For instance, the auditors noted in the 2005 audit report that they:

> "...previously recommended steps that PPMC should take to improve their capacity to report to NEITI and also for management purposes. It should be noted that our recommendations were made at the conclusion of the NEITI 1999-2004 audit, at which time it would have been too late for PPMC to take any action that would improve the 2005 situation; accordingly, the recurrence of these findings and recommendations is not surprising (NEITI, 2009:15).

Although some analysts interpret this recurrence as a lack of remediation effort (Young, 2009) while in fact the first audit (1999-2004) was published in 2006. However, further audits going forward would be crucial in assessing the impact of NEITI as they should reflect efforts at remediation of the previous audit findings. CSO leaders have requested that:

> "…efforts need to be made so that NEITI's yearly audit reports come out on time, rather than through a backlog of so many years, and at points when

> specific issues of revenue inflow and utilization are no longer very topical in the public's memory. It is imperative to follow the spirit of the NEITI Act that mandates the audit to be conducted within six months of the previous auditing year (CISLAC, 2009: unpaginated[47]).

There are also disappointments expressed by majority of the interviewees on the minimal financial discrepancies revealed by the financial audits. In fact, the differences appear to be within the acceptable margin of error for such audits according to international accounting standards. This many believe is misleading because in the same periods audited, there were plenty of allegations of fraud and mismanagement within the sector. It is surprising therefore, that the audits failed to uncover substantial financial discrepancies. More so, there were suggestions that parts of the audit findings might have been withheld. A CSO actively involved in the NEITI implementation alleged that:

> "NEITI's NSWG withheld and froze some (sensitive) elements of the report for reasons not known by the larger Civil Society partners of NEITI and against principles of the EITI global family at a time Nigeria is in dire need of EITI Validation" (NDEBUMOG 2010:4).

Some interviewees also think that the failure of the financial audit to reveal substantial financial differences makes it difficult to 'name and shame' corrupt government and company agents (*Interview nos. 21 and 31)*. An exercise which many believe would raise the profile of NEITI in the fight against corruption and resource revenue transparency. Since the release of the audit reports no high profile case of punishment of indicted officials and or companies have been recorded. It is argued that:

[47] Communique issued at the end of a Civil Society Organisation Workshop organised by CISLAC on the 7th of July, 2009

> "…transparency is not sufficient in itself for reducing corruption; credible sanctions of corrupt officials are also required. In countries where democratic institutions are weak, and the ability of other agents to sanction or punish the misappropriation of funds is low, more information is in itself unlikely to result in improvements in the behaviour of public officials. (Kolstad and Soreide 2009:223)

Many interviewees for this study were sceptical about the ability of NEITI to effectively carry out the 'naming and shaming' function expected of the initiative (*Interview nos. 11, 14 – 27, and 31*). In a public event organised by NEITI it was acknowledged in a statement that:

> "NEITI has the power to implement sanctions on c ompanies that fail to comply with the law but the enforcement of this power is impeded by political implications. NEITI currently carries out Alternative Dispute Resolutions before any matter is instituted in court. (NEITI, 2009: upaginated[48])

Finally, the vital role of the audits in achieving resource revenue transparency would be greatly undermined if the audit reports are not properly communicated to the wider stakeholders, and if there are no clear channels for citizens to respond to the findings of the audits. It was observed that contrary to popular reports that the NEITI audit reports ignited "a significant outcry at the signs of mismanagement and corruption" (Haufler, 2010:68), the knowledge of the audit findings was only popular among the political elites and few CSO who participate in the NEITI implementation. The majority of the Nigerian population is largely unaware of the details of the audit reports. This however, highlights that there is possibly a problem with the communication strategy in place for the NEITI implementation.

[48] Report on the NEITI South East Road Show held on the 13th of November, 2009. www.neiti.org.ng accessed 20/06/2010.

6.4.2 Communication Strategy/Feedback Mechanism

Information dissemination is critical to achieving the objectives of NEITI. It is important therefore to establish a clear and elaborate strategy for communicating with stakeholders and obtaining feedback from key and wider stakeholders. The global EITI advocates that "it will be important to ensure that outreach includes smaller companies and civil society organisations; and that outreach extends beyond the capital city to include regionally based organisations" (EITI 2005:21).

Designing an appropriate strategy for communication is one of the greatest challenges to the implementation of the initiative in Nigeria. In 2005, Goldwyn International Services LLC, the Advisors to NEITI, designed a fairly comprehensive Communication Strategy for the NEITI implementation. This document, which is available on the NEITI website, contains a framework which could enable NEITI to effectively communicate its programmes and activities to the general public. However, it was observed that this framework has not been fully implemented, and Asobie, the NEITI Chairman acknowledged in an interview for this study that an elaborate communication strategy for NEITI implementation was still lacking and would be addressed in the next phase of the implementation of the initiative (*Interview no. 1*).

We identify two clear channels of communication which seem to be critical to the implementation of the NEITI: communication between the NSWG members and their constituencies; and that between the NEITI and the general public. NEITI has so far relied on a number of activities to carry out its function of information disclosure. Some of these activities include print publications, road shows, consultative forums, town hall meetings, and the NEITI Website. While it has achieved some progress through these channels, it is evident that there exists a huge gap in the knowledge and awareness of the general public about NEITI programmes and activities.

The road shows for instance, are organised periodically on the basis of geopolitical zones. A road show event features presentations by NEITI officials and resource persons drawn from the academia and industry; interactive question and answer sessions; and sometimes drama presentations in local language depicting the ideals of NEITI. The road shows appear to be the most popular public event of the NEITI and the NEITI Chairman describes it as:

> "a stakeholders outing meant to stimulate public evaluation of the work of NEITI; its main purpose is to explain to the people what the NEITI is established for; its main activities, how such activities can impact on the lives of the people; and also to solicit external input for improvement and greater social relevance. Through it, we explain to Nigerians what we do and how we do it. Then we also learn how what we do is perceived, and understand how to do it even better next time. In road shows, NEITI listens proactively to absorb and appreciate what Federal, State and Local authorities, the private sector, and civil society organizations in different zones, have been doing, the challenges they face, and the progress they have made in the application of resources from the extractive industries, and in holding government to account in that respect. The road show is, in short, an opportunity for mutual communication in furtherance of Nigerian development" (NEITI website[49]).

Sometimes, the road shows are focused on achieving specific objectives. For example, the road show for the South East geo-political zone held on the 3rd of November, 2009 was:

[49] NEITI Website, www.neiti.org.ng accessed 15/08/2010

> "…was to present the report of the 2005 Audit … to the state governments and people of the geo-political zone, to create the necessary awareness among the citizens on the events within the Nigerian Extractive Sector and the work on NEITI" (NEITI website[50]).

However, many interviewees for this study admitted that the road shows can only achieve very minimal impact. First, the road shows are organised at major cities in the geopolitical zones. This means that the road shows are poorly attended and the majority of the attendees are usually the elite. Second, they are predominantly conducted in English and involve presentations that are considered complex for the apprehension of rural illiterate citizens even if they were to attend. This further reinforces the view that "the discussion about oil revenue transparency is largely confined to elite circles" (Müller, 2010:36).

In addition to its own internal communication activities, the NEITI relies heavily on participating NGOs to disseminate information on the initiative through their publications and programmes such as workshops and seminars (sometimes funded by NEITI). These NGOs are in turn limited by resources in what they can achieve. Moreover, the information they disseminate to the public are sometimes subject to their own perception and interpretation of the NEITI agenda which sometimes vary.

It was further observed that that there was no clear channel of communication and feedback between representatives on the NSWG board and their constituencies. This creates a huge gap in implementation as stakeholders are not properly involved in the implementation of the initiative. There is need for representatives of the government agencies, companies and the Civil Society to have a clear platform for communicating

[50] NEITI Website, www.neiti.org.ng accessed 10/05/2010

agreements reached at the NSWG to their constituencies. A senior staff of the FIRS interviewed for this study reckons that only about 5% of the entire staff of the agency might be aware of the NEITI and its activities (*Interviewee No. 6)*. The representatives of civil society also lack a platform to communicate decisions and obtain feedback. A writer observed that:

> "A 2006 report on EITI said that there was no mechanism for the civil society representatives on the NSWG to report back to larger civil society and insufficient civil society consultation in the design of the work plan and the reporting formats" (Shaxson 2009:4-5).

Publication and Disclosure of Audit Reports

The publication of the audit reports appears to be the most crucial part of the audits, and hence of the NEITI implementation. The audit, important as it may be, would have little or no effect on resource revenue transparency if they are not adequately communicated to the eventual consumers – the public. Many interviewees agree that the audit reports are not adequately publicised, and they are not in the best form that majority of the citizens can comprehend (*Interview nos. 14 – 25*). A writer also notes that:

> "NEITI did not disseminate the audit results widely enough and in an appropriate format that could reach the wider population, e.g. via radio or in a local vernacular. A lot more effort in this direction would therefore be needed to reach ordinary people in the Niger Delta" (Muller, 2010:36).

However, a number of CSOs participating in the NEITI have taken up the challenge of re-presenting the audits in different publications and disseminating information to the public. However, a number of these materials found still contain information just as they appear in the audit reports, albeit in abridged versions. In terms of appealing to the majority of the rural dwellers who are mostly illiterate, these materials arguably do not achieve any better results. Some CSOs also organise Town Hall meetings, workshops and seminars to enlighten attendants on the audit findings. Some interviewees agree that these strategies guarantee better results because it allows a face-to-face interaction and sometimes, they are conducted in local languages, and attendants have the opportunity to ask questions and receive clarifications (*Interview nos. 14, 15, 17, and 31*). However, it was also noted that attendants at such events are also limited owing to a number of reasons including limited financial and human resources, accessibility to venues, and the general apathy of the public (*Interview nos 16, 21, and 24*). Some other CSOs, for instance CISLAC and the National Democratic Institute, go a step further to organise technical workshops which would include enlightenment and training on the audit reports for national and state legislators and other CSOs (*Interview nos. 14 and 25*).

Apart from the discrepancies in payments and receipts, the audit reports contain ample information on the operations of the oil and gas industry in Nigeria and would be a substantial source of education to majority of the citizens who often rely on speculations about the industry. A Nigerian journalist notes that:

> "As an oil journalist I have struggled for years to understand what is going on in the Nigerian oil industry. For the first few years, there was no information on how things were supposed to work on taxation, measuring oil and gas production, and crude pricing and marketing. The audit put the processes and data out there for the first time, and highlighted gaps needing urgent attention. From that perspective, it was like gold. However, in that format, it was like a forest, and had limited value to ordinary Nigerian citizens. You needed total dedication and a lot of time to make sense of it all, and to make it comprehensible to the intelligent layperson" (Christina Katsouris quoted in Shaxson 2009:5-6).

Therefore, the limited communication framework for the NEITI seems to hinder implementation a great deal. To achieve its objective of resource revenue transparency and accountability, NEITI requires an elaborate framework for communication and feedback that would take into account the local conditions of the Nigerian society and also the characteristics of both key and wider stakeholders.

6.5 The Research Question Revisited

The research question addressed in this chapter is: how and why does the governance structure influence the effectiveness of collective action for resource transparency? Evidence analysed in this chapter strongly supports the assertion that the governance structure of a collective action is crucial to its effectiveness. In the NEITI example, achieving resource transparency would require some far-reaching reforms that can only happen with the commitment of government. Government leadership of the NEITI process was hence imperative but this invariable translated to government domination of the initiative. The evidence shows that government tends to take full advantage of the inevitability of its involvement in MSIs for GNPGs provision to take control of the implementation process. NEITI is implemented as an agency established under the Presidency (see section 6.2.1). This objective is further maintained through the institutions and processes designed for the implementation of NEITI. For instance, the composition of the governing board of NEITI, the NSWG, is dominated by government representatives, and in fact all appointments onto this board, including representatives of other stakeholders, are made by the President. The NEITI Act, the law enacted for the implementation of NEITI further institutionalises this government dominance and includes clauses that specifically protect government and business interests from undue exposure (see section 6.3.2).

Evidence analysed in this chapter shows that the governance structure of NEITI hampers the effectiveness of the initiative. For instance, the public perception of NEITI as a government agency diminishes the confidence of the public and hence the chances of stimulating wider public demand for accountability as envisaged for the initiative.

6.6 Conclusion

In this chapter, we have explored the governance structure and processes of NEITI and how these shape the implementation of the initiative in Nigeria. A significant conclusion from the analysis of available evidence is that the resultant governance framework of a MSI tends to reflect the character and aspirations of the dominant stakeholders. In the Nigerian EITI, the governance structure is designed to ensure government control of the implementation and to guarantee that it does not lead to a negative outcome for the political elite and their business counterparts in the Nigerian extractive industry. The evidence from the design and implementation of the NEITI implementation has key revelations about the organisation of collective action for the provision of 'globalised national public goods'. Again, available evidence reveals the strength of the perception of stakeholders of the incentives and disincentives of resource transparency on the implementation and effectiveness of collective action. For example, political leaders take full advantage of the seeming indispensability of the role of government in the NEITI implementation to ensure that their interests (and that of their industry partners) are not threatened by any undesirable outcome of the NEITI implementation. Hence, this implies that the effectiveness of the initiative in achieving the objectives of resource transparency and accountability is heavily dependent on the political will and aspirations of the government of the day.

The argument is that the heavy government dominance defines the rest of the implementation of the NEITI. The landmark achievements recorded in the early years of the initiative seem to be linked to the overall commitment of the government of the day towards reform and the eagerness to convince key international institutions of its commitment to reforms especially in the pursuit of debt relief and the attraction of foreign investment. The NEITI at the time sought to go beyond the minimum prescriptions of the global EITI on payments disclosure to venture into such issues as contracts, licensing and even expenditure transparency. However, beyond that period, the implementation was less decisive especially in the determination of 'what ought to be paid' as opposed to 'what is paid' as revealed by the discussions on the focus of the NEITI audits (see section 6.4.1).

Therefore, there are clear indications that factors within the local environment, important as they seem, are insufficient in explaining the determinants of the effectiveness of NEITI. The following chapter explores the possible influences on the effectiveness of NEITI exerted by actors and factors outside the Nigerian local environment.

CHAPTER SEVEN

THE ROLE AND IMPACT OF EXTERNAL INFLUENCE ON NEITI

"With lateral thinking one realizes that a pattern cannot be restructured from within itself but only as the result of some outside influence" (Edward de Bono, 1970:41).

7.1 Introduction

When Edward de Bono made the above remark in his book he may have been strictly explaining his concept of *lateral thinking*. Arguably, the unfolding trend in the provision of 'globalised national public goods' (GNPGs) appears to be conforming to this statement. In the campaign for resource revenue transparency (RRT), there seems to be an overwhelming recognition that "because many governments that have endorsed EITI suffer from weak or even collapsed governance structures, robust international support is necessary to help these states implement the initiative" (RWI 2006:19). Evidence from the preceding chapters suggests that given the inherent factors within resource-rich (developing) countries, achieving resource revenue transparency without some external influence is very unlikely. However, the critical questions to be considered are: how much external influence is required to engender the desired level of resource transparency provision? How best can external influence be applied? And to what extent does it influence the provision of resource transparency?

In this chapter therefore, we explore the specific external actors and institutions that influence the way that the NEITI is implemented, how they achieve this and the reasons that make external influence seemingly inevitable especially at this stage of the initiative. However, it is also likely that external influence on local implementation could, much as it is necessary, present some challenges to the effectiveness of NEITI. This chapter identifies the various sources of external influence on the NEITI, explores the means through which they exert influence on the implementation of the initiative and also attempts to measure their impact on the outcome of the initiative.

This chapter is arranged in six sections. In section 7.2 we identify the key external factors that have considerable influence on the NEITI implementation, and in section 7.3 we examine their roles in the NEITI implementation. Section 7.4 explores the justifications for external involvement in the local implementation of the initiative. Section 7.5 analyses the challenges that external factors present to the NEITI implementation and the impact of these challenges on the effectiveness of NEITI. Section 7.6 concludes the chapter.

7.2 Identifying the External Actors

As earlier highlighted (in chapter 4), Nigeria's strategic significance to global energy security attracts considerable foreign interest. From the onset, Nigeria's participation in the EITI was considered very strategic to the global EITI campaign. So for a chance of achieving a greater reach for the EITI, NEITI's successful implementation was vital to the proponents of EITI. Nevertheless, given her enormous crude oil reserve, Nigeria is also significant to the energy security considerations of a number of key countries especially the home countries of the major IOCs. A better managed extractive sector, apart from the prospects of socio-economic development of the country, would also ensure a favourable atmosphere for IOCs to further their businesses. At the time of launching the EITI, the former UK Prime Minister, Tony Blair admitted that:

> "Better openness and accountability are essential to securing the stability and prosperity that the developing world needs, and on which our mutual business success depends" (Hilson and Maconachie 2009:56).

Nigeria's close ties with the United States (US) and Europe, and more recently with the emerging Asian key players – China, South Korea and India are quintessentially defined by its huge oil and gas potential (Vines, 2007). Hence, the NEITI offers an opportunity to improve the management of the Nigerian extractives industry, and as such enjoys the support of the home country governments of the IOCs. Thus, with the objectives of the EITI closely tied to the management of natural resource wealth, the NEITI implementation was considered crucial. An observer remarks that:

> "NEITI is central to the energy question in Nigeria, particularly in light of the failure to channel massive oil and gas revenues to the benefit of national development" (The Bretton woods Project Website[51]).

In effect, some external actors have seized the opportunity that the EITI presents to further their interests and agenda in the implementing countries. Beyond financial contributions to the multi-donor trust fund (MDTF) administered by the World Bank, a number of countries have also made direct contributions to the implementation of the initiative especially in Nigeria. Sometimes, external support for NEITI is subsumed in harmonised development assistance programmes of multiple donors such as the Country Strategy Papers (CSP) - a funding arrangement that includes the World Bank, DFID, USAID and the African Development Bank (AfDB). In the current CSP

[51] http://www.brettonwoodsproject.org/art-561198

for the period 2010-2013 these partners jointly account for over 80% of Nigeria's development assistance (World Bank, 2009). However, the key actors who influence the implementation of NEITI are discussed below under the following 4 categories of external actors: the global EITI, bilateral donors, multilateral donors, and the global Civil Society.

7.2.1 NEITI and the Global EITI

The global EITI maintains a relationship with the country EITI governing leadership and secretariats to ensure that the initiative is implemented according to the agreed principles and criteria. In addition, the global EITI also provides some funding and technical support to local EITI implementation. These activities are coordinated through the EITI Secretariat based in Oslo, Norway. The local EITI executive is also responsible to the global EITI Secretariat for purposes of monitoring and reporting. However, the validation exercise, the quality assurance mechanism of the EITI, appears to be the greatest influence that the EITI wields on t he implementing countries (see section 7.3.1).

The NEITI, through its national coordinators, maintains a close link with the international Secretariat and the Board of the EITI. This is done through periodic meetings, conferences, and reports on the progress of the local implementation of the initiative (*Interview nos. 1 and 3*). The Board of the EITI, through the Secretariat and dedicated committees, reviews the validation and progress reports of implementing countries and takes decision on the country status, and may sometimes revoke a country's membership status. Hence, the global EITI wields considerable control over the outcome of the implementation of NEITI. In October, 2010 after an unsatisfactory review of NEITI's validation report, the board refused to elevate Nigeria to a 'compliant' status but gave the country an ultimatum of six (6) months to rectify identified irregularities.

However, before the failed validation bid, the EITI secretariat had helped to boost NEITI's profile with its very high recommendations of NEITI's activities and achievements (Goldwyn, 2006 a nd 2008; EITI Website, 2007). Despite obvious anomalies in implementation, the global EITI approved NEITI's progress and only seemed to notice irregularities during the review of the validation report. It promoted NEITI as a flag bearer for the global initiative and a model for other implementing and prospective countries. Some people in Nigeria believed that the essence and drive for implementation may have been lost in the overwhelming recommendation that the NEITI often received which created the false appearance that the initiative was being properly implemented (*Interview Nos. 31 follow up, and 43)*. However, with a number of countries achieving compliant status ahead of Nigeria, NEITI appears to have lost its 'pride of place'.

7.2.2 NEITI and Bilateral Donors

The bilateral donors that have significant influence on NEITI implementation are mainly the home country governments of the IOCs operating in Nigeria. The United Kingdom and United States governments, through their development agencies, dominate foreign assistance to the NEITI implementation. This is because through support to their IOCs, these countries had established prior long standing relationships with the Nigerian government. However, while the DFID has been active from inception, the USAID became active only in recent years. Other countries such as Norway, Canada, France, Germany, and Spain have also contributed in various ways towards the resource revenue transparency campaign in Nigeria. Beyond financial contributions, there are various ways through which NEITI receives support from bilateral donors. For instance:

> "Supporting governments ... promote more effective resource revenue management by providing policy advice and technical assistance to host country governments, consistent with EITI principles, and encouraging ... multinational companies to participate in EITI and disclose company payments by country of operation" (Natural Resources Canada Website[52]).

Bilateral donors clearly understand the need to support NEITI in the drive for resource revenue transparency in Nigeria. Relations between Western countries and resource-rich developing countries are often underlined by the overwhelming interests in energy security. The form and extent of these interventions could be sometimes intriguing. A typical illustration is the British government's alleged involvement in the release of Abdelbaset Ali Mohmed al-Megrahi, the convicted Libyan Lockerbie bomber, on compassionate grounds. Despite government's denial of any complicity, there was wide spread suspicion that:

> "..the release was the direct result of deals done in the desert between Tony Blair and Colonel Muamar Gadaffi, the Libyan leader, deals subsequently refined by British government ministers… to allow BP to explore for oil off the Libyan coast … to further Britain's commercial interests in the country" ("Time to Shine Light on a Murky Deal" *The Sunday Times* 30/08/2009 p20).

However, unlike the Libyan example, the EITI presents a safe and rather subtle opportunity for the UK and other Western countries to influence decisions in

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[52] http://www.eiti.nrcan.gc.ca/role/gove-eng.php

resource-rich countries by first showing support for the global EITI and also encouraging and supporting local implementation of the initiative. The global EITI is supported by a number of countries and as at end of 2010, there were 17 supporting countries most of which are OECD countries[53]. The global EITI expects these countries, among other things, to:

> "... encourage resource-rich countries, through diplomatic and commercial channels, to implement the EITI. And also to consider providing technical support in resource management to implementing countries which have low technical capacity. ... And also to finance the international management of the EITI and the World Bank-administered Multi-Donor Trust Fund. (EITI, 2005[54])".

To this end, the NEITI has been influenced by a number of home country governments of the International Oil Companies (IOCs) operating in Nigeria. Notably, the UK and the US have been at the forefront of the external support for NEITI, through their respective development agencies.

i. The United Kingdom/ Department for International Development (DFID)

For the global EITI, the UK government has played a vital role. The initiative was first mooted by former Prime Minister Tony Blair, and ever since the UK government has been supporting the implementation of the initiative, especially in strategic countries such as Nigeria. Most of UK government's inputs into the NEITI process are through the UK's Department for International Development (DFID). Since inception, the DFID has taken a 'strong lead' in supporting the NEITI, and in the process has had much influence on the implementation. Through the DFID, the UK government has provided enormous financial and technical support to the NEITI:

[53] Qatar is the only non-OECD country supporting the EITI as at end of 2010.
[54] http://eiti.org/supporters/countries

> "DFID has supported Nigeria's adoption of EITI with £3 million over four years. The DFID Minister told us that "we are probably the leading partners supporting the establishment" of NEITI" (UK Parliament Website[55]).

The DFID support for NEITI has been in phases. Phases I and II, which lasted from 2004 – 2009 focused on the launch and institutionalisation of the NEITI structure. Contract for a third phase of support which is aimed at expanding the reach and impact of NEITI is billed to start in 2011. This third phase which would be operated as a Facility for Oil Sector Transparency (FOSTER) is expected to last for 5 years and would cost about £9 million pounds (*Interviewees nos. 37 and 38*).

The UK government through the DFID has also provided funding for the NEITI Secretariat, including the payment of staff salaries, from inception up until 2009. In a recent review of DFID's programme in Nigeria, the International Development Committee of the UK House of Commons admitted that DFID's support to NEITI "has made a significant contribution to increasing accountability in the use of oil revenues and recommended that:

> "DFID take every opportunity to apply pressure to the Nigerian Government to prioritise oil industry reform measures, including publication of data on the contribution which oil revenues make to public finances and on the programmes which oil revenues fund, and the separation of oil from politics. These measures should also include provision of adequate resources to NEITI to build upon its excellent work to date and full co-operation with NEITI in the provision of data to ensure that publication of the audits for 2006-08 can be expedited" (House of Commons, "DFID's Programme in Nigeria: Government Response to Committee's 8th Report of Session 2008-2009"[56],).

[55] http://www.publications.parliament.uk/pa/cm200809/cmselect/cmintdev/840/84008.htm

[56] www.parliament.uk accessed 23/09/2010

ii. The United States /United States Agency for International Development (USAID)

With the enactment of the two laws mandating its companies to disclose payments made to foreign governments (and their agencies) for extractive activities, the US Government demonstrated its commitment to the campaign for resource transparency, which was lacking at the onset of the global campaign. However, the realisation of the significance of RRT to energy security may have prompted the USG to show greater commitment to the global campaign:

> "The US feels the immense pressure of the growing energy security concerns especially as substantial amount of its imports is from fragile states... With this pressure comes a growing commitment towards the improvement of good governance in these countries and the EITI is also … recognised as an opportunity to further the objective of ensuring transparency and accountability as a means of securing sources of energy supply to the US" (Global Witness, 2007:2).

However, despite the US government's late support for the EITI, it is important to note that the USAID in Nigeria has been supporting NEITI implementation right from inception:

> "…prior to this increased interest in EI transparency, the USAID's broad programme in Nigeria covered capacity building of civil society organisations, some of whom were actively involved in the implementation of the NEITI. That way, the USG has been, though indirectly, actively involved in the NEITI implementation" (Goldwyn, 2006:6).

Through USAID-funded projects in Nigeria such as PACT and Advocacy Awareness and Civic Empowerment (ADVANCE), some CSOs involved in the NEITI implementation (such as CISLAC) have received financial and technical assistance to execute their programmes and activities (*Interview no. 14*).

7.2.3 NEITI and Multilateral Institutions

Several multilateral institutions have publicly declared their support for the EITI and the global EITI has also relied on the soft powers that these institutions wield to expand the reach of the initiative. For instance, the UN, the G8, the G20 and regional multilateral organisations have played crucial roles in promoting the EITI as a key institution in the campaign for resource transparency. However, a number of these institutions have been more directly involved in the local implementation of the initiative in Nigeria. The Bretton Woods institutions have particularly influenced implementation in Nigeria in a much deeper way.

i. NEITI and The International Financial Institutions (IFIs)

The IFIs play an important role in the country implementation of the EITI. The EITI proponents recognise and maximize the influence that IFIs have on resource-rich developing countries through their financial assistance and advisory roles (EITI, 2010). It is believed that:

> "The involvement of these IFIs in large-scale projects is often seen as a vote of confidence by private investors and plays a key role in leveraging financing which is vital for project development" (EITI, 2010:1).

In Nigeria, the World Bank and the IMF appear to have had the greatest influence on NEITI. The World Bank, for instance, has been instrumental to NEITI implementation through its administration of the MDTF and a dedicated resident consultant for NEITI implementation. On the other hand, NEITI implementation is strongly linked to the cancellation of Nigeria's huge debt overhang, which was facilitated by the IMF in 2006 (Okonjo-Iweala, 2008). EITI implementation suited the IFIs' new emphasis on governance reforms. The fifth mandatory criterion for the implementation of EITI seems to be a subtle invitation for the active involvement of the IFIs:

> "A public, financially sustainable work plan ... *with assistance from the international financial institutions where required*, including measurable targets, a timetable for implementation, and an assessment of potential capacity constraints" (EITI, 2005).

This requirement provides an entry point for the IFIs to have considerable influence on the implementation and outcome of the local EITI programmes. Overall, the global EITI expects that the IFIs should promote the EITI and the benefits of its implementation, provide technical assistance to implementing countries, and also make financial contributions to the initiative (EITI, 2010).

ii. The World Bank and the Multi-Donor Trust Fund (MDTF)

The World Bank's support for EITI is underlined by the recommendations of the Extractive Industries Review (EIR) conducted in 2004. T he EIR *inter alia* had recommended that the World Bank should cease funding extractive industry projects especially in countries clearly lacking stability and good governance (Hilson and Maconachie 2009). However, the World Bank rather opted to "balance the often diverse views of many stakeholders including shareholder governments, civil society, and industry" (World Bank, 2004: iii). Hence, the World Bank agreed to continue to fund the extractive industry but:

> "...will require revenue transparency as a condition for new investments in extractive industries – in line with …the EITI. For new large projects, we will require transparency immediately to ensure that revenues are properly and transparently accounted for; for smaller projects, we will expect it in two years" (WB, 2004: iv).

With this new emphasis on transparency and governance conditions for financial assistance, the EITI appears to suit the Bank's changing policy thrust, who as a matter of policy are not allowed to interfere in political configurations of nation-states (Marquette, 2001; Hilson and Maconachie 2009). Therefore, the launch of the EITI was timely for the World Bank (Gillies, 2008) who maximized the opportunity to deflect criticism from the EIR and in "shifting the focus of the resource curse debate toward developing world governments" (Hilson and Maconachie 2009:55).

Presently, the World Bank plays a significant role in the implementation of the EITI at country level especially through the administration of the MDTF. A Global Witness report acknowledges that:

> "The World Bank administration and management of the EITI Multi-Donor Trust Fund has been an important source of support to countries participating in the [EITI] Initiative" (Global Witness 2008:6).

The MDTF offers a platform for a cross-section of countries and other multilateral institutions to identify with and show commitment towards the EITI and the global resource transparency campaign. As at 2010, the MDTF had received a total of $30.8 million from 13 different contributors (see table 7.1). Therefore, while majority of these countries and institutions may not have direct contributions to the NEITI implementation, it is important to note that they have indirect influence through their contributions to the MDTF. However, the figures also show that the United Kingdom and the United States jointly contribute about 40.6% of the total MDTF, and this trend in funding is also common in the NEITI as much as in most other implementing countries (EITI, 2010).

Table 7.1 Donor Contributions to the World Bank MDTF

		As of 30/03/2010		
S/No	**Donor**	**Amount Incepted ($ Million)**	**Amount Committed ($ Million)**	**Total**
1	Australia (AUSAID)	1.2	0.0	1.2
2	Belgium (DGDC)	0.7	0.0	0.7
3	Canada (CIDA)	0.9	1.5	2.4
4	EU (European Commission)	0.8	0.0	0.8
5	Finland (MFA)	0.4	0.7	1.1
6	France (MEFI)	1.6	0.0	1.6
7	Germany (BMZ)	1.3	0.7	2.0
8	The Netherlands (MDC)	1.5	0.0	1.5
9	Norway (MFA)	1.2	0.2	1.4
10	Spain (MFA)	2.2	1.5	3.7
11	Switzerland (FDEA)	0.0	1.5	1.5
12	United Kingdom (DFID)	6.5	0.0	6.5
13	United States (USAID)	6.0	0.0	6.0
14	Investment income	0.3	0.0	0.3
	Total	**24.6**[57]	**6.1**	**30.7**

Source: Global EITI Website http://eiti.org/about/mdtf accessed on 30/11/2010

[57] The total incepted amount as it appears on the source document is $24.7. There is a difference of $0.1million, even though the individual figures are the same. This is possibly a calculation error.

7.2.4 Global Civil Society

The global Civil Society is arguably one of the greatest driving forces behind the global resource transparency campaign. NEITI implementation has also benefitted from the extensive activities and programmes of the global Civil Society. Also recognising Nigeria as strategic to the overall campaign, international NGOs and other Civil Society Organisations (CSOs) movements have been keen on providing support to the NEITI implementation, especially through the strengthening of local CSOs involved in the initiative. The global Civil Society's activities in exposing corruption and mismanagement in such countries as Nigeria helped to highlight the global resource transparency campaign, and the emergence of the Publish What You Pay (PWYP) campaign also triggered the initiation of the EITI (discussed in Chapter 3).

The PWYP, through its local chapter, has been a rallying point for Civil Society action towards resource revenue transparency in Nigeria. The PWYP campaign in Nigeria may have been weakened by internal politics and lack of funding (discussed in Chapter 5), but with continued support from the global PWYP, they are still a force to reckon with in the RRT campaign in Nigeria (*Interview nos. 20, 22, and 24*). Likewise, a number of other international NGOs (INGOs) have been rendering invaluable support to the NEITI implementation in Nigeria which influences the implementation in no mean way. The global EITI is supported by about nine CSOs, most of which are also part of the global Publish What You Pay (PWYP) Campaign. The domestic branches of these CSOs are involved in the NEITI implementation and receive support from their global headquarters. They receive funding and training which are essential for their effective participation in the NEITI implementation.

Some of the global CSOs active in NEITI implementation include Oxfam GB, Oxfam Novib (provided the sum of 100,000 euros to PWYP Nigeria for its operations in the year 2008 (PWYP Nigeria, 2008:16), Open Society Initiative for West Africa (OSIWA), Revenue Watch Institute (RWI), National Democratic Institute (NDI) and Transparency International.

Particularly, Transparency International's publications and the consistent poor ranking of Nigeria in the Corruption Perception Index were influential in igniting and sustaining the resource transparency campaign in Nigeria (Idemudia, 2009). President Obasanjo, Obiageli Ezekwesili (the first NEITI Chairperson), and Assissi Asobie (the current NEITI Chairman), all key personalities involved in the NEITI implementation; have all been involved in various capacities with the global Transparency International. It is believed that their linkages with the global transparency organisation influenced their commitment to NEITI implementation (*Interview nos. 1, 20, and 24, 31*).

7.3 The Role of External Actors in NEITI Implementation

The implementation of NEITI has been influenced by the actors identified above in a combination of ways. Beyond the initial pressure to sign up to the initiative, donors and the global CS have also been very active in implementing the NEITI. In a meeting with the Donor community in 2008, the NEITI Chairman, Asobie acknowledged that "NEITI wouldn't have achieved much without the critical support from donors".

(Asobie, 2008:unpaginated[58]). Nigeria's participation in the EITI is also often believed to be due to:

> "...pressures exerted by the donor and NGO communities to address the corruption associated with payments and revenues generated from oil production" (Hilson and Maconachie 2009:72).

In the following sub-headings, we discuss the specific ways through which these actors influence the implementation and outcome of NEITI. In providing support and assistance to the NEITI implementation, these actors have contributed in no mean way to the outcome of the initiative in Nigeria. Through their involvement, external actors create and alter incentives and disincentives in the local environment in order to shape the implementation of NEITI.

7.3.1 Global EITI Validation

In July 2005, an International Advisory Group (IAG), set up to review the implementation of the EITI, recommended *inter alia* that a validation exercise should form part of the EITI country implementation. This recommendation was accepted by the EITI Board and a Validation Grid developed by the IAG was equally adopted. Since then Validation has become an essential instrument with which the global EITI ensures that country implementation of the initiative is in line with the agreed principles and criteria. Proponents believe that validation "safeguards the EITI brand by holding all EITI implementing countries to the same global standard" (EITI, 2007[59]).

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[58] http://www.neiti.org.ng/
[59] http://eiti.org/validation

The decision to adopt Validation is perhaps underlined by the understanding of the need for a ‘quality assurance mechanism’ for EITI as an international standard of good practice. Hemmati (2002) notes that:

> “There is general criticism of voluntary initiatives…as ‘talk shops’ and for being misused as legitimization while not having to do anything. Monitoring MSP follow-up is important; otherwise the process may not lead to much result” (Hemmati 2002:119).

Bernstein and Cashore (2007) also argue that for international standard setting initiatives to be effective and capable of delivering the set objectives they must possess:

> “...mechanisms to verify compliance and to create consequences for non-compliance. This feature means that, in effect, they develop mandatory standards for those who sign onto the system. The most common compliance mechanism is a third-party audit in which auditors ‘‘certify’’ firm or producer compliance with the rules or identify improvements required for a successful audit” (2007:350).

Hence, Validation has enhanced the credibility and legitimacy of the EITI (Fransen and Kolk, 2007). Some observers believe that without validation “the EITI would be little different from the many well-meaning but ineffectual initiatives on governance that exist around the world” (Global Witness 2009:2).

The EITI now requires that on signing up to the initiative implementing countries have two years from the time of signing up to undergo validation. A successful validation elevates a country from the ‘candidate’ status to ‘compliant’ status. Compliant countries would need to be validated every five years, or at the instance of the EITI Board. However, for an unsuccessful validation exercise, a country may be suspended or have its membership revoked. As at December, 2010, only five (5) countries have attained a ‘compliant’ status following a successful review of their validation reports. These countries include Azerbaijan, Liberia, Mongolia, Ghana and Timor Leste (EITI, 2010).

Effect of Validation on NEITI Implementation

Nigeria conducted its first validation exercise between February, 2009 and February, 2010, but failed to attain the much desired ‘compliant’ status because apparently a review of the validation report found some irregularities in the NEITI implementation. Based on those findings Nigeria’s status in the implementation of the initiative was decided as ‘close to compliant’ and was given a six (6) months ultimatum (from October, 2010) to rectify the findings.

The validation exercise and its outcome have had considerable influence on NEITI and would probably define the shape of future implementation. As at the time of writing this chapter, a task force set up by the NEITI leadership has been working frantically to ensure that the findings are rectified by January 15, 2011, well ahead of the expiration of the ultimatum. For instance, an earlier date of January, 2011 agreed with the auditors for the submission of the report of the 2006 – 2008 NEITI audit (one of the outstanding issues) was brought forward to December 15, 2010 (NEITI, 2010 http://www.neiti.org.ng/). There are indications that the NEITI leadership takes the validation exercise very seriously and prioritizes the achievement of compliant status as soon as possible. An insider remarked that:

> "It is embarrassing that after the widely acclaimed leadership role of Nigeria in the implementation of the EITI, 5 countries have attained compliant status ahead of us. One would expect that Nigeria should be the first country to attain this status, at least among the participating African countries" (*Interview no. 5*).

The EITI Board's decision shows that NEITI's role in pioneering the initiative through its earlier achievements - notably the enactment of the NEITI law, and widely acclaimed comprehensive audits – was not sufficient to guarantee a favourable decision. With this decision, the EITI Board demonstrated some level of objectivity which is viewed by some observers as very critical to the credibility of the initiative. The Global Witness, a global Civil Society Organisation at the forefront of implementation of the EITI insists that:

> "Validation needs to be as objective and credible as possible. Any suggestion that a country has been given special treatment, for political or commercial reasons, would be fatal to the EITI's credibility. It would also be deeply unfair to other Candidate countries which are making good-faith efforts to reach Compliance. So all EITI stakeholders must be ready to defend the objectivity of the Validation process, even if it produces results which are uncomfortable for some. This is the only way to protect the achievement of the EITI and give it value in the eyes of the world." (Global Witness, 2009:2).

Beyond the need to achieve compliance, the NEITI implementation also benefitted from the outcome of the validation exercise. In line with the recommendations of the Validation report, the capacity of the NEITI Secretariat has been strengthened from 17 staff to 56 s taff including the appointment of three (3) directors and a new Secratery/Legal Adviser (NEITI, 2010). Therefore, the validation exercise and its outcome have helped to rekindle a wave of activities in NEITI implementation that had hitherto dwindled.

7.3.2 Funding

The key question that often arises generally about the provision of GPGs (and more so for GNPGs) is about their financing (Sandler 2001; Anand 2004). The issue of funding for local EITI implementation also remains contentious. NEITI implementation is still substantially funded by external donors. The demand for national governments to fund EITI implementation (to enhance local ownership and sustainability) also raises some concerns about the independence of the initiative (though already undermined by the governance structure in the case of NEITI, as highlighted in chapter 6). This could be worsened by the inappropriate funding administration procedure associated with government funding which could sometimes derail implementation.

Funding is a key channel through which donors influence the implementation of the NEITI. Since inception in 2004, NEITI has relied heavily on donor funding for its programmes and activities. Key achievements, such as the NEITI audits, were executed with the funds provided by donors (Shaxson, 2009:23). Attracting and retaining competent and dedicated staff for the NEITI Secretariat is crucial to the successful implementation of the initiative. The DFID ensured this by funding the salaries of NEITI Board members and Secretariat staff from inception up until 2009 (Shaxson 2009). A move that some observers believe could create some sustainability problems when government takes over this responsibility (*Interview No. 31*).

NEITI has benefitted mostly from the World Bank administered MDTF and the DFID (Goldwyn, 2006). Together, they ensured a pool of funds that "was instrumental in helping NEITI to be established" (WB MDTF Management Committee, 2008:7). The

World Bank has three (3) established channels for providing financial support for the EITI implementation: the GDF, the MDTF and through budget contributions. While Nigeria has not received much support from the GDF[60], it has benefitted immensely from the MDTF. Nigeria was "the first country to complete a Grant Agreement Program" (World Bank, 2008:5). The World Bank first phase of support (Phase I) for NEITI cost the sum of $2.2million. This represented 46.6% of all MDTF grant agreements with implementing countries as at March 2008. Another Grant Agreement for the sum of US$900,000 for Phase 2 was signed on February 4th, 2010 and would be utilized for deepening the NEITI implementation (Ruhl, 2010).

Tables 7.2 and 7.3 suggest that the funds provided by donors are often sufficient to cover key aspects of the local EITI implementation. NEITI Chairman, Asobie equally acknowledges that NEITI has had no funding challenges *(Interview No. 1)*, thanks to the benevolence of donors. A World Bank report states that MDTF funds availed to implementation countries are usually overseen and approved by the national EITI Board and Secretariat and cover "major expenses such as hiring Administrators for EITI Reports and hiring vendors for capacity building programs for CSOs, and others" (World Bank, 2009:10).

[60] Nigeria received only a total of USD10, 500 as GDF grant for the period 2005-2008 out of a total sum of USD1,104,277 disbursed to EITI implementing countries in the period, representing less than 1% (0.95%) of the total amount disbursed even though 31.6% of the total amount was disbursed to implementing countries in the Africa region.

Table 7.2 Indicative Breakdown of MDTF Grants Usage for EITI Implementing Countries

MDTF Grants Usage for EITI Countries	
	%
Operational Support to Secretariat	35
Awareness Raising/Communication Dissemination	21
Capacity Building/Civil Society	17
Capacity Building/Government	15
Audit and Reconciliation	12
Total	**100**

Source: *Engagement with Civil Society: An EITI implementation case study by Extractive Industries Transparency Initiative (EITI) program Oil Gas and Mining Policy and Operations Unit (COCPO) World Bank Group, 2009)*

Table 7.3 Indicative Breakdown of MDTF grants usage - for Nigeria (NEITI)

Indicative Breakdown of MDTF grants usage - for Nigeria (NEITI) Currency		
	Amount	%
Goods	290,000.00	13.1
Consultant Services	625,000.00	28.2
Training and Workshops	1,260,000.00	56.8
Operating Cost	45,000.00	2.0
NEITI Special Account	0.00	0.0
Total	**2,220,000.00**	**100.0**

Source: *Engagement with Civil Society: An EITI implementation case study by Extractive Industries Transparency Initiative (EITI) program Oil Gas and Mining Policy and Operations Unit (COCPO) World Bank Group, 2009)*

There is also continued financial support for the NEITI towards deepening implementation. The donors recognize the need for a:

> "principle of continued support for Nigeria to consolidate NEITI and, in particular to support a clear process of implementing remedial actions recommended in the EITI reports, both in the area of fiscal flows and oil physical process" (WB MDTF Management Committee, 2008:8).

It is widely believed that without continued donor support the NEITI implementation could dwindle further and the gains of the initiative might be lost (*interview nos. 1 and 5)*. Even with the Federal Government total budgetary allocation of about N1.4billion (about $9 million) for the year 2010, donors have put in place funding programmes to assist the NEITI in consolidating and deepening its impact on resource revenue transparency. In 2010, The World Bank, through the MDTF, agreed a total of $1.8 million (spread in two equal halves of $0.9 million) for Phases II and III of support for NEITI. As earlier mentioned, the DFID Phase III programme takes the form of a Facility for Oil Sector Transparency (FOSTER) targeted at the overall improvement of oil sector transparency but closely tied to complementing the efforts of NEITI. This project which would start in the first quarter of 2011 and cover a period of five (5) years and would also be focused on deepening the impact of NEITI. (*interview no. 4*5). The World Bank is of the view that:

> "...donors have an opportunity to help consolidate NEITI accomplishments and thus help Nigeria (and donors) to optimize the return on their investment to date by supporting a clear program of NEITI implementation follow-up and expansion into mining" **(**WB MDTF Management Committee, 2008:7-8).

In addition to funding, donors have equally influenced NEITI implementation through technical assistance and capacity building activities. DFID, for instance, has provided advice and support that facilitated the recruitment of suitably qualified and competent consultants for NEITI auditing and validation exercises. For the first NEITI Audit conducted in 2006, the NEITI Secretariat sought assistance from the DFID "to place adverts in the international editions of the Wall Street Journal and the Economist" the outcome of which was considered very crucial to the success of the audit exercise (NEITI, 2006[61]). Furthermore, the recent study of the metering infrastructure of the oil and gas industry in Nigeria by Telemetry Nigeria Ltd was "conducted with the financial assistance" of the DFID (NEITI, 2010).

7.3.3 IFIs Conditionality

The IFIs have also used the instrument of conditionality to ensure that first, Nigeria signed up to the EITI, and second that implementation is sustained. An illustration is the IMF's Policy Support Instrument (PSI). In order to secure the cancellation of its over $30 billion debt overhang with the Paris Club in 2005, Nigeria required the PSI to ensure the support and facilitation of the IMF. Among other things, the IMF PSI required a high level of government commitment towards resource revenue transparency, and the implementation of the EITI was considered sufficient evidence for this requirement. The PSI specifically required Nigeria to publish "a draft report of the Nigeria Extractive Industries Transparency Initiative (EITI) oil sector audit by end-December 2005" (IMF, 2006:7).[62]

The PSI was devised by the IMF in 2005 as a means of lending support to "low-income countries that do not want—or need—Fund [IMF] financial assistance but seek to consolidate their economic performance with IMF monitoring and support" (IMF Website[63]). Nigeria became the first country to benefit from the instrument

[61] http://www.neiti.org.ng/Press%20Releases/selectofhartgrp.pdf, accessed 25/09/2010
[62] The NEITI audit report was published on the 12th of January, 2006.
[63] http://www.imf.org/external/np/exr/facts/psi.htm, accessed 08/07/2010

(Bretton Woods Project, 2008[64]), but the implementation of NEITI was an essential consideration in the process (Shaxson, 2009: 9-10).

7.3.3 External Political Support for NEITI

NEITI has enjoyed an overwhelming international political support. Perhaps, this is due to its pivotal role as one of the pilot countries for the EITI. However, this propaganda also influenced the local implementation of the initiative in no mean way (Shaxson 2009:42). While NEITI lacked awareness within Nigeria, the initiative was globally recommended as a model for other implementing countries. The statement below is typical of most assessments of the NEITI implementation made by outside observers:

> "The goals of NEITI far exceed the criteria mandated by EITI. Nigeria has taken the transparency initiative to a new level by expanding the program to audit the physical flow of hydrocarbons and by taking a holistic approach to examining the energy sector, investigating government agencies in addition to private and state owned companies" (Goldwyn 2006:2).

At a public event organised by NEITI, a World Bank official declared that:

> "In less than a year and half … one can point with justifiable pride to a considerable list of achievements: an impressive alliance of stakeholders has been forged in support of transparency; public awareness of the central importance of transparency has been dramatically raised; I might point out that the NEITI's impact in this regard has extended well beyond Nigeria. Nigeria's example has brought transparency to the attention of not just its neighbours in Africa, but also the global community…From the outset, Nigeria has been at the forefront of this global effort, arguing persuasively for extractive industry transparency, and setting an example" (Charles Mcpherson, quoted in *Transparency in Extractive Sector*, PWYP Nigeria No 1 Oct-Nov 2005:4).

[64] http://www.brettonwoodsproject.org/art-561198, accessed 11/09/2010

Another illustration is that while many civil society activists, insist that the NEITI law is weak and incapable of strengthening the NEITI effectiveness (see chapter 6), the IMF acknowledges the NEITI law as a "good progress in efforts to improve governance and reduce corruption" (Baker 2008[65]).

Nevertheless, this international recommendation has worked as a strategy to sustain or improve the commitment of the Nigerian political elite towards resource revenue transparency. Some analysts believe that without the international profile of NEITI, the momentum would have been completely lost (Shaxson, 2009, M uller, 2010). Successive governments since inception have assumed the responsibility of sustaining NEITI's international profile. As a result, there seems to be more pressure to sustain the implementation of NEITI than there is for the reform of key complementary institutions such as the electoral system and the Freedom of Information Bill (*Interview no. 39*).

7.4 External Influence as a Catalyst: An Analysis

Available evidence on the NEITI implementation seems to suggest that little would be achieved in the provision of 'globalised national public goods' without external influence. External influence on country EITI implementation is often viewed as a catalyst (EITI, 2006) – necessary for initiating the process, but not part of the process of EITI implementation. A member of the global EITI board once noted that "the EITI is simply a catalyst. It will not exist forever. It will convene companies and governments over the coming years to implement transparency standards and build

[65] http://www.brettonwoodsproject.org/update/60/bwupdt60_ai.pdf, accessed 11/09/2010

capacities” (Henry Parham quoted in Schumacher, 2004:7). This seems contrary to the assumption on the provision of ‘globalised national public goods’ which considers the external environment as part of the overall process because benefits (and consequences of non-provision) are shared between the domestic and external environments. And as such collective action (from both environments) is required for adequate provision.

However, the catalyst view of external influence on the EITI country implementation seems to define the nature and extent of external influence on NEITI. It tends to limit external influence on country EITI implementation to funding and technical assistance. The key question therefore is: can external influence sufficiently provide or alter the incentives and disincentives necessary for the provision of resource revenue transparency through collective action? Available evidence suggest that external influence and their methods of influence, much as it has been useful, may have equally inhibited the deepening of the impact of NEITI in Nigeria. We explore these areas in the following sub-headings.

7.4.1 Distortion of the Chain of Accountability

NEITI implementation is such that there is the tendency for NEITI implementers to be accountable first to the government who appointed them and then to donors, who provide funding and technical assistance. As such the linkage between NEITI and the wider stakeholders is further weakened. The EITI as a global initiative relies heavily on external forces (rather than internal) to get countries to sign up and also to sustain local implementation (Muller, 2010). Shaxson (2009) believes that:

> “Western influence may have had an effect in a perceived failure to build a coalition to support and sustain the reform process, and a failure to institutionalize the gains, beyond a limited number of initiatives”

With so much donor support for the NEITI implementation, NEITI is sometimes focused on satisfying donor conditions rather than on the core objectives of stimulating the demand for accountability in the management of natural resource wealth.

7.4.2 Inadequate Coordination

There are signs of overlapping funding programmes for NEITI implementation. For instance, the Federal Government made budgetary allocations for NEITI for the 2010 fiscal year, and the World Bank and DFID also have planned funding programmes covering the same period. The problem is that the current practice tends to give room to misuse of funds (*Interview no. 31*). An illustration is the allegation against the former Executive Secretary of NEITI that he received salaries from both the DFID funds and the Federal Government provisions at the same time. In addition, The World Bank established three (3) Public Information Centres (PICs) across the country which were not functional as at the time of this study (*Interview no. 1*). The funding pattern also raises concerns about sustainability of the initiative as there could be pressure on the Federal Government to meet up with the funding level established by the donors when donor funding ceases.

The payment of salaries for NEITI staff could also be a source of controversy. An observer notes that:

> "Another technical problem that is connected to the salary support is that, the present NEITI salary structure is not feasible and or obtainable in the Nigerian civil service salary scales/structures. The highest wage in the Nigeria federal civil service is less than $2,000 per month and some staff of NEITI earns [*sic*] as much as $3,000 per month. This is going to generate internal crisis within the secretariat as the government cannot accommodate the NEITI salary scale. Also important, is the fact that for the initiative to maintain it present caliber of staff, the NEITI employees must be well remunerated beyond what is obtainable in the Nigerian civil service" (Ikubaje, 2009).

7.4.3 Inadequate 'Globalization' of the Resource Revenue Transparency Campaign

There are suggestions that the amount and quality of external influence on local implementation could be improved by expanding the reach and buy-in of the global resource transparency campaign. At the moment, the campaign seems to be popular among the home countries of the major IOCs and the resource-rich developing countries. Paul Collier, for instance, argues that:

> "It is much easier for local politicians to guide citizens on this issue if there is an international campaign on which they can draw: then their message is less likely to be misconstrued as self-serving or misguided. The obvious analogy here is the campaign on climate change. In a remarkably short time citizens around the world have become aware and concerned about the ethical dilemmas posed by excessive emissions of carbon. Yet both the scientific and the ethical basis for the climate change campaign were far more contestable than the case for the protection of future citizens from the consequences of insufficient investment. Hence, my suggestion is that EITI consider organizing or encouraging an ethical campaign analogous to that on climate change around the theme 'don't plunder your future'. In effect, the agenda could be broadened from countering corruption to countering the neglect of the future" (Collier 2008:7).

One way of achieving this is to encourage Western countries to not only participate in the EITI as 'supporting' countries but to also implement the initiative (Young, 2009). However, these countries often argue that they have "existing regulations and financial disclosure requirements in place" (Natural Resource Canada[66]) and as such do not require to implement the EITI. Presently, Norway appears to be the only exception. Norway signed up to the initiative in 2009, and has since been successfully implementing it. The objective is that it addresses the North-South dichotomy in the global implementation of the EITI, and could also help in improving the awareness of the initiative and its objectives among Western country consumers who are potentially a formidable force in the global resource transparency campaign.

Another way of improving the global reach of the EITI is to engage the emerging big economies from Asia especially China, India and South Korea who do not currently subscribe to the initiative. The activities and policies of these countries in resource-rich developing countries sometimes undermine the resource transparency campaign (Manning, 2006; Collier, 2008). An analyst notes that:

> "The recent entry of China and India into Nigeria following bidding for oil blocks in 2005 and 2006 has produced new timidity regarding transparency, particularly as neither Asian giant has signed on to the Extractive Industries Transparency Initiative (EITI)" (ICG, 2006:22).

China has particularly been a source of concern in recent years. The statement below aptly captures the concerns often expressed on the threat that China poses to the global resource transparency campaign:

> "We need to bring the emerging market players on board. China has a publicly stated policy that they don't care about governance in other countries. They will invest to get resources and they are not going to "interfere" in internal policies. Over the long run, that will turn around and bite them. From our standpoint copying them is not the way to go. Trying to bring China to the table and have them be part of the international push to develop a global

[66] http://www.eiti.nrcan.gc.ca/role/index-eng.php accessed 25/06/2010

> standard of transparency and governance over these sectors is the way to go. It is possible that a concerted push from the G8 governments at the 2007 summit will bring China into the dialogue" (Karin Lissaker in Global Witness, 2007:8).

Of greater concern however is that this opinion of China is shared mostly by the Western countries alone. The opinion of policy makers in Nigeria for instance, may differ considerably as the statement below from a recent report suggests:

> "There are concerns (from the west) about the strategies of China and other 'new sources' in Africa, but these concerns are note shared by Nigerians who view these as just another source of development funding. Interestingly, observers think that "Nigerians expect genuine South-South cooperation that is based on equality and mutual respect and does not replicate existing unjust and exploitative North-South relations" (Econ Poyry, 2008:27-28).

The current profile of EITI implementing countries suggests that the initiatives focuses on resource-rich developing countries and portrays a north-south dichotomy. The western countries should do more than supporting the initiative. It is believed that until such countries as the US, UK and Canada accept to implement the EITI, attracting other countries, especially Brazil, Russia, India and China would remain a challenge. The geographical imbalance affects the credibility of the EITI as it portrays it as "…a policy mechanism marketed by donors and Western governments as a key to facilitating economic improvement in resource-rich developing countries-in sub-Saharan Africa" (Global Witness, 2009:2). This view of the EITI seems to diminish the commitment of stakeholders in the local implementation of the initiative (*Interview nos. 15, 18, 39*). However, there is an argument in the literature on the provision of GPGs that tends to support the concentration of efforts on resource-rich developing countries. This argument is referred to as the 'subsidiarity principle' and according to Sandler (2001:25) "subsidiarity not only places the problem on the most appropriate participants – those with most at stake – but it also economises on transaction cost". The question that arises though is how can 'those with most at stake' be appropriately determined?

7.4.4 Policy Incoherencies of Western Countries

It is alleged that Policy incoherencies and double standards by key Western countries that support the initiative also inhibit the deepening of the global RRT campaign. Certain policies and decisions of Western countries' governments are capable of sending the wrong signals to implementing and potential implementing countries about the seriousness of the resource revenue transparency campaign. In his report on NEITI Shaxson (2009) notes that:

> "Some interviewees were cynical about Britain's apparently hypocritical role in all of this: chiding Nigerians for corruption and encouraging the EITI process, on the one hand, then refusing to cooperate on tracking cross-border financial flows in order to protect the secrecy space and the dirty money that it harbours in the City of London and its satellites in the Crown Dependencies (e.g. Jersey) and overseas territories (e.g. the Caymans) in particular. Britain – almost certainly the largest recipient of stolen Nigerian assets – was singled out as being remarkably uncooperative" (Shaxson 2009:40).

Another illustration is the apparent volte-face on the Petroleum Industry Bill for Nigeria. A bill intended to restructure the Nigerian oil and gas industry but which was deemed not favourable to IOCs in Nigeria (see Chapter 4). It later emerged that the lawmakers were coaxed to alter some initial provisions of the bill in order to suit the IOCs. One of the lawmakers said that their intention was:

> "...to pass the bill as sent to us by the late President Umaru Musa Yar'adua but these companies put us under intense pressure, they even got the American government to intervene on their behalf. Shortly after his return from the

> United States early this year when he was acting, President Jonathan requested that the provisions of the bill be reviewed after which he asked the leadership of the two chambers to look at the issue of tax and reduce it to allow for "investment" in the sector" (Turaki Hassan, *Daily Trust* 08/10/2010[67],).

Asobie (2009:14) also believes that "the major oil companies operating in Nigeria, including those from Europe obviously detest the bill and are likely to fight to kill it". This opposition to the PIB, a law expected to introduce major restructuring in the oil and gas sector in Nigeria, seems to run contrary to the Western countries' support for resource transparency and accountability in Nigeria.

7.4.5 Validation versus Certification

The key concern about the EITI Validation is its insufficiency as a quality assurance mechanism for an international standard of good practice. Critics of the EITI have argued that the choice of validation over a certification scheme was due to the need to protect the interest of the IOCs. It is believed that certification could place greater demands on bus iness. This is contrary to the view that validation was favoured because certification seemed impracticable in hydrocarbons trade especially for oil and gas. However, validation seems to offer minimal incentives for countries to remain committed to the objectives of RRT. Implementing countries who do not achieve successful validation only stand the risk of having their "candidate" status revoked or suspended. Suspension or revocation of membership from the initiative basically implies that a country could revert to the status quo with implications for the overall global campaign. Alternative sources of funding such as China also make the threat of loss of donor funding and development assistance unattractive.

[67] http://allafrica.com/stories/201010080273.html accessed 18/11/2010

On the other hand, the reward for a successful validation is "international recognition for their efforts and achievements" (EITI, 2010 http://eiti.org/eiti/validation). This may not be much of an incentive to such countries as Nigeria, which has already received a lot of recognition for their participation in the EITI without achieving validation. In addition:

> "... these long-term benefits may not be visible at the point when a country achieves Compliance. So the international community must ensure in the short term that EITI Compliant countries receive the recognition that is due to them." (Global Witness, 2009:2)

In a critique of the NEITI, the PWYP Nigeria also advocated for the provision of a "Certificate of Transparency Compliance (CTC)" which would be issued to companies who have satisfied the requirements for the implementation of the EITI. This argument seems to be pertinent because at the moment validation appears to be focused more on assessing the involvement of governments and less on that of companies.

Furthermore, the validation exercise also seems to divert attention from the core objectives of achieving resource revenue transparency to a mere box-ticking exercise. The questions on the Validation grid (a guide) tend to suggest that the focus of the validation is on government's role in the implementation. This again undermines the multi-stakeholder framework originally intended for the initiative. For instance, the validation exercise asks minimal questions of business involvement in the implementation of the initiative. This observation further highlights the criticism sometimes made of the initiative being a means of shifting emphasis from business to governments.

The use of third party consultants also undermines the essence of the multi-stakeholder framework of the EITI. The key objectives of the validation process includes to promote "dialogue and learning at the country level" and also to identify "opportunities to strengthen the EITI process going forward" (EITI, 2006[68]). By relying on third party auditors for the validation exercise, the EITI seems to lose an essential channel for deepening the initiative. Some authors note that:

> "An interesting finding from the comparative analysis of different types of standards is that multi-stakeholder standards tend to rely as much on monitoring by professional audit companies as standards formulated by business groups only. They thus miss the chance of dividing this task among auditors that represent various groups, which would be much more in line with the philosophy of multi-stakeholder involvement—also because it would best use different groups' expertise and give watchdogs the opportunity to fulfil that role" (Fransen and Kolk, 2007:678).

7.4.6 Bogus or Too Simple Key Performance Indicators (KPIs)

It is argued that donors often times measure the impact of their contribution by means of a set of predetermined key performance indicators (KPIs). While KPIs may be necessary to justify donors' contributions, in an issue such as RRT, there is the tendency that these KPIs may shift emphasis away from the key objectives. For instance, the WB and the EITI tend to measure the success of the initiative by: first, the number of countries that sign up; second, the number of countries that publish EITI reports, conferences and other activities. This is as opposed to the key objectives

[68]http://eiti.org/eiti/validation, accessed 25/10/2010

of achieving genuine RRT in the implementing countries and empowering citizens to demand accountability (Gouseva, 2008). A Global Witness assessment of World Bank and IMF support for local EITI implementation found *inter alia* that:

> ... the institutions are mainly focusing on the disclosure of revenues, … and are largely not promoting contract transparency or ensuring meaningful civil society participation (Global Witness, 2008:5).

This once more reinforces the debate on the narrow focus of the global EITI and the limitations that this sometimes places on the overall effectiveness of the local implementation.

7.4.7 Competition for Funding among Local Civil Society Organisations

There is evidence that local civil society participation in the NEITI implementation is also hindered by fierce competition among NGOs for scarce donor funding and assistance. PWYP Nigeria, for instance, depends heavily on donor funding, and this has been further diminished in recent years due to the activities of parallel organisations such as the DFID-funded Coalition 4 Change (C4C), CISLAC, and a few others. The statement below captures the mood of the PWYP National Programme Coordinator during a donor conference organised in 2009:

> "We have engaged donors in several meetings to see how we can re-cement our relationship, so far the outcomes of such meetings have not been encouraging, hence we decided to call for this donor conference to hear from you where we have got it wrong, then we can amend our mistakes and forge ahead" (Giwa, 2009)[69].

[69] Kola Giwa "Welcome Speech to the PWYP Nigeria Donors Conference 2009 at Peace Haven Hotel, Wuye District"

What is also evident in the above statement is the readiness of the coalition to "amend" its strategies to suit the goals and aspirations of the donors in order to secure funding. However, it was obvious at this conference (*personal observation*) that the key donors targeted were DFID and USAID. This is a clear way through which the donors influence the implementation of the initiative.

7.5 Revisiting the Research Question

The research question addressed in this chapter is: *how and why do external actors influence the effectiveness of collective action for resource revenue transparency?* Using the NEITI example, we explored this question by first identifying the key external actors who influence the implementation and outcome of NEITI. The identified actors belong to three categories: the global EITI (mostly through its Secretariat which is based in Oslo, Norway); donors (Bilateral and Multilateral); and global Civil Society. These actors have a common objective which is to catalyse and support the establishment and sustained implementation of NEITI. Noble as this objective seems, the various strategies employed by these external actors in pursuing this objective have contributed in one way or the other to NEITI's lack of effectiveness. For instance, the support that external actors provide to NEITI are sometimes underlined by policies and strategies (of their home countries) that run contrary to the core objectives of transparency and accountability. While external influence was essential in kickstarting the NEITI implementation process, it has also prevented the deepening of the initiative through funding, poor coordination of the external actors, incoherent policies of western countries, and other practices that tend to misalign the core objectives of the local implementation of the initiative.

7.6 Conclusion

In this chapter, we have explored external influence as a critical factor that contributes to shaping the outcome of collective action for resource transparency. The NEITI example highlights that while external influence has been influential in stimulating and sustaining the EITI process, it has also, in some ways, constituted a hindrance to deepening the initiative. Essentially, the global EITI, bilateral and multilateral donors, and global CSOs, are among the key actors who influence the implementation and effectiveness of Nigerian EITI. They often aim to influence the incentives structure towards facilitating the implementation of NEITI through activities such as the mandatory validation exercise, funding, technical assistance, and overall political support.

However, strategic concerns on energy security, more than anything else, often underline the contributions of external actors, especially bilateral donors, on t he implementation of NEITI. And this sometimes implies that there are incoherencies and contradictions in the pattern of external influence which sometimes constitute a hindrance to the effectiveness of the local implementation of the initiative. Therefore, the evidence discussed in this chapter reinforces the argument that the nature and pattern of external influence on MSIs at the local level significantly contribute to determining the effectiveness of the initiative.

CHAPTER EIGHT

SUMMARY OF FINDINGS AND CONCLUSION

*"Tony Blair's government and other governments have put millions into it, the industry wants it in part because it puts the burden on governments, and not them; IFIs, especially the World Bank, like it, civil society wants it to be successful. Every group wants it to succeed, but some also have an institutional interest in downplaying its shortcomings or overstating its impact" (*Arvind Ganesan of Human Rights Watch quoted in Shaxson, 2009:42).

8.1 Introduction

This chapter summarizes the arguments and evidence discussed in the preceding chapters and draws out their key implications to the overall understanding of the organisation MSIs. The Nigerian EITI has been used in this study to demonstrate the challenges to the effective organisation of a MSI for resource transparency. Contrary to the design of the global EITI, the Nigerian EITI has failed to successfully achieve a truly multi-stakeholder initiative and overall impact of the initiative has been low. Essentially, the question here is: what does the evidence from NEITI implementation show about the key arguments raised in chapter three concerning the factors that influence the organisation and effectiveness of MSIs?

This concluding chapter is arranged in five sections. Section 8.2 presents a summary of the key propositions that guided this study and re-states the research questions. Section 8.3 summarizes the key findings of the thesis, and section 8.4 indicates the implications of the findings to the current state of knowledge. Section 8.5 discusses the limitations of this study and points out possible areas for future research while section 8.6 concludes the chapter.

8.2 The Research Questions Re-stated

This study began with an investigation of why the abundance of natural resources sometimes fails to transform into sustainable economic prosperity. The literature reviewed for this study showed a significant shift from the seeming belief in the existence of an inescapable ‘resource curse’ to an emphasis on t he quality of institutions in explaining the negative outcome of abundant natural resources. Furthermore, this focus on the quality of institutions gave rise to the suggestion that a more transparent management of resource wealth would empower citizens to demand accountability from agents involved in resource wealth management. Hence, there is the view that resource transparency is a key means of addressing the problem of poor resource wealth management. However, the key challenge therefore was how best could resource transparency be achieved?

In investigating the best means of achieving resource transparency, this study first assumes that resource transparency belongs to a category of public goods known as ‘globalised national public goods’ (GNPG) the provision of which presents certain unique challenges. For instance, resource transparency presents both benefits and costs for diverse stakeholders involved in resource wealth management, within and outside the local environment, and across generations. Hence, relevant literature further suggests that the collective action of all stakeholders would be required for the effective provisions of such GNPGs as resource transparency. However, there are certain key factors that would determine the effectiveness of such collective action for GNPGs. Among these factors are the structure of the local environment; the characteristics of the component agents or stakeholders; the governance structure for the collective action; and the nature of external influence.

However, the gap existing in the literature is that much as collective action is advocated for the provision of resource transparency, the significance of the above-mentioned key challenges to their effective organisation has rarely been explored. The focus of this study has therefore been to examine how and why these factors influence the effectiveness of collective action for resource transparency. For this purpose, the Extractive Industries Transparency Initiative (EITI) was identified as a case study. The EITI is a global initiative that attempts to improve resource revenue transparency in resource-rich countries through a form of collective action known as multi-stakeholder initiatives (MSIs). However, the EITI adopts a country-by-country strategy and as such only finds concrete expression in specific country implementation of the initiative. Therefore, this study used the Nigerian EITI in a *holistic single case study approach*. The specific research questions addressed in this study include:

1. How and why does the structural environment influence the effectiveness of collective action for resource transparency?

2. How and why do t he characteristics of the component agents influence the effectiveness of collective action for resource transparency?

3. How and why does the governance structure influence the effectiveness of collective action for resource transparency?

4. How and why do external actors influence collective action for resource transparency?

8.3 Summary of Findings

The above research questions were applied to the implementation and outcome of the Nigerian EITI. Using available data gathered mostly from a field work conducted in Nigeria, the various aspects of the NEITI implementation were examined including the impact of the local environment, the characteristics of the stakeholders, the governance structure, and the external factors and actors that influence its implementation. The key findings of this study are summarised as follows.

8.3.1 How and why does the structural environment influence the effectiveness of collective action for resource transparency?

This study found sufficient evidence to support the argument that the structure of the local context is a key determinant of the outcome of collective action for resource transparency. Specifically, because resource transparency attempts to alter key configurations of the existing incentives structure within the local context, the forces and actors who benefit from the status quo tend to resist change. In the case of NEITI, it was found that three key aspects of the Nigerian structural environment, to a large extent, inhibit the effectiveness of NEITI. These three aspects include: the Nigerian political economy, the structure of the Nigerian extractives industry, and the nature of complementary institutions to resource transparency. For instance, the political economy is such that the Nigeria government depends almost entirely on revenues from crude oil and as such does not need to effectively tax the population. This lack of effective taxation creates a seeming disconnect between the government and the governed (see section 4.2). Therefore, while NEITI may be able to publish information on the management of the extractives industry, the core objective of stimulating demand for accountability is weakened by a pervading public apathy and lack of consciousness.

Furthermore, the chance of stimulating public consciousness through the activities of NEITI and civil society organisations is also weakened by the absence of strong complementary institutions for the objective of resource transparency and accountability (see section 4.4). The channels of transparency and accountability required for the effectiveness of NEITI are either absent or very weak. For instance, the electoral system in Nigeria is believed to be ineffective as a tool for public participation in governance because it does not guarantee free and fair elections. These findings suggest that a corresponding focus on building or strengthening complementary institutions that are necessary for the objectives of resource transparency and accountability is essential.

8.3.2 How and why do the characteristics of stakeholders or the component agents influence the effectiveness of collective action for resource transparency?

First, an examination of the process for identifying stakeholders for the NEITI revealed a focus on key rather than wider stakeholders (see section 5.2). The NEITI implementation identifies government and industry as the key agents involved in the management of resource wealth. Civil society organisations are however involved as monitors of the process in order to fulfil a key requirement of the implementation of the initiative as stipulated by the global EITI. The implication of this arrangement is that there seems to be a gap in representation and participation as certain stakeholders considered to be key in the Nigeria context are not adequately represented in the NEITI process (see section 5.4).

Another key finding is that each of the categories of stakeholders tends to be motivated by their respective perceptions of the benefits and costs of the NEITI implementation. Among other things, it was discovered that government's commitment in the NEITI implementation seems to be influenced by the underlying concern that the initiative could threaten some vested interests in the management structure of resource wealth in Nigeria. As a result, there is often the tendency to maintain considerable control of events and outcome of the initiative. However, while industry commitment to resource transparency at the global level is motivated by the need to address reputational concerns and growing risk to investments, IOCs operating in Nigeria seem to have less need to demonstrate this commitment in the NEITI implementation because their interests are strongly tied to that of government through their joint venture (JV) agreements.

Similarly, another key finding is that the implementation and effectiveness of NEITI is also defined by the nature of the interrelationships between the participating stakeholders (see section 5.3). For instance, crude oil production in Nigeria is dominated by JVs between government and IOCs and as such there is a 'marriage of convenience' between the two groups of stakeholders. The implication is that NEITI outcomes are often predictable and are rarely contrary to the objectives of this 'marriage of convenience'. Civil society organisations also lack the requisite capacity to make considerable impact especially in the face of the strength of the alliance between government and the IOCs.

8.3.3 How and why does the governance structure influence the effectiveness of collective action for resource transparency?

This study found that government tends to take full advantage of the inevitability of its involvement in MSIs for GNPGs provision to establish control of the implementation process. The global EITI in recognition of the role of government advocates a government-led multi-stakeholder initiative for the local implementation of the initiative. However, available evidence indicates that this has necessitated that NEITI implementation is under full government control as a government agency (see section 6.2.1). Apparently, this is in furtherance of the perceived need to protect and safeguard government and by extension, business interests from potential adverse outcomes from NEITI implementation. This objective is further ensured through the institutions and processes designed for the implementation of NEITI. For instance, the composition of the governing board of NEITI, the NSWG, is dominated by government representatives, and in fact all appointments onto this board, including representatives of other stakeholders, are made by the President. The NEITI Act, the law enacted for the implementation of NEITI further institutionalises this government dominance and includes clauses that specifically protect government and business interests from undue exposure (see section 6.3.2).

8.3.4 How and why do external factors influence collective action for resource transparency?

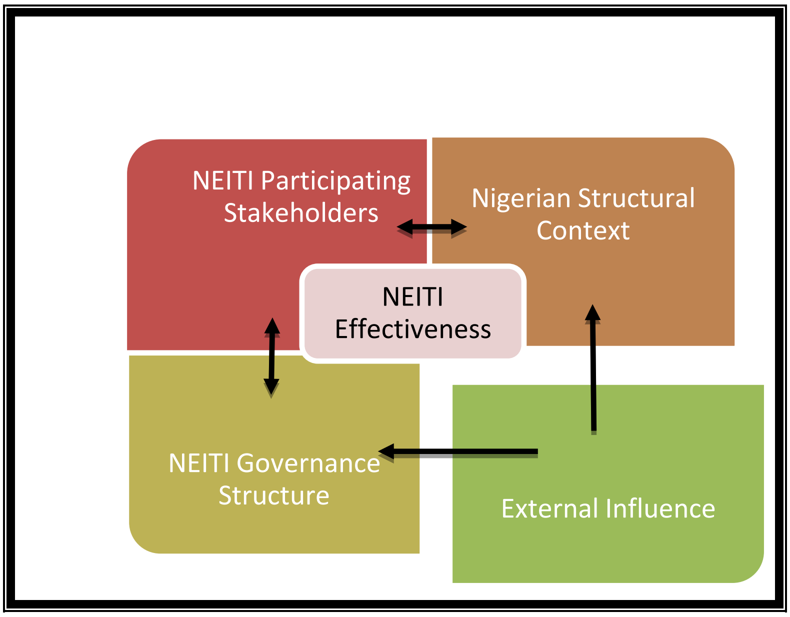
This study also found that external influence is a key determinant of the outcome of MSIs for GNPGs. This finding reflects the "think globally, act locally" mantra common in recent global governance platforms. Beyond the initiation of the local implementation of the EITI in Nigeria, this study found that global actors such as donors, the global civil society, and the global EITI as well, contributed towards shaping the outcome of NEITI in the period reviewed. Most of the achievements of NEITI, especially the audits of the extractive industries payments and processes, are closely linked to the support of external actors. External influence through funding, technical assistance, capacity building, and the validation exercise of the global EITI, have all combined to ensure that the impediments created by the other three factors do not completely undermine the NEITI implementation process.

However, significant as it seems, external influence also sometimes inhibit the possible deepening of the impact of the MSI process. For instance, strategic considerations on energy security by some western countries sometimes run contrary to the objectives of resource transparency and accountability. As a result, the local implementation of the EITI is sometimes derailed by incoherent and contradictory messages and behaviours from external actors (see section 7.4.4).

8.3.5 The Emerging Patterns of Linkages between the Factors

The above findings all contribute towards the overall argument of this study that there are fundamental factors that determine the effectiveness of collective action for resource transparency. The findings strongly suggest that the assumptions that resource transparency itself is a virtue and as such would be attractive to all stakeholders seem to be weak. Overall, the pattern that emerges is that these four factors are strong in explaining the effectiveness of collective action for resource transparency. In the NEITI example, there seems to be a strong interrelationship among the factors that are mostly inherent in the domestic environment which includes the structural context, the component agents and the governance structure of NEITI. While the factors each influence the NEITI implementation and outcome, they also shape one another. However, the fourth factor, which is the external influence, tends to be viewed as distinct from the other factors, highlighting the notion that external influence merely acts as a cat alyst in the whole process (see figure 8.1 below).

Figure 8.1 Factors Influencing the Effectiveness of NEITI



Thus, the NEITI example displays a slightly different pattern in the interaction and role of these factors in understanding the organisation of MSIs. In the three examples of MSIs compared in table 3.2 in Chapter 3, what is striking is the minimal role of national governments in implementation and enforcement. The UN Global Compact for instance, which requires considerable implementation at the local level, works with 'local networks' rather than national governments. An observer notes that because the UN Global Compact aims at achieving transformative and system-wide changes at the local level "involving local actors into the governance framework allows integrating contextualized actions on the ground into a coherent framework for institutional change" (UN Global Compact, http://www.unglobalcompact.org/docs/news_events/9.1_news_archives/2011_04_04/UNGC_Governance_Note_Apr11.pdf, accessed 28/06/2010).

Furthermore, the three MSIs also share a strong linkage between the global North and South in the issues being addressed. That linkage seems to be lacking in the case of the EITI and resource transparency. Evidence discussed in chapter 7 show that resource transparency is largely viewed as a problem within the Southern divide. This for instance, influenced the choice of validation as a monitoring and compliance strategy by the global EITI which tends to focus on checking the performance of the implementing (mainly Southern) governments (see section 7.4.5).

8.4 Contributions to Current State of Knowledge

8.4.1 Contributions to Theory

This study particularly highlights the need for a more coherent theory of MSIs built on the foundations of the agency and collective action theories. It draws attention specifically to the fundamental factors that influence the organisation and effectiveness of MSIs. It also demonstrates that these fundamental factors tend to be more critical to the success of MSIs when implementation is essentially at the domestic or national level rather than at the global level. To date, this aspect of the analysis of MSIs has been rarely discussed in the literature. For instance, MSIs tend to be globally initiated and locally implemented thus implying that the influence of external factors on local implementation tend to be a critical factor. Hence, often times the key aspects of the organisation and operations of MSIs tend to be set from outside the local environment and would likely reflect the aspirations of the dominant stakeholders at the global level. For instance, monitoring or enforcement mechanisms of MSIs are considered key to success as they touch on the credibility of the MSI. In the EITI, the choice of validation over more stringent monitoring mechanisms such as certification, was made at the global level and seems to reflect the interest of business (see section 7.4.5)

8.4.2 Policy Implications

This study predicts that MSIs will continue to be a strategy of choice in the search for solutions to global problems. However, this prediction is based on the ineffectiveness of traditional mechanisms rather than on the proven efficacy or successes of MSIs. This prediction also makes it ever more important for the better understanding of the critical success factors for the organisation of MSIs.

Many MSIs fail to achieve beyond the provision of a common platform for dialogue among diverse stakeholders. Although some proponents view this as an achievement in itself, but for MSIs to live up to the dream of filling gaps in global governance, the critical factors highlighted in this study ought to be given due consideration in their organisation.

The findings in this study generally have significant implications for the organisation of collective action for the provision of GPGs. This study shows that the organisation of MSIs is not as easily achievable as they are commonly advocated. This is even more so for controversial issue areas such as resource transparency. Evidence from the implementation of NEITI suggests that the key factors highlighted in this study play a significant role in how well the set objectives of MSIs could be achieved. Therefore, it is imperative that in organising such initiatives greater attention should be paid to these factors and the challenges they pose.

Specifically, for the EITI it is apparent from this study that the assumptions based on the common perception of transparency as a virtue are not sufficient for the effectiveness of the initiative especially at the local level where implementation is mostly required. At inception the EITI received little criticism. Apparently, the two key concepts of RRT and MSI that the initiative embodies (in principle) are quite difficult to openly oppose. The universal approval that the EITI received, much as it had a positive effect in kick-starting the initiative, left little room for a critical evaluation of the fundamental assumptions on which the initiative was built. For instance, Hilson and Maconachie (2009:64) argue that the EITI makes rather naive assumptions that “host governments are interested in tackling these problems in the first place, and that citizens are capable of facilitating changes in government policy should it be discovered that mineral and oil revenues are being embezzled”. The consequence today, as the Nigerian example shows, is the need for a proper reexamination of these assumptions in order to safeguard the relevance of the initiative in the drive for resource transparency. The emergence of new global initiatives with similar objectives with the EITI illustrates the global realisation of the inadequacy of the EITI to effectively address the problems of poor natural resource management. The Natural Resource Charter (NRC) for instance, is a new global initiative set up by an independent group of foremost experts in economically sustainable resource extraction led by Paul Collier of the University of Oxford. The Charter is a set of principles (precepts), put together in November, 2010, and intended to guide countries to ensure that the benefits of resource extraction are fully maximised. It addresses the narrow focus of the EITI on transparency of payments alone (see section 7.. It provides a framework that countries can adopt for a better management of the entire natural resources value chain beginning from the decision to extract to the application of revenues[70]. However, it is pertinent to note that while the NRC tends to be broader than the EITI, it faces similar challenges such as the policy environment and also the strategy for local implementation is yet unclear. As at the time of writing this thesis, the NRC has not yet been experimented in any country.

This study suggests that a review of the EITI principles and criteria (see Appendix I and II) is necessary in order to accommodate some fundamental changes that would enable it to remain relevant both globally and in implementing countries. For instance, it is becoming evident that the focus of the initiative on transparency alone is not sufficient to deliver the desired results. Transparency is not corteminous with accountability. As highlighted in Chapter 4 of this thesis, transparency will be ineffective if the complementary institutions necessary for achieving accountability

[70] Natural Resource Charter Website: http://www.naturalresourcecharter.org/ accessed 11/05/2012.

are absent. Furthermore the EITI should require more concrete efforts from participating governments to improve the complementary institutions to the EITI and these efforts should be considered as part of the implementation of the initiative and should be embedded in the validation exercise. Furthermore, the incentives or disincentives of the various stakeholders need to be more concretely defined. For instance, the current validation exercise asks little questions of industry participation in the local implementation. Presently, IOCs do not yet feel fully obliged to participate in the EITI implementation process. It is important that a review of the EITI principles and criteria should take this into account. In Nigeria, even though the NEITI Act makes company participation mandatory, it is still a challenge to enforce the participation of IOCs. The challenge is even greater when dealing with Chinese companies whose home country do not in fact subscribe to the principles of the EITI. Again, efforts are often concentrated at extending buy-in and widening international acceptance and there is the tendency to measure success by the rate of signing up and international buy-in. Hence, the key objective of impact on the domestic environment is pushed further down the agenda. So while initiatives such as the EITI are celebrated at the global level, little progress is made at the local level. Furthermore, in a bid to obtain some form of legitimacy, the initiative faces a pecualiar dilemma – what should be the role of government in the implementation of the initiative? As the Nigerian example has shown, while it is important for government to lead the initiative, in doing so there is the tendency for government to dominate the entire process. The risk is that the potential of the initiative to influence government becomes compromised.

For the Nigerian EITI and in fact other local implementation of the EITI, this study highlights the need for a review of the implementation of the initiative. The findings in this study to a great extent explain the very low impact of the initiative in Nigeria despite haven been implemented since 2004. It is difficult to substantiate the claims that NEITI has improved the management of resource wealth in Nigeria. For instance, claims of increased oil earnings and FDI inflow in recent years as a result of NEITI's ability to block prior avenues of revenue leakage cannot be clearly established. For example, FDI inflow increased from 1.47 billion USD in 2000 to 7.6billion USD in 2007. While GDP per capita (PPP) increased from 875USD in 2003 to 1500USD in 2007. The claims that NEITI and its activities are responsible for these developments are however hard to substantiate. There are a number of other institutional and macro-economic reforms and other initiatives that make it difficult to attribute these successes entirely to NEITI.

The MSI framework is critical to the success and effectiveness of NEITI. It is important that NEITI, for instance, is not viewed simply as 'just another government agency'. The key contribution that the initiative boasts of globally is its multi-stakeholder framework and if that is taken out of the equation the initiative might lose its initial appeal. As this study has shown, this appears to be what is obtainable in the Nigerian case. If this is so, it amounts to the creation of additional bureaucratic arrangements when a number of existing government agencies could be adjusted adequately to play the same role. Our analyses indicate that the NEITI is largely another government agency though funded by donors, and this raises some key questions. If it is an inevitable outcome, given the nature of globalised national public goods, are there no existing institutions that could be strengthened to perform the functions of NEITI – EFCC, ICPC, the judiciary, CSOs, etc? Does not the implementation of NEITI overlap with the functions of one or more of these institutions?

NEITI surely has the potential of having some positive effects on the management of resource wealth in Nigeria. But there is no doubt that the potential is not yet fully realized. Realizing the full potentials of NEITI would depend largely on the four sets of factors discussed in this study and how these factors interact and influence the initiative. This study goes beyond the current impact of NEITI to illustrate the need for a proper consideration of these four critical factors in the overall effectiveness of MSIs.

8.5 Limitations of the Study and Suggestions for Further Research

First, it is important to recognise that the use of a holistic single case study approach places some limitations to the outcome of this study. While it has facilitated an in-depth examination of the Nigerian EITI implementation, it limits the overall significance of the study in terms of generalisation of the findings. However, this research approach appropriately reflects the design of the EITI and indeed the overall resource wealth management which tends to be essentially country-specific. The implication is that it is likely that country experiences would vary markedly such that a cross-country study would be of limited relevance to an enquiry of this nature because the focus of the study was on highlighting what really happens in the country implementation of the EITI. However, what would have been more helpful would be a comparison across similar initiatives within the same country context. Such comparison would have been able to show how the factors highlighted in this study influence other initiatives in different issue areas. Unfortunately, NEITI is Nigeria's first attempt at MSI at a significant level.

Furthermore, the field work for this study was conducted in the first half of 2009 (February to June, 2009). At the time NEITI was experiencing a downward trend in the implementation hence the observations and data that influenced the analysis in this study. This implies that, to a large extent, the evidence gathered for this study may have reflected the prevailing trend during the period of the field work. Since after then, NEITI seems to have picked up momentum. It has published industry audits covering the period 2006 – 2008, and has achieved the coveted compliant status of the global EITI and has also begun to implement its national mandate which, among other things, includes the solid minerals sector, expenditure, and establishing sub-national units. However, what has remained consistent is that the MSI framework initially designed has yet to be properly achieved. The initiative still operates largely as an agency of government owing largely to the factors highlighted in this study.

This study focused on investigating how and why the four factors derived from the combination of the agency theory and the collective action theory influence the organisation and effectiveness of MSIs. While effort was made to cover as much influencing factors as possible within the framework of these four broad categories of factors, it is important to recognise that all the factors that are likely to influence the organisation of MSIs may not have been sufficiently covered. They are not exhaustive and do not preclude other factors that can also shape the organisation and outcome of

MSIs. However, the purpose of having a guide was achieved by using the four identified factors as a theoretical framework was achieved.

This study is also limited by the difficulty encountered in gaining access to information and some key informants because of the sensitive nature of the subject of research. In fact, the sample of interviewees for this study was biased against the industry stakeholders to NEITI. It would have been useful to probe deep into the participation of the IOCs operating in Nigeria on the NEITI implementation, but most of the companies approached either declined to participate or referred the researcher to head offices beyond the immediate reach of the researcher, given the limitations of time and resources. The researcher relied mostly on available documentary evidence and response from some non-private sector informants to gauge the contributions (or lack of it) of the IOCs to the NEITI implementation. Moreover, as demonstrated in Section 5.3.1, the 'marriage of convenience' between the IOCs and the government stakeholders also means that the views of the IOCs are not likely to differ significantly from that of the government stakeholder, who of course were well represented among the interviewees for this study.

Similarly, the field research was carried out in Nigeria at a time there was heightened security tension because of the activities of militant youths from the Niger Delta. This limited travel to the Niger Delta areas to interview some key informants and there was also restricted access to key ministries, departments and agencies (MDAs) within oil and gas sector which were considered targets for bomb attacks by the militants. In a more conducive environment, the researcher would have had access to more places and individual that could probably have yielded more relevant data.

The MSI framework, popular as it seems in global governance, has not yet attracted commensurate attention in the literature. More empirical and detailed studies of specific MSIs in key issues areas would elucidate the understanding of the key factors that influence the effectiveness of MSIs. Codifying and achieving a coherent theory of MSIs would require a possible profiling of the numerous initiatives that operate in global governance as MSIs.

In addition, there seems to be a common agreement that the nature of the issue at hand would determine the nature and organisation for collective action. While this study has demonstrated that with emphasis on resource transparency, it would be necessary to the also compare across issues areas in order to possibly establish the extent to which this manifests in the four factors highlighted in this study. Further research is required to test the extent to which these factors influence the organisation of MSIs in other issue areas especially in emerging new areas such the Construction Sector Transparency Initiative (CoST) and the International Aid Transparency Initiative (IATI). Both of which adopt the EITI type strategy but in different issues areas. It is also important that further studies of these MSIs are conducted from time to time in the future because as new initiatives they are still evolving and future studies are likely to reveal new perspectives and insights on the organisation and effectiveness of MSIs.

8.6 Conclusion

The propositions and key findings of this thesis have been summarised in this chapter. Specifically, this chapter re-stated the research questions of the study and demonstrated how in exploring answers to them, the overall quest for the factors that determine the effectiveness of using MSIs to achieve transparency in natural resource management. The study shows that, given available evidence from the implementation of the Nigerian Extractives Industry Transparency Initiative (NEITI), the fundamental challenges to effective collective action for resource transparency emanate from the structural environment; the character of the stakeholders; the governance structure for collective action; and the nature of external influence.

The contributions of this study towards addressing the gap in the understanding and achievement of resource transparency as a 'globalised national public good' were also highlighted. Particularly, the implications of this study to the local implementation of the EITI as a global standard-setting initiative were also demonstrated. The hope of realising the vast conviction in the efficacy of collective action for resource transparency seems to lie in the deeper understanding of the intervening challenges discussed in this thesis. However, considering the limitations of this study, further research in expanding this understanding and application of collective action for GNPGs was also suggested.

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APPENDICES

I. The 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.

II. The 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 cr edible, 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 III is not available in the digital version of this thesis.

IV. List of Interview Questions

The following are some specific questions that guided data gathering from the different categories of key stakeholders.

A. Government Stakeholders

1. How were the individual representatives chosen, what is their respective levels of knowledge and understanding of the industry?

2. What are their roles in the NSWG and how do they carry out these roles?

3. What challenges do they face in carrying out these responsibilities?

4. How do they relay information to the stakeholders they represent, and how do they receive feedback and how do they transmit same to the NSWG?

5. How do they reflect or implement agreed standards and practices/ remediation of audit findings?

6. What are the costs/benefits to government of participation in the initiative?

7. How has NEITI affected the discharge of their normal duties?

8. What is their perception of the performance of NEITI so far (and why)?

9. What is being done well, and what is not (and why)?

10. How helpful has the NEITI governance institutions and processes (e.g. the NEITI Act and Audit reports,) been?

B. Civil Society Organisations

1. How were the individual representatives chosen, what is their level of knowledge and understanding of the issues involved?

2. What are their roles in the NSWG and how do they carry out these roles?

3. What effect does the relative amount of representation in NSWG have on their participation and performance?

4. What is there experience with access to necessary information?

5. What are the challenges in implementing the initiative and how are they responding to them?

1. What are the challenges to Civil Society in participating in the implementation of NEITI?

6. What is their perception of the performance of the initiative so far?

7. How do they co-ordinate and mobilise the rest of the civil society towards follow-up actions?

8. How helpful has the NEITI governance institutions and processes (e.g. the NEITI Act and Audit reports,) been?

C. Extractive Industry Stakeholders

1. How were the individual representatives on the NSWG Board chosen, what is their level of knowledge and understanding of the industry?

2. What are their roles in the NSWG and how do they carry out these roles?

3. How do they co-ordinate/ mobilise the rest of the industry on NEITI-related issues?

4. How do they relay information to the stakeholders they represent, and how do they receive feedback and transmit to the NSWG?

5. How are the aims and objectives of the extractive industry articulated?

6. How do they reflect or implement agreed standards and practices?

7. What challenges do they face in carrying out their responsibilities?

8. What are the challenges/costs/benefits to industry of participation in the initiative and how are they addressed?

9. What is their perception of the design and processes of the initiative?

10. How has the initiative affected business?

11. What can be done better? Are there any alternative strategies/frameworks?

12. How helpful has the NEITI governance institutions and processes (e.g. the NEITI Act and Audit reports,) been?

D. Donors

1. What is your opinion of the overall implementation of NEITI? What is your judgement of the impact of the initiative?

2. A number of reports are saying that there has been reduced momentum in implementation since 2007. Do you agree? If yes why is it so? If no, do you have any contrary evidence?

3. What is the role of your organisation in the implementation of NEITI? How do you ensure that your role does not conflict with, overlap, or duplicate that of other organisations?

4. What is your view of the composition of the NEITI Board?

5. What are the challenges you face in providing support to the NEITI Implementation?

V. List of Resource Rich Countries (Hydrocarbons)

		Average Annual Hydrocarbon Revenues 2000 - 2005		Average Annual Hydrocarbon Exports (Goods) 2000 - 2005	
	Country	% of Total Fiscal Revenue	% of GDP	% of Total Exports	% of GDP
1	Algeria	70.5	26.3	97.6	36.8
2	Angola	79.8	33.4	91.8	68
3	Azerbaijan	33.3	8.5	87.3	36.1
4	Bahrain	71.3	23.2	74.4	53.7
5	Brunei Darussalam	87.7	40.5	90.1	58.6
6	Cameroun	27.7	4.8	44.7	8.3
7	Colombia	10.0	3.0	26.7	4.4
8	Republic of Congo	69.6	22.2	88.3	68.7
9	Ecuador	26.0	6.6	46.9	11.8
10	Equitorial Guinea	85.2	24.4	96.8	93.1
11	Gabon	60.1	19.2	81.7	47.5
12	Indonesia	30.3	5.5	22.8	7.3
13	Iran	65.5	14.7	82.2	24.2
14	Iraq	79.2	69.5	97.0	69.4
15	Kazakhstan	25.1	6.3	52.6	24.1
16	Kuwait	74.7	46.1	92.2	45.1
17	Libya	80.2	43.2	97.1	53.6
18	Mexico	33.3	7.5	17.2	3.0
19	**Nigeria**	**78.9**	**32.3**	**97.2**	**46.2**
20	Norway	24.0	13.0	60.0	19.8
21	Oman	83.4	38.6	80.9	45.3
22	Qatar	68.4	26.0	78.5	46.8
23	Russia	19.5	7.3	54.0	17.9
24	Saudi Arabia	83.1	31.3	88.8	39.8
25	Sudan	49.8	8.3	80.6	12.9
26	Syrian Arab Republic	46.3	12.8	70.2	24.6
27	Trinidad and Tobago	36.4	9.3	59.9	28.4
28	Turkmenistan	43.2	8.7	83.5	28.7
29	United Arab emirates	66.1	19.7	42.4	32.6
30	Uzbekistan				
31	Venezuela	48.8	15.8	82.5	25.8
32	Vietnam	31.2	7.4	21.3	11.0
33	Yemen	71.5	24.9	88.1	32.7
34	Chad	31.0	3.8	80.8	42.9
35	Sao Tome and Principe	57.7	73.4		
36	Timor Leste	63.8	38.8	72.1	26.0
	Average	**54.6**	**22.2**	**71.4**	**35.2**

VI. List of Resource Rich Countries (Minerals)

		Average Annual Mineral Revenues 2000 - 2005		Average Annual Mineral Exports (Goods) 2000 - 2005	
	Country	**% of Total Fiscal Revenue**	**% of GDP**	**% of Total Exports (Goods)**	**% of GDP**
1	Botswana	62.5	20.6	79.5	32.3
2	Chile	9.4	2.2	39.1	11.7
3	Dem. Republic of Congo			52.7	11.9
4	Ghana			33.4	11.0
5	Guinea	17.8	2.4	87.7	19.0
6	Indonesia			7.3	2.3
7	Jordan	0.7	0.2	12.4	3.5
8	Kyrgyz Republic	1.7	0.3	39.1	12.5
9	Liberia				
10	Mauritania			53.4	16.2
11	Mongolia	8.2	2.9	51.2	26.3
12	Namibia	5.9	1.9	59.9	20.0
13	Papua New Guinea	17.9	5.6	77.6	47.9
14	Peru	3.3	1.5	50.8	8.1
15	Sierra Leone	0.9	0.2	87.0	10.1
16	South Africa			27.2	6.4
17	Uzbekistan			29.8	8.6
18	Zambia			60.5	16.6
	Average	**12.8**	**3.8**	**49.9**	**15.6**