# The Effects of Transparency Policy Implementation in the Nigerian Extractive Industries

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***Abstract:*** *This paper assesses the effects of transparency policy implementation in the Nigerian Oil and Gas sector. The study is important due to the fact the Nigerian Oil and Gas sector operations have been shrouded in secrecy since the discovery of Oil and Gas in the country. With the implementation of the Transparency policy, the sector is supposed to be open for scrutiny at any time by all the stakeholders under the policy. This study adopts the Documentary Research Method. It assessed and interpreted the contents of the oil and gas sector audit reports published by the Nigeria Extractive Industries Transparency Initiative (NEITI) from 2004 – 2011. The raw data and information contained in these audit reports were assessed and interpreted using Deductive reasoning. The study found a substantial increase in openness of revenues payments, declaration, and recovery of under assessment and underpayments of revenues. It was also found that efforts were being made to recover them. The study recommended that all revenue payments made, to whom and by who should be made public. And that all agencies concerned should confirm or deny receiving payments as part of the efforts to strengthen the transparency policy in the Nigerian extractive industries.*

***Keywords:*** *Accountability, Extractive Industries, Implementation, Resource curse and Transparency*

## 1. Introduction

The main purpose of this research is to evaluate the effects of transparency in the Nigerian Extractive Industries Initiative with regard to the level of disclosure on payments and receipts by extractive industries to the government. The need for transparency in Nigeria's extractive industries is compelling. The lack of transparency right from the acquisition of land, awards of oil prospecting and mining leases, financing mechanism, incorrect disclosures of oil and gas production figures and revenues are major issues that elicited debates over the years on where the revenues are invested (Arne & Torun, 2011). The concept of transparency and accountability are critical factors in governance. It has engaged the attention of scholars, public policy analysts, civil society activists, governments and the governed, development partners and the international community since the dawn of the 21st century.

African Development Bank (2005) defined transparency as the availability of information to the general public and clarity about government rules, regulations and decisions as well as government transactions. Oxford Dictionary of Economics (1997), transparency is policy measures whose operations are open to public scrutiny, making it clearer who is taking what decisions, what measures, who is gaining, who is paying. It is accepted worldwide today that transparency in governance or absence of it constitute remarkable difference between developed and developing nations:

> This is why there is increasing national and global agitation that unless and until transparency and accountability are entrenched as key fundamentals of governance, the desire to expand development, peoples' choices, freedom and dignity required to address increasing poverty, misery, ignorance and disease will continue to diminish, especially in developing countries such as Nigeria (UNDP Report, 2009:8).

It identified corruption arising from lack of transparency and accountability in governance as major causes of underdevelopment, poverty and ignorance. It is believed that corrupt practices in Nigeria due to lack of transparency and accountability in the management of oil and gas revenues is responsible for the acute shortages of essential social amenities like roads, electricity, health services, education, unemployment and political instability etc. However, attempt to enthrone a regime of transparency, accountability on revenues accruing from the oil and gas sector led to the establishment of the Nigeria Extractive Industries Transparency Initiative (NEITI) in February 2004. Nigeria is the largest oil producer in Africa and among the top ten globally. Its recoverable reserves are estimated at 34 billion barrels. In recent years, the oil sector has accounted for over 40% of her GDP, 95% of her exports and over 80% of government revenue World Bank (2012). According to the same report, Nigeria is estimated to have about 160 trillion cubic feet of gas reserves – which also makes it among the ten largest in reserves. The need for transparency and accountability in the management of extractive resources in Nigeria led Government to sign on to the global Extractive Industries Transparency Initiative (EITI) and domesticated it by establishing the Nigeria Extractive Industries Transparency Initiative (NEITI) in February, 2004.

The study found a substantial increase in openness of revenues collection, declaration, and reconciliation, with reluctant actors embracing the process. Under assessment and underpayments of revenues were found and efforts, it was also found were being made to recover them. To the knowledge of the authors, there were study on the impact of transparency policy in the industry, but various audit reports in the sector indicated increase in compliance with some of the provision of the policy.

### 1.1 Objectives of the Study

The main objective of this research is to evaluate the level of transparency in the Nigerian Extractive Industries Initiative. The specific objectives are to:

1. Evaluate the transparency policy in the oil and gas sector and the mechanism of implementation in Nigeria.

2. Examine the level of disclosure on payments, receipts to the government, under assessment and under payments.

3. Assess the effects of the implementation of Extractive Industries Transparency Initiative in Nigeria.

### 1.2 Research Questions

1. What is the transparency policy in the oil and gas sector and the mechanism of implementation in Nigeria?

2. What are the levels of disclosure on payments, receipts, under assessment and under payments by extractive companies to government?

3. What are the effects of the implementation of Extractive Industries Transparency Initiative in Nigeria?

## 2. Literature Review

Political scientists, economists, administrators and philosophers have argued that for any scholarly work on transparency, and good governance to be completed, it must explore the issue of public ethics which is very relevant to the application and enforcement of transparency, accountability and due process in governance (Orji, 2012). At the turn of the $20^{th}$ century, the issue of public ethics became more central to discussions about good governance. Ethics in the Public Sector addresses the premise of a public administrator's duty as a steward to the public. In the views of Lindshy (2002:69),

> Government officials serve the people, managing the resources of others as stewards with fairness, transparency, accountability and equity. They are also expected to maintain openness in their workings to ensure that they are operating within the public's perception of what is right.

Public ethics seeks to address the fundamental issues of transparency and accountability in the conduct of government transactions. There are several literatures on the issues of transparency and accountability in natural resource revenues management. However, there is a curious phenomenon which social scientists have described as Resource Curse (Auty, 1993). The term is used to describe countries with large endowments of natural resources, such as oil and gas, but often perform worse in terms of economic development and good governance when compared to countries with fewer resources. Paradoxically, despite the prospect of wealth and opportunity that accompany the discovery of oil and other natural resources, such endowments often impede rather than promote balanced and sustainable development (Auty, 2001). This is clearly visible in African countries such as Congo, Angola, Sudan and Nigeria with endemic corruption, conflicts and civil strife. On the one hand, the lack of natural resources has not proven to be a fatal barrier to economic success.

The star performers of the developing world such as the Asian Tigers (Hong Kong, Korea, Singapore and Taiwan) all achieved booming export industries based on manufactured goods and rapid economic growth without large natural resource reserves. On the other hand, many natural resource-rich countries have struggled to generate self-sustaining economic takeoff and growth and have even succumbed to deep economic crises (Sachs & Warner, 1995). This generally bleak picture among resource-rich countries nonetheless masks a great degree of variation. Some natural resource-rich countries have performed far better than others in resource wealth management and long-term economic development. The United Nations Human Development Index illustrates the high degree of variation in well-being across resource-rich countries (Human Development Report, 2005). This measure summarizes information on income, health and education across countries worldwide. A critical look at this measure reveals that Norway, a major oil producer, ranks at the very top of the index, followed by Brunei, Argentina, Qatar, United Arab Emirates, Kuwait, and Mexico. This simply suggests that these countries are doing well in the management of their oil revenues. Yet, many oil producing countries fall at the other extreme, including Equatorial Guinea, Gabon, Republic of Congo, Yemen, Nigeria , Angola and Chad.

One of the greatest risks is the emergence of what political scientists described as "rent seeking behavior". Especially in the case of natural resource, a gap commonly referred to as an economic *rent* – exists between the value of that resource and the cost of extracting it. In such cases, individuals, be they private sector actors or politicians, have incentives to use political mechanisms to capture these rents (Humphreys, Sachs & Joseph, 2007). Rampant opportunities for rent-seeking by corporations and collusion with government officials compound the adverse economic and political consequences of natural wealth. This is more rampant in countries where public ethical conducts and standard are abysmally low and poor. The dominanance of oil and gas wealth can produce weak state structures that make corrupt practices considerably easier for government officials; the sector is associated with a concentration of bureaucratic power, which increases the difficulty of securing transparency and other constraints on those in power (Leite &Weidmann, 1999). Corruption related to natural resources takes many forms; international mining and oil companies (Multinationals) that seek to maximize profits find that they can lower the cost of obtaining resources more easily by bribing government officials.

## 2.1 Theoretical Bases for the Study

On the theoretical plane, there are various economic and political theories that tend to explain corruption, resource curse phenomenon and development deficit in oil-rich countries, but for the purpose of this study, the Rentier State Theory which is one of the most popular theories that has been widely used to explain corruption and development crises in oil rich nations has been adopted as theoretical framework. The rentier state theory is used to classify those states which derive all or a substantial portion of their national revenues from the rent of indigenous resources to external clients Sandbakken (2006). It was first postulated by Hossein Mahdavy in 1970. A rentier state model attempts to provide explanation for why states rich in natural resource wealth are very corrupt and faced with similar economic and political development challenges. In particular, oil-rich states are said to have common features which constitute obstacles to the consolidation of democracy (Sandbakken, 2006). The rentier state theory postulates that in the period of boom in commodity prices, resource-rich countries accrued lots of revenue which is not linked to increased productivity by domestic labour force. In such a situation, the governments do not need tax to increase government revenue. The incentive for transparency and accountability by governments thus become very weak, even the citizens, in reality, will lack means to withdraw support from the government. In consequence, there is poor governance, corruption and slow rate of economic growth (Woodside, 1968). Besides, an empirical study of three countries, Algeria, Libya and Nigeria, has shown that though the theory is applicable to African states it does not apply with equal force (Asobie, 2011). Overall, the theory provides some useful insight into why and how oil wealth created conditions in three countries that were unfavorable to transparency, democratization and good governance.

### 2.2 Brief history of the Nigeria Extractive Industry Transparency Initiative (NEITI)

In February, 2004, the Nigeria Extractive Industries Transparency Initiative (NEITI) was formally launched in Abuja with the mandate to develop, administer and enforce a framework for transparency and accountability in the reporting and disclosure by all extractive industry companies, of revenue due to or paid to the Federal Government of Nigeria. It was not until in May 2007 that it was passed into law. The National Stakeholders Working Group (NSWG) is the governing body of NEITI. It is responsible for the formulation of policies, programs and strategies for effective implementation of NEITI's mandate. The NSWG is made up representatives of government, extractive companies and civil society. Among others, the Executive Secretary, who also serves as the secretary of NSWG, is responsible for the day-to-day administration of NEITI. Section 4 (1) of NEITI Act provides that the NEITI “shall, in each financial year appoint independent auditors for the purpose of auditing the total revenue which accrued to the Federal Government for that year from the extractive industry companies”. The purpose of the audit is to determine the accuracy of payments and receipts. It has been working since 2005, even before the NEITI law was enacted. As listed in the Act, the primary objectives of the NEITI are five;  to ensure transparency in the payments made by all extractive companies to Government and statutory recipients; to monitor and ensure accountability in the revenue receipts of Government from extractive companies; to eliminate corrupt practices in the determination, payments, receipts and posting of revenue accruing to the Government; to ensure transparency and accountability in the application of resources from payments received, and to ensure conformity with the principles of the Extractive Industries Transparency Initiative.

### 2.3 Nigeria's Oil Joint Venture and Revenue Flows

At this juncture, it is important to discuss the type of revenues that the government receives from the sector. The government through the State's oil company – the Nigeria National Petroleum Corporation (NNPC) has direct ownership of a percentage of the oil produced in Nigeria. This arises because of the way in which oil production contracts are structured: Joint Ventures and Production Sharing Contracts. The oil produced for government is known as government equity oil. The six Joint Ventures that are currently in operation in Nigeria dominate production and contribute to the bulk of the oil revenues. They contribute almost 90% of oil specific taxes paid by oil companies. In summary, the three main types of revenue from the oil and gas sector include: Sales of equity oil (owned by government); Oil-specific taxes (paid only by oil companies); and Non-oil-specific taxes paid by all companies in Nigeria including oil companies (NEITI, Report, 2012). Companies under the Joint Ventures agreements are: Chevron, Elf Petroleum, Shell, Mobil, Agip Oil and Panocean Oil. Those under the Production Sharing Contract are: Addax petroleum, Star Deepwater, Esso, Nigeria Agip and Shell Exploration Ltd.

## 3. Research Methodology

This research adopts the Documentary Research Method. It has been extensively applied by classical social theorists such as Karl Marx and Emile Durkheim. The use of documentary method refers to the analysis of existing documents that contain information about the phenomenon under study. This work assessed and interpreted the contents of the oil and gas sector audit reports published by the Nigeria Extractive Industries Transparency Initiative (NEITI) from 2004 – 2012. Since its inception, NEITI has conducted and published four cycles of audits which spanned the period (1999 -2004, 2005, 2006-2008, and 2009–2011) in the oil and gas sector in Nigeria. The raw data and information contained in these audit reports were assessed and interpreted using Deductive Reasoning. The justification is based on the fact that the study is based on Documentary Research Method relying mostly on secondary sources of information and data. The study is only concerned with the transparency policy in the revenue receipts of Government from extractive companies; and the determination, payments, receipts and posting of revenue accruing to the Government.

## 4. Results and Discussions of Findings

The discussions here are based on the three research questions in this study which are: 1. what is the transparency policy in the oil and gas sector and the mechanism of its implementation? 2. What are the levels of disclosures of payments, receipts, under assessments and under payments? 3. What are the effects of the implementation of the policy?

### *4.1 Transparency Policy and the Mechanism of Implementation*

The cardinal basis for the establishment of the EITI is the belief that transparency in the management of natural resource wealth is an important engine for sustainable economic development (Asobie, 2011). The underlying philosophy of the EITI is the believe that, transparency in the management of natural resource can reduce corruption; transform economies, reduce poverty, and raise the living standards of entire populations (NEITI, 2010). More than 35 resource-rich countries are currently members of the EITI global community. The countries include: Azerbaijan, Central African Republic, Ghana, Iraq, Kyrgyz Republic, Liberia, Mali, Mauritania (Suspended), Mongolia, Mozambique, Niger, Nigeria, Norway, Peru, Tanzania, East Timor, Yemen (Suspended), Zambia, Afghanistan, Albania, Burkina Faso, Cameroon, Chad, Cote d'Ivoire, Democratic Republic of Congo, Indonesia, Kazakhstan, Madagascar (suspended), Sierra Leone (Suspended), Togo, Solomon Islands, Tajikistan, Trinidad and Tobago, Sao Tome and Principe, and Guatemala (EITI website www.eiti.org.ng). A key criterion of the EITI model is that civil society be actively engaged as participants in the design, monitoring and evaluation of the EITI process and contribution towards public debate (EITI Rules, 2011). Figure 1 below shows how EITI works.

Companies disclose what they pay; Government declares what it receives; an independent administrator, auditor or reconciler, engaged by the National Stakeholders Working Group (NSWG) verifies and reconciles the reported payments and receipts and writes an EITI report. The report is approved and published by the NSWG. The civil society organizations and the media utilize the data and information, now placed in the public domain, analyze it, simplify it, and stimulate public discourse about the use and application of the revenue for development and also hold government to account in terms of expenditure of the revenues in citizens' welfare. The EITI is a flexible tool. An implementing country could choose to stick to the core process, depicted in blue only (in figure 1 above); or it could opt for more comprehensive model which will embrace the process in blue as well as the one depicted in grey colour. Nigeria opted for the comprehensive model.

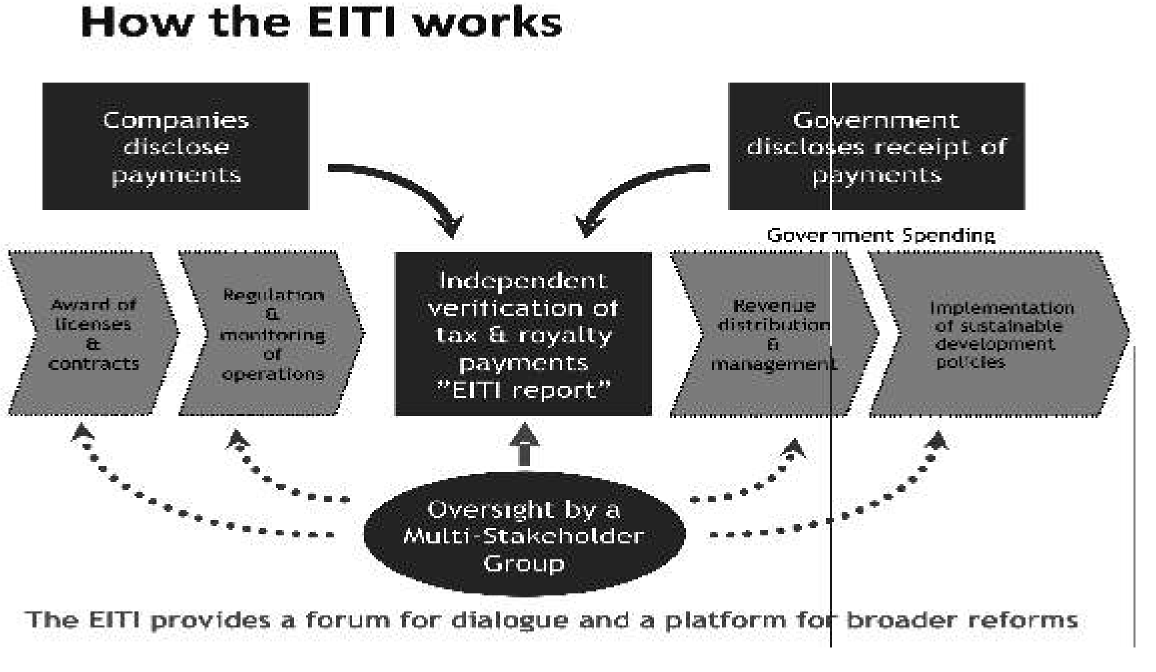


***Figure 1:*** *Shows the Structure and EITI Mechanism*

#### 4.1.1 NEITI Audit process under the transparency policy

How does the NEITI do it? The auditors design a comprehensive template, which serves as a framework for transparency and accountability, to capture immense data and information. These are then interpreted, analyzed and reported as physical, process and financial audit. The reports are then put in the public domain; and civil society organizations are encouraged, trained, and assisted to access them, and utilize them to mobilize the wider citizenry to hold government to account at every level

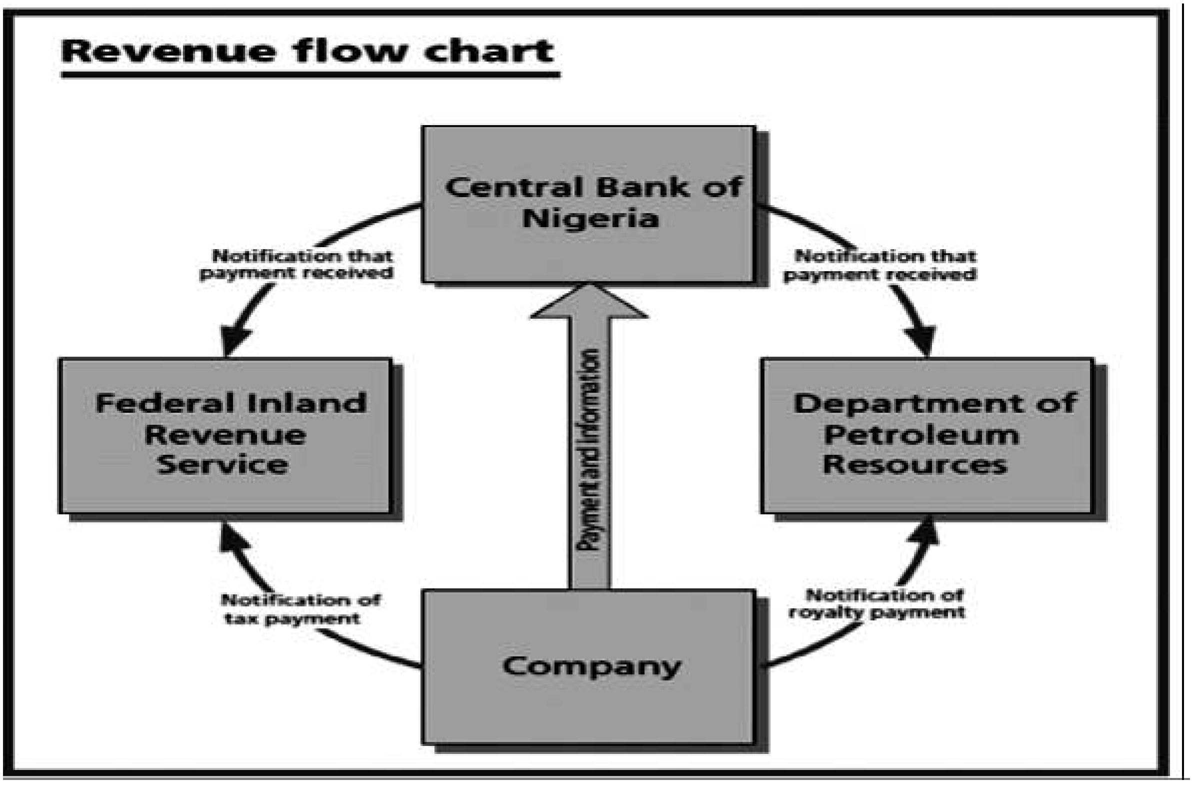


***Figure 2**: Shows the Revenue Management Structure in the Nigerian Oil and Gas Sector.*
***Source:** NEITI Hand Book, 2010*

### 4.2 Payments and Receipts

#### 4.2.1 Levels of Disclosures in Payments and Receipts.

In February 2005, NEITI conducted the Financial, Physical and Process Audits of Nigeria's Petroleum Industry covering the period 1999 to 2004, the first comprehensive audit of the industry since Nigeria struck oil in 1956. By April 2006, it was published, identifying an initial **US$232m** in revenue/receipt discrepancies (NEITI audit report, 2006). By March 2007, when the 2005 oil and gas Audit was submitted, the discrepancy between payments and receipts in the 1999-2004 financial audits had been reduced to **$8.5m** (NEITI audit report, 2006). In February 2011, the third NEITI audit report covering the period 2006-2008 was published. The total financial inflows to the Federation from the oil industry were $148.832billion. This was made up of $44.687billion for 2006, $43.781 billion for 2007 and $60.364billion for 2008, respectively. The 2009-2011 was also released in 2013. Table 1 indicates the financial flows from the sales oil and gas; petroleum profit taxes, royalties for oil and gas; signature bonuses, gas flaring penalties; contribution of education taxes and the Niger Delta Development Commission and other contributions from taxes. The financial flows are for the period of 2009 to 2011 in which the assessment and interpretation of the period was based.

**Table 1:** Shows Breakdown of Financial Flows From 2009 to 2011 of the Oil and Gas Sector

| Revenue items | Table Ref: | 2009 | 2010 | 2011 | Grand Total |
|---|---|---|---|---|---|
| | | **US$'000** | **US$'000** | **US$'000** | **US$'000** |
| **Sales of Oil & Gas** | | | | | |
| Export Crude | 5.1 | 10,133,931 | 17,693,065 | 24,760,031 | 52,507827 |
| Domestic Crude | 5.1 | 9,903,033 | 13,228,942 | 18,363,100 | 41,495,075 |
| Gas | 5.1 | 352,357 | 456,284 | 610,857 | 1,418,498 |
| Feed Stock | 5.1 | 415,328 | 1,320,043 | 1,825,617 | 3,560,988 |
| **Sales of Crude Oil &Gas** | | **20,803,649** | **32,698,334** | **45,560,405** | **99,062,388** |
| **Less: PSC Kind Payment** | | | | | |
| Petroleum Profit Tax | 5.2 | 2,854,787 | 4,861,801 | 8,234,874 | 15,951,462 |
| Royalty (Oil) | 5.2 | 337,916 | 201,512 | 601,413 | 1,140,841 |
| PSC in Kind Payments | | 3,192,703 | 5,063,313 | 8,836,287 | 17,092,303 |
| Sub - Total – A | | 17,610,946 | 27,635,021 | 36,724,118 | 81,970,085 |
| **Other Specific Financial Flows** | | | | | |
| Petroleum Profit Tax | 8.2 | 5,400,908 | 8,590,183 | 18,763,688 | 32,754,779 |
| Royalty Oil | 8.4 | 2,578,360 | 3,853,835 | 6,041,396 | 12,473,591 |
| Royalty Gas | 8.6 | 30,658 | 75,327 | 90,076 | 196,061 |
| Signature Bonus | 8.12 | 5,000 | 0 | 216,146 | 221,146 |
| Gas Flaring Penalties | 8.8 | 19,300 | 17,873 | 22,487 | 59,660 |
| Concession Rentals | 8.10 | 1,446 | 1,151 | 2,225 | 4,822 |
| Total Confirmed Flows | | 8,035,672 | 12,538,369 | 25,136,018 | 45,710,059 |
| **Other Flows to the Federation Account** | | | | | |
| Company Income Tax | 8.23 | 236,347 | 367,998 | 273,481 | 877,826 |
| PAYE | 8.23 | 9,111 | 3,510 | 13,120 | 25,741 |
| Value Added Tax | 8.23 | 1,289,346 | 910,620 | 1,005,030 | 3,204,996 |
| Withholding Tax | 8.23 | 550,543 | 604,181 | 918,685 | 2,073,409 |
| **Total of Other Flows to the Federation Account** | | **2,085,347** | **1,886,309** | **2,210,316** | **6,181,972** |
| **Sub Total –B** | | **10,121,019** | **14,424,678** | **27,346334** | **51,892,031** |
| **Flows to the Federation Account** | | **27,731,965** | **42,059,699** | **64,070,452** | **133,862,116** |
| **Other Flows** | | | | | |
| **Dividends & Loans Repayments by NLNG** | 8.22 | **879,839** | **1,427,512** | **2,537,503** | **4,844,854** |
| **Flows to States** | | | | | |
| Withholding Tax | 8.24 | 10,544 | 12,771 | 12,045 | 35,360 |
| PAYE | 8.24 | 471,758 | 476,516 | 586,001 | 1,534,274 |
| **Flows to States** | | **482,302** | **489,287** | **598,046** | **1,569,635** |
| **Flows to Other Entities** | | | | | |
| Contributions to NDDC | 8.14 | 398,416 | 561,390 | 703,292 | 1,663,098 |
| Education Tax | 8.14 | 638,364 | 407,107 | 533,035 | 1,578,506 |
| Flows to Other Entities | | 1,036,780 | 968,497 | 1,236,327 | 3,241,604 |
| **Grand Total** | | **30,130,886** | **44,944,995** | **68,442,328** | **143,518,209** |

***Source:*** *NEITI Financial Flows Report, 2009 – 2011 Oil and Gas Sector Audit*

Table 1 shows the Audit report covering the period 2009-2011 fiscal years was concluded in December 2012. It disclosed companies' payments and government receipts and showed the financial flows between industry operators and government agencies. According to the Report, the total financial flows to the Federation from the oil and gas sector from 2009 to 2011 was ***$143.5 billion*.** This amount is made up of proceeds from the sales of Equity Crude, Royalty, and Signature Bonus, Concession Rentals, Gas Flaring Penalties, Petroleum Profits Tax and Companies Income Tax. Other areas that contributed to these earnings were Pay As You Earn, Value Added Tax, dividends and repayment of loan by Nigeria Liquefied Natural Gas (NLNG), contributions to the Niger Delta Development Commission (NDDC) and the Education Tax Fund (NEITI Financial Flows Report, 2009 – 2011 oil and gas sector Audit). The total financial flows represent a decrease of four percent from what government earned in the sector in 2006-2008, when compared to total flows of ***$148.8billion.*** The report explained that the decrease was largely due to adjustments in the applicable average oil price despite fairly consistent production volumes.

### 2.2.2 Cases of Under Assessments and Underpayments

From the 2006 to 2008, Audit Report, the un-reconciled "differences" between what was paid in by companies and what was declared as received by government were highlighted as follows:

Royalty in 2006: companies paid in $4,457.9million while government received $4,418.5million leaving an un-reconciled difference of $39.4 million. The difference in what companies paid in 2007 and 2008, and what government received was found to be below the set level. The figure for 2007 shows $1.673.9 and 2008 indicates $6,577.8. Signature bonuses: From 2006 to 2008, the companies paid a total of $1,523.3 million to government, while government received $1,470.80 million as bonuses. This leaves a difference of $52.5million. NNPC owed the Federation for domestic crude the sum of N842.7 billion as at 31st December, 2008. NNPC deducted the subsidy claims of N816.55 billion directly from the domestic crude proceeds before remitting the balance to the Federation Account without authorization. NNPC received $3.789 billion dividends from NLNG for 2006-2008 did not confirm payments were made to the Federation account. Audit recalculations of royalty for the years 2006-2008 estimate an underpayment of $2.33billion arising from subjective interpretation of volume, pricing and API (American Petroleum Institute grading variable). Underassessment of $690 million in Petroleum Profit Tax due to Pricing mechanism used (Realizable Price instead of Official Selling Price). Due to discrepancies between annual PPT returns and Annual Financial Statements, there has been an underassessment of $424.6 million in the determination of PPT value. Operating Expenses (OPEX) indicate a possible under assessment of $364.9 million.

There were also discrepancies, under assessments and under payment for the period of 2009 to 2011. The Report indicated that financial flows from NLNG include dividends and repayment of loans of which an amount of $4.84 billion was received by NNPC and confirmed that these amounts have not been remitted neither to the CBN/NNPC JP Morgan Account nor the Federation Account. The Report also revealed that NNPC owes N1.305trillion to the Federation Account as at 31st December, 2011 and was described as a trade debt. It clearly underlined that contrary to the practice where subsidies payments are claimed from the Petroleum Support Fund (PSF) through the Petroleum Products Pricing Regulatory Agency (PPPRA) by all qualifying oil marketing companies, that the Nigerian National Petroleum Corporation (NNPC) drew subsidy payments directly from domestic crude sales proceeds before remittances to the Federation Account, resulting to a claim of N1.40 trillion by NNPC as oil subsidy payments.

Subsidy payments claimed by NNPC increased by 110 percent from N198 billion in 2009 to kavg N416 billion in 2010 and 89% rose to N786 billion in 2011(NIETI, 2013). The increase between 2009 and 2011 alone was 186 per cent. Other highlights of the Report showed that unresolved differences between what government received and what companies claimed payments was $68.4million, while the sum of $311.85million representing flows to the Federation account were claimed to have been paid by the covered entities to the relevant accounts but such payments were not confirmed to the Central Bank of Nigeria (CBN) bank statements. These differences emanate from the flows received by the CBN but are yet to be confirmed by the paying entities as well as differences which arose from payments made by the covered entities but which are yet to be traced to Central Bank of Nigeria's bank statement. The audit found that in some cases, the covered entities were issued Treasury Receipts by the Office of the Accountant General of the Federation (OAGF) on such payments which NEITI's Auditors could not trace to CBN records during reconciliation.

Similarly, the contributions made to NDDC amounting to $69.44million and N2. 525billion which were reported by the Commission could not be traced to covered entities' records while contributions made to NDDC amounting to $3.75 million and N1.20billion respectively that was reported by the covered entities could not be confirmed to the Commissions' records. The Report disclosed that financial flows from NLNG include dividends and repayment of loans of which an amount of $4.84 billion was received by NNPC. However, the report confirmed that these amounts have not been remitted to the Federation Account. It noted that the derived average conversion rate by NNPC differs from the annual average CBN rate and therefore created apparent losses of N98.3billion during the period.

### 4.3 Effects of the Transparency Policy Implementation with the Industry

The implementation of the Transparency policy in the oil and gas sector has registered some effects which have manifested in several ways. Four different audits as part of the transparency policy initiatives have been carried out. They included the 1999-2004, 2005, 2006-2008 and the 2009-2011. One of the major effects is that the sector is open and getting increasingly transparent, with all information relating to revenues collection, receiving, declaration and reconciliation in public domains. Total revenue streams and how they flow into the public coffers and from which companies to which public agencies and period of these flows can be verified. NEITI operation is creating transparency in the way businesses are conducted in the sector. Discrepancies were discovered including under assessments and under payments made by various oil companies and the government agencies involved the receiving, accounts and records of all the transactions are now available. As a result of the discoveries, various committees for reconciliation and recoveries have been set-up and substantial funds were recovered or were being recovered. In May 2006, for instance, the Government set up an Inter-Ministerial Task Team consisting of all relevant government agencies in the sector to examine issues highlighted by the audit report, develop a comprehensive remediation plan and work with other stakeholders to remedy the lapses. On the public agency side, the policy had effects on closer collaboration and data sharing, recording increase collaboration, removing secrecy in the entire process.

There is the increase the revenue accruing to the Federation Account. As a follow up to the first NEITI audit, about US$1billion that would have been lost was recovered. The fact that receipts and payments of revenue in the sector have been reconciled by the NEITI auditors to a relatively small discrepancy of US$7.9 million out of gross revenue of US$95.5 billion is a substantial progress. NEITI's operations have resulted in improved revenue flows into the federation account. For instance, NEITI 1999-2004 audit led to recovery of about $1billion; the 2005 audit led to recovery of another $550million while its 2006-2008 audits led to $447million additional assessments on Petroleum Profit Tax.

The pressure on these actors to improve performance and in particular to share data and collaborate better has clearly been a result of the NEITI audits. The same holds for the demands on the NNPC to provide more information and address the perceived conflict of interest issues that some of their transactions entail. While the media and Civil Society Organizations (CSOs) use the data and information arising from NEITI's audits to hold government accountable. The NEITI reports have led to improved recording of petroleum sector revenues and improved interactions among these agencies regarding management of these funds. NEITI audit *now* give specific numbers on how much has been deposited into Federal accounts, so misrepresentation on amounts available to the budget is no longer possible. This is an important achievement. In March 2011, at the 5th EITI Global Conference in Paris, Nigeria was designated as EITI Compliant country. The successes of these three cycles of audits were internationally acclaimed by Scan Team – an independent evaluator commissioned by global EITI. The report in May 2011 commented on the effectiveness of the transparency policy implemented thus:

> **Public** agencies have taken action to address identified weaknesses in the Audits produced by NEITI; collaboration among agencies for qualitative better oversight of oil revenues has improved greatly; necessity for increased transparency has now come to be accepted by key actors in Nigeria's Oil and Gas industry, particularly the oil companies, who have come to embrace the Audit processes. (Scan Team, 2011: 20).

### 4.4 Major Findings

The main findings in this study are:

1. Nigeria adopted a comprehensive transparency policy instead of the limited, which does not allow the involvement of all stakeholders and the comprehensive auditing of all transactions. Four successive auditing of accounts which include the 1999-2004, 2005, 2006-2008 and the 2009-2011 have been carried out. These were the first steps that open the sector from the secrecy since its inception in 1956.

2. The study also found that there were discrepancies in payments and receipts from companies and the Federation account in the Central Bank of Nigeria, especially in oil and gas revenues, taxes, signature bonuses and other payments. Deliberate under assessments and under payments were also discovered. These led to efforts which ensure some recoveries were made.

3. The transparency policy implemented recorded substantial effects in the sector. There is awareness among all stakeholders, especially the public, the media and the civil society organisations. One of the major effects is that the sector is open and getting increasingly transparent, with all information relating to revenues collection, receiving, declaration and reconciliation in public domains. Total revenue streams and how they flow into the public coffers and from which companies to which public agencies and period of these flows can be verified. Transparency and accountability have not come to stay, with Nigeria declared EITI compliant.

## 5. Conclusion and Recommendations

### 5.1 Conclusion

The conclusion from the above findings is that the transparency policy implemented under the Nigerian Extractive Industries Initiative has tremendous effects in opening the sector that was shrouded in secrecy for more than four decades. The study found a substantial increase in openness of revenues payments, declaration, and recovery of under assessment and underpayments of revenues. Efforts, it was also found, were being made to recover them.

### 5.2 Recommendations

*1. The study recommended that all revenue payments made, to whom and by who should be made public by the entire agencies concerned only monthly basis.*

*2. The agencies concerned, especially the Central Bank of Nigeria should confirm or deny receiving payments as part of the efforts to strengthen the transparency policy in the Nigerian extractive industries.*

3. There is also the need for government to give NIETI to have the power to ensure companies that make under assessments in order to make under payments of taxes, oil and gas sales remittances, royalties and signatures bonuses should be prosecuted.

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