

Helpdesk Research Report: Signature and Compliance with the Extractive Industries Transparency Initiative (EITI)

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Query: What explanations does the published and grey literature on the Extractive Industries Transparency Initiative (EITI) provide in relation to: national governments' decisions to sign up to the EITI, or not; and the non-compliance of existing signatories?

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1. Overview

There is an abundant literature which documents the process of signing and complying with the EITI¹, as well as the benefits of doing so. However, with the exception of a detailed case study on Nigeria, few studies examine the political, economic and social factors that have led governments to sign and comply with the EITI. Expert comments confirm the lack of literature on key motivators, but suggest factors that motivate signature and compliance with the EITI. Furthermore, from the existing literature it is possible to identify factors which may have contributed towards signature and compliance and factors which may have undermined support for the EITI.

The key contributory factors seem to have been reform-minded politicians; international and domestic kudos; gaining international support through multilateral programmes or debt restructuring; and national healing. The ability to build capacity and local ownership has been crucial for continued success. Supportive factors may have been an increasingly widespread

¹ The Extractive Industries Transparency Initiative (EITI) is a multi-stakeholder initiative comprised of national governments, companies, civil society groups, investors and international organisations. The EITI sets an international standard for transparency in extractive industry payments and receipts. In countries that participate in the EITI, companies are required to publish what they pay to governments, and governments are required to publish what they receive from companies. At present there are 14 compliant countries and 22 candidate countries (21 excluding Madagascar, which is currently suspended).

recognition of the importance of regulating the extractive industries and of the importance of transparency as a positive value in itself and the degree to which implementation of the EITI left mainstream politics untouched.

In Nigeria key factors supporting EITI signature and compliance seem to have been President Obasanjo's personal motives; the strength of the reform team; debt rescheduling; a modular approach to reform; antagonism towards international oil companies; support from the international community; civil society's (albeit weak) support; and insights from the last oil boom.

Factors that undermined support and ongoing compliance with EITI in Nigeria may have been the premature conclusion of the Paris Club process; resentment by other politicians of the popularity of the reformers; reaction against a process perceived as 'Western'; President Obasanjo's push for a third presidential term, contrary to the constitution; and institutional inertia.

2. Key Factors

EITI works and succeeds because all constituencies or stakeholders in EITI have something to gain from it (Ravat, expert comments; Ravat and Kannan 2012). These are gains they would not be able to achieve on their own. In particular, Ravat (expert comments) suggests that national governments tend to be motivated by four factors:

- **Demonstration of reform.** Incoming governments may want to demonstrate reform and a break from the past, as well as a commitment to transparency and openness. The EITI can be an effective way to achieve this, without great cost. This was the case of the Olusegun Obasanjo administration in Nigeria. Bracking (2009) supports the idea that the principal benefit to a signatory government is arguably a political one – 'the ability to make a fanfare over not very much' (2009:12).
- **International and domestic kudos.** There can be kudos and recognition from signing and complying with an international standard such as the EITI.
- **Link to multilateral support.** A trigger for inclusion in many of the programmes of the World Bank, African Development Bank (ADB), Inter-American Development Bank (IADB) and International Monetary Fund (IMF) is demonstrable good governance. The EITI is seen as a concrete demonstration of a first step towards this and a means to facilitate access to multilateral programmes.
- **National healing.** The EITI can form part of a national healing process in post-conflict situations, as in Liberia, Sierra Leone and Timor-Leste.

The role of the EITI programme, which is managed by the World Bank and funded through a multi-donor trust fund, has been important even instrumental (Ravat, expert comments; Ravat and Kannan 2012). Ravat (expert comments) notes that the programme, together with the EITI International Secretariat and other supporters, has helped in:

- **Building consensus and capacity.** It has helped to build the initial consensus for EITI in almost all EITI countries and to reassure governments (and in particular staff working directly on the process) of the feasibility of the process. It has guided governments and other stakeholders through the process.
- **Encouraging local ownership:** It has also worked to ensure that the EITI becomes locally owned. Local ownership has been essential for making the EITI successful.

Collier (2008) highlights three main shifts in international attitudes: awareness of climate change, awareness of growing energy scarcity, and the geo-political implications of the current financial crisis. Based on this there is an increased public recognition of the importance of international cooperative regulation in asset markets. Collier argues that the EITI can build on this public recognition.

In addition to greater recognition of energy issues, there may be an increasingly widespread confidence in the importance of transparency in policy. Haufler (2010) suggests that transparency is seen by some as 'the Swiss Army Knife of policy' (2010:55). Proponents of transparency argue that it makes markets work more efficiently; enhances trust and cooperation; strengthens institutions; reduces corruption and mismanagement; enables people to hold others accountable for their actions; and increases the legitimacy of decisions and institutions. Though governments, like corporations, often have strong incentives to maintain secrecy, transparency is viewed as a positive value – democracy is founded on a transparent government and efficient markets depend on full information. EITI is part of this transparency movement.

Successful adoption and compliance of the EITI by governments may be dependent on the extent EITI leaves mainstream politics untouched. Bracking (2009) argues that EITI can leave actual political practice largely undisturbed and this can include patrimonial politics, nepotism and in some cases bribery. Political elites can ostensibly promote 'good governance' reforms, confident that patronage and spoils will remain hidden (Bracking, 2009).

Undermining factors

A number of factors have undermined compliance with the EITI, in particular through undermining the political will to support the EITI. Aaronson (2011) identifies the following factors:

- **Different visions of EITI.** Governments, civil society and business may have different visions and understandings of EITI.
- **Weak civil society support.** Some implementing governments have not allowed civil society to participate fully in the process.
- **Failure to provide civil society with correct information.** Some implementing governments have not consistently provided civil society with the information they need to hold their governments to account. Reisen and Ölcer (2009) also support the idea that low-quality information provided in reports and weak civil societies in resource-rich countries have undermined the EITI.
- **Poor EITI awareness:** In many participating countries, the public and legislators may not be fully aware of EITI.

3. Nigeria Case Study

Shaxson (2009) argues that the Nigeria EITI (NEITI) did not itself drive reforms in Nigeria, but was part of major reforms that were happening anyway. There was a reformist political climate period from 2003 to 2006 and NEITI helped shape some of the outcomes of processes of reform, notably the audit reports.

Drivers of reform

Through an interview- and desk-based study Shaxson (2009) identifies key drivers of the reform which resulted in adoption of the NEITI. These drivers may be applicable to other country settings.

President Obasanjo's personal motives and capacity

Opinions vary about the personal motivations of President Obasanjo, but without his political will NEITI is unlikely to have taken place. Former Finance Minister Ngozi Okonjo-Iweala argues that Obasanjo had a vision of Nigeria becoming the economic powerhouse of Africa, cared very much about the Millennium Development Goals and sought to move Nigeria away from past mismanagement towards economic development, growth and job creation. Several interviewees in the study said they believed that perceptions – especially in the international community – were important to Obasanjo.

It is notable that Obasanjo only started pushing the reforms in earnest in his second term in office (2003–07), once he had successfully consolidated his control over the ruling People's Democratic Party. After this, he may well have been in a better position to enact reforms.

At the same time other commentators criticise the political patronage that continued to occur despite Obasanjo having carved out political space for his reformist team. Some interviewees noted that Obasanjo saw no contradiction in buying political support for anti-corruption reform.

The reform team itself

Arguably a key element was the endurance of a reformist team. This was a tight team of a small number of select individuals. They protected each other from opposition attempts and enabled effective coordination of reform strategies. They were supported by the IMF, World Bank and international donors, as well as by President Obasanjo.

Debt rescheduling

In October 2005, Nigeria negotiated a deal to reduce, and pay off, the US\$30 billion in debts owed to the Paris Club of official creditors. The Paris Club had accounted for more than 85 per cent of Nigeria's external debt. The international community had allowed Nigeria to write off a large part of its debt if it pushed forward reforms. This acted as a powerful incentive for reform.

Divisions and different elements of reforms

The political system in Nigeria is somewhat divided, which reformers used to their advantage. For example, the budget office and the finance ministry have separate political lines of accountability. The executive office of the budget is less senior than the treasury secretary but answers directly to the president. This allowed the President to have direct access to the budget in place of his treasury secretary.

At the same time, rather than one big reform, the reform was divided into different elements. Some elements, in particular those that did not endanger the interests of politically influential figures, were pushed through most effectively.

'Busting' the international oil companies

There was a sense within government and civil society that the oil companies were 'ripping off' Nigeria. Some felt that there was a sense of arrogance among the oil companies and they were not being accountable to the government or civil society. There may have been a popular desire for some form of retribution from the oil companies which helped gain wider support to further the reform.

The international community and specific EITI approaches

The international community was not a primary direct driver of reforms, but several actors did influence events. There was support for the NEITI process from some US companies but the main thrust came from Europe, particularly Britain. EITI was launched by UK Prime Minister Tony Blair and supported by the UK Department for International Development (DFID) with a predominately European EITI secretariat based in Oslo. This approach may have had a positive impact on the willingness of Nigerians to accept it and to reassure those in positions of power to not feel threatened by transparency. There was also the publication of what might be called 'the political number' – a single published number of the percentage of fiscal revenue from each barrel of oil that accrues to the government. Publication of this number as a headline EITI output may have helped generate a new arena for debate.

Civil society

Civil society was a factor in fostering and sustaining NEITI, but it is likely that the contribution of civil society was relatively poor. Civil society initiatives are unlikely to have pressured the authorities in the same way as, for example, the nationwide fuel price strikes which erupted in 2000 and 2004, or pro-democracy mobilisation under Sani Abacha. NEITI never managed to generate a similar level of mobilisation. Within the media there was a notable lack of attention to the NEITI, despite the amount of resources available to civil society groups through the NEITI audits.

Lessons from disasters of the last oil boom

There was a general recognition of the need to learn lessons from the 1970's oil boom and from the emerging international analysis on the so-called resource curse.

Factors that hindered reform

Shaxson (2007) notes a number of factors that undermined political will and hindered reform:

The end of the Paris Club process

The successful conclusion of the Paris Club deal occurred during the middle of the reforms and, though the EITI for Nigeria was being pushed after its conclusion, there seems to have been less impetus.

Spoiling tactics: too powerful reformers

In late 2006 and early 2007 spoiling tactics seemed to be used by those inside the process. People seemed to have been moved into EITI to act as spoilers and there seemed to be individuals who were keen for the EITI not to work. The removal of Okonjo-Iweala was interpreted by some as a reaction to the successful debt relief deal. Some conclude that such reformers took attention away from other politicians, especially President Obasanjo, leading to increased opposition.

NEITI seen as too 'Western': lack of embeddedness

The fact that NEITI was so closely linked to the Policy Support Instrument developed with the IMF, a highly unpopular institution in Nigeria, may have undermined its credibility domestically and raised questions about NEITI's ultimate sustainability. A substantial part of the NEITI had to be funded by donors, which has been taken by some as a sign of this failure. The need for Western support could have created the perception that there was not existing support nationally to build a coalition with which to support and sustain the reform process and to institutionalise the gains.

Third-term agenda

President Obasanjo's decision in 2006 to find a way to serve a third term as president, against the prevailing constitution may have undermined the reformist drive. President Obasanjo's overall credibility was undermined, making it harder to push reforms through and he had to make concessions to the anti-reform vested interests.

Institutional inertia

The Department of Petroleum Resources and the Nigeria National Petroleum Corporation seemed to be reluctant to change practices. There was no institutional culture of good record-keeping. There were major problems at the Central Bank and the Accountant-General's office, neither of which kept good records.

Low absorption capacity

There was arguably weak capacity of NEITI to absorb and use the available resources. This reflects a common problem in mineral-rich states: absorption capacity is lower than the revenues generated and incentives to manage resources carefully are weak.

Weak civil society: aiming at the wrong audience

Nigerian civil society suffers from technical and political weakness. Civil society is heavily divided and the civil society that is most visible to donors tends to be the part that is most dependent on donors. This dependency can further weaken its legitimacy and sense of purpose. NGOs based in the capital Abuja tend to have staff that are technically more capable, but have less legitimacy than field-based NGOs. NEITI and its partners have attempted to help build capacity in civil society, but arguably unsuccessfully.

Considering the fact that Nigerian NGOs are largely weak technically and politically, they may not have been the best target for EITI findings. Other groups, such as those who prosecute individuals in the judiciary, if targeted, might have made more meaningful use of the reports.

4. References

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6. Additional information

Selected websites visited

EITI

World Bank

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About Helpdesk research reports: This helpdesk report is based on 4 days of desk-based research. Helpdesk reports are designed to provide a brief overview of the key issues; and a summary of some of the best literature available. Experts are contacted during the course of the research, and those able to provide input within the short time-frame are acknowledged.

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Appendix: Expert Comments

Below is a summary of comments provided during a phone interview (9 August 2012).

Anwar B. Ravat, Former EITI Programme Manager, World Bank

There would not be research documentation as yet that addresses the respective "motivations to join EITI" questions you ask. But from my experience with the EITI (from when it was a few countries taking active part in EITI to 36 now), EITI works and succeeds precisely because it is a multi-stakeholder and collaborative process – i.e. where all constituencies or stakeholders in EITI have something to gain from it, and where individually the three sets of stakeholders (governments; oil, gas and mining industry; and civil society) would not be able to achieve on their own what EITI achieves for them in individual EITI countries and globally.

Stakeholder motivations

The EITI gives **civil society** voice and a forum in which to take part in the debate and have a front-seat in the ability to influence the course of EITI and its broader objectives.

For **companies** involved in extractive industries, participating in the EITI improves their overall contribution to transparency in the industry in the countries they operate in and is a form of risk reduction for them. Many such companies have Corporate Social Responsibility programmes which involve the endorsement of the EITI. It allows them to demonstrate good corporate citizenship and by publicly reporting payments, helps to broaden the debate (from their lens) away from payments and revenues: to also raising the spotlight on public spending processes and decisions by different levels of government that receive those revenues.

Government tends to be motivated towards EITI by four factors:

- One is a commitment to transparency and openness in the extractive industry. Incoming governments may want to demonstrate commitment to reform and a break from the past and the EITI is an effective and a globally recognized standard to achieve this, not involving great cost. This was the case of the Olusegun Obasanjo administration in Nigeria.
- A second factor is the kudos and recognition obtained from signing and complying with an international standard such as the EITI.
- A third motivating factor is a link to multilateral development programmes and policy dialogue, especially those of the World Bank, Africa Development Bank, Inter-America Development Bank and IMF. For many of these programmes a trigger would be demonstrable good governance, which EITI is seen as a concrete demonstration of as a first step. EITI helps demonstrate this.

- A fourth factor that has been seen would be when the EITI forms part of a national healing process in post-conflict situations. A good example of this would be Liberia, Sierra Leone and Timor Leste.

Role of the EITI programme

In this process the role of the World Bank-managed and MDTF-funded EITI programme has been an important one, even instrumental. It has helped to build the initial consensus for EITI in almost all EITI countries and to reassure governments (and in particular working-level staff) of the feasibility of the process. Together with the EITI International Secretariat and other supporters, the EITI MDTF Programme has guided governments and stakeholders and government staff through the process and helped to ensure that the EITI becomes nationally owned. National ownership is essential for making the EITI successful, in individual countries and globally.

It is important to note that in many cases there haven't been these factors present, or reaching a collective consensus takes time and is still a work in progress. Examples include Angola, the Ukraine and South Africa as well as many other countries interested in EITI.