

# CHAPTER 4 – [www.eisourcebook.org](http://www.eisourcebook.org)

## 4.1 Definition and Scope

Under a broad definition encompassing its objectives, transparency might be taken to refer to the degree to which information is available to outsiders that enables them to have an informed voice in decisions and to assess the decisions made by insiders. Transparency issues in the EI sector are diverse and relate to the following (non-exhaustively): laws and regulations, policies, administration, revenues and expenditures. While this list might apply to all economic sectors, its coverage is especially significant in the EI sectors of states with heavy dependence on EI revenues.<sup>1</sup> Indeed, the International Monetary Fund (IMF) considered the differences to be so significant that, in 2007, it published a supplement to its *Manual on Fiscal Transparency*, setting out a more detailed set of guidelines specific to the EI sector.<sup>2</sup>

The sheer size of natural resource rents for many states, combined with the technical complexity and the volatility of the transaction flows, means that transparency issues are especially important to the good governance of the EI sector (see **Chapter 2** and **Chapter 3**). For example, Nigeria, Africa's largest oil producer, experienced financial discrepancies in excess of US\$8 billion between what companies reported paying and what governments reported receiving between 2009 and 2011, due largely to missing payments resulting from incorrect fuel subsidy deductions.<sup>3</sup> These discrepancies were revealed, following Nigeria's concerted effort to strengthen the management of its EI sector projects across the EI Value Chain by implementing an EI sector-specific transparency initiative, the Extractive Industries Transparency Initiative<sup>4</sup> (EITI), through its own Nigeria Extractive Industries Transparency Initiative (NEITI) which was officially adopted into law in 2007 by its National Assembly.<sup>5</sup> NEITI focuses on promoting due process and transparency in working to remediate deficiencies revealed by EI sector audits; these efforts include: continuing comprehensive audits of the EI sector; developing a revenue-flow interface among government agencies; improving its oil and gas metering infrastructure; developing a uniform approach to cost determination; building capacity across Nigeria's regulatory agencies and civil society; and improving overall governance of its EI sector.<sup>6</sup> Nigeria

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<sup>1</sup> Id.

<sup>2</sup> Id.

<sup>3</sup> *Extractive Industries Transparency Initiative* (EITI) website, Nigeria Overview, available at <http://eiti.org/Nigeria> (last accessed 5 December 2013)

<sup>4</sup> *Extractive Industries Transparency Initiative* (discussed later in chapter) website, available at <http://eiti.org/> (last accessed 5 December 2013).

<sup>5</sup> *Nigeria Extractive Industries Transparency Initiative* (NEITI) website, available at <http://www.neiti.org.ng/> (5 December 2013).

<sup>6</sup> EITI Nigeria overview, supra n. 4; NEITA, id.

was certified as EITI compliant<sup>7</sup> in March 2011, demonstrating a successful move toward stronger, more transparent governance of its EI sector despite the unique challenges presented by EI projects. However, the recent revelations about missing payments confirm that local EITI legislation alone will not realize the benefits of transparency. The Nigerian example demonstrates that there must be concerted, ongoing development in the practices across the EI value chain and this change must be constantly and consistently monitored.

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<sup>7</sup> To be EITI Compliant, a country must demonstrate through EITI validation compliance with the EITI Requirements (which implementing countries have to comply with in accordance with the EITI Standard. An independent validator makes an assessment of EITI implementation. The EITI Board, through the Secretariat, reviews all Validation Reports. Only if the Board considers that the country meets all of the EITI Requirements will the country be designated as EITI Compliant. Compliant countries need to undergo validation every three years or on request of the EITI International Board.