UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT

MULTI-YEAR EXPERT MEETING ON COMMODITIES AND DEVELOPMENT

9-10 April 2014

NEITI AND THE MINING SECTOR REFORMS

by

Ms. Zainab Ahmed
Executive Secretary, NEITI

NEITI AND THE MINING SECTOR REFORMS

By
Mrs. Zainab Ahmed
Executive Secretary, NEITI

LEGAL AND REGULATORY FRMEWORK

- The Nigeria's Minerals and mining Act, 2007 is the principal legislation that regulates the Nigerian mining sector.
- The control, regulation and ownership of all mineral resources is vested in the Federal Government of Nigeria (FGN).
- The Regulations contain specific provisions with respect to royalties, fees and compensation payable by holders of mining rights.
- The administration of the mining industry is vested in the Ministry of Mines and Steel Development (MMSD), operating through four departments:

Nigeria Extractive Industries Transparency Initiative

MINING ADMINISTRATION IN NIGERIA (4 DEPTS.)

- Mines Inspectorate Department: Has overall responsibility for operations in exploration, evaluation, mines development and production
- Mines Environment and Compliance : Ensures that companies adopt and maintain procedures that are environmentally friendly in their operations
- Mining Cadastre Office : Issues, suspends and may revoke mining titles, subject to government's rules and regulations.
- Artisanal and small-scale Mining Department : Organizes, supports and assists small scale mining operations and improves sustainable livelihood in ASM communities.

FISCAL REGIME (TAXES, ROYALTIES AND FEES)

- Corporate Income Tax (CIT): Profit of a company engaged in mining activity is liable to 30% CIT payable to FIRS
- Education Tax (EDT): Nigerian companies engaged in mining activities pay education tax (EDT) at 2% of their assessable profit to FIRS

- Personal Income Tax
- Capital Gains Tax
- Value Added Tax
- Withholding Tax
- Royalty
- Stamp duties
- Annual service fees
- Annual surface rent
- **Other Application and Licence Fees**

Nigeria Extractive Industries Transparency Initiative

APPLICABLE INCENTIVES IN THE SECTOR

Key incentives available to companies:
Under the Mining Act include:

- Tax holiday for an initial period of 3 years from commencement of operations and renewable for additional 2 years.
- Exporters of mineral products may be permitted to retain part of their foreign exchange earning in a domiciliary account for the purpose of acquiring spare parts and other mining inputs.
- Remittance of foreign capital in event of sale or liquidation of the business.
- Exemption from customs and import duties in respect of plant, machinery equipment and accessories imported exclusively for mining operations.
- Free transferability of foreign currency through the Central Bank of Nigeria (CBN) for the payment for servicing of certified foreign loan
- Grant of personal remittance quota for expatriate personnel free from any tax imposed.

NEITI Nigeria Extractive Industries Transparency Initiative

APPLICABLE INCENTIVES IN THE SECTOR (Cont'd)

- All infrastructure cost provided by the mining company and approved by the MCO to be capitalized and capital allowance claimed at 95% in the first year of operation.
- 5% Annual indexation of unutilized capital allowance carried forward for mines that commenced production within five years from date of enactment of the Act.
- The Minister may grant a concession for the royalty payable on any mineral to be deferred for a number of years, subject to the approval of the Federal Executive Council.
- Accelerated Capital Allowance on mining expenditure (95% initial allowance and retention of 5% until asset is disposed.

NEITI Nigeria Extractive Industries Transparency Initiative

SUMMARY OF TAX CONSIDERATIONS

Name of Tax	Tax Rate
Corporate tax	20 or 30%
Education tax	2%
VAT	5%
Capital Gains	10%
Customs duties on plant and accessories	Waived
Customs duties on other products	Varies
WHT on dividend and rent	5 or 10/7.5
WHT on qualifying vendor transactions	5 or 10, depending on the nature of the transactions
WHT on royalty paid to the government	0

NEITI Nigeria Extractive Industries Transparency Initiative

CHALLENGES IN THE NIGERIAN MINING INDUSTRY

- ***Project funding:*** Due to the long period of inactivity and slow implementation of the Government's reform agenda in the sector, multinational corporations have been reluctant to fund major mining projects in the country. Progress made in the regulatory reform is expected to stimulate activities by new investors in the sector.

- ***Infrastructure development:*** infrastructure imbalance - adequate electricity supply, access roads to sites of mineral deposits etc.
- However, the ongoing privatization of the national utility and reform of the power sector started in 2005 are stimuli for private investment in the sector

NEITI Nigeria Extractive Industries Transparency Initiative

CHALLENGES IN THE NIGERIAN MINING INDUSTRY (Cont'd)

- ***Relations with host communities:*** Investors are advised to have a robust corporate social responsibility programme to address the needs of their host communities.

- ***Illegal mining and community challenges :*** ***P***ockets of Illegal mining activities in some of the regions have attendant risks and community challenges.

NEITI Nigeria Extractive Industries Transparency Initiative

NEITI'S INTERVENTION IN THE SECTOR

- NEITI conducted a mining scoping survey which provided baseline information on the activities and the players in the sector
- Conducted two audits in the sector covering 2007-2010 and 2011
- NEITI/EITI ++:
  - The Financial
  - Physical
  - Process Audits
- These initiatives threw up a lot of recommendations which are currently driving the reforms in the sector

Nigeria Extractive Industries Transparency Initiative

NEITI IMPACT IN THE SOLID MINERALS SECTOR

- NEITI's audit reports exposed general under-assessment and under-payment of mining tax and revenues
- Exposed unethical activities of artisanal and small scale miners resulting in severe environmental pollution and degradation
- NEITI intervention has led to continuous increase in annual revenues from the sector
- NEITI intervention has facilitated proper assessment of revenues by using Bill of Quantities and Engineering Measurement and Evaluation of construction contracts that reveal the quantities of stone aggregates, laterite and sand used in such works
- NEITI intervention has led to the development of a sector specific fiscal regime to improve on the current mining industry tax (For example payment of royalties were based on price list prepared by the Ministry in 2002)

Nigeria Extractive Industries Transparency Initiative

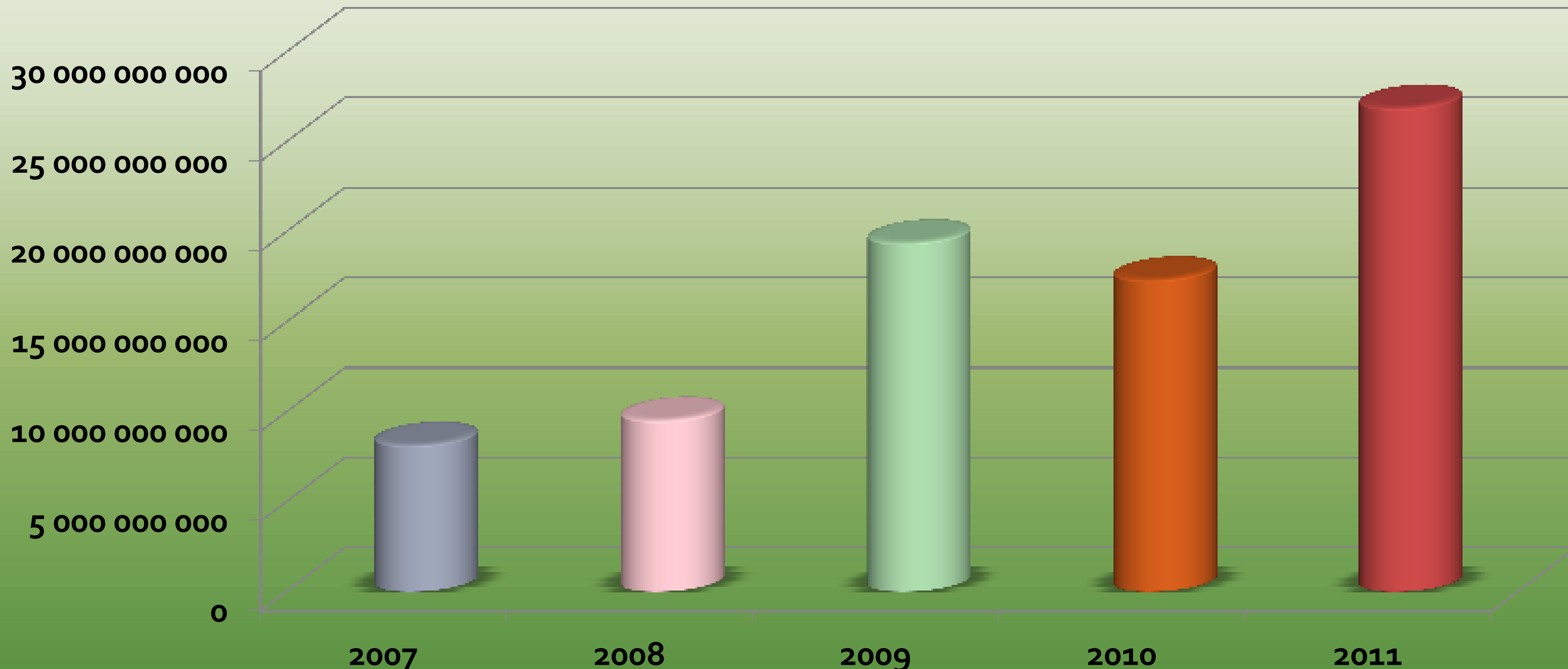
REVENUE FLOWS (SOLID MINERALS 2007-2011)

Years	Total Government receipts (N)	Companies' Payments N
2007	8,193,818,795	7,712,491,059
2008	9,580,804,498	9,402,706,249
2009	19,424,997,375	19,368,472,816
2010	17,366,941,613	17,395,704,420
2011	26,924,518,215	**26,891,374,345**
Total	**81,491,080,496**	**80,770,748,889**

There is a difference of N720,331,607.00 between what Government received and what companies paid within the period 2007-2011

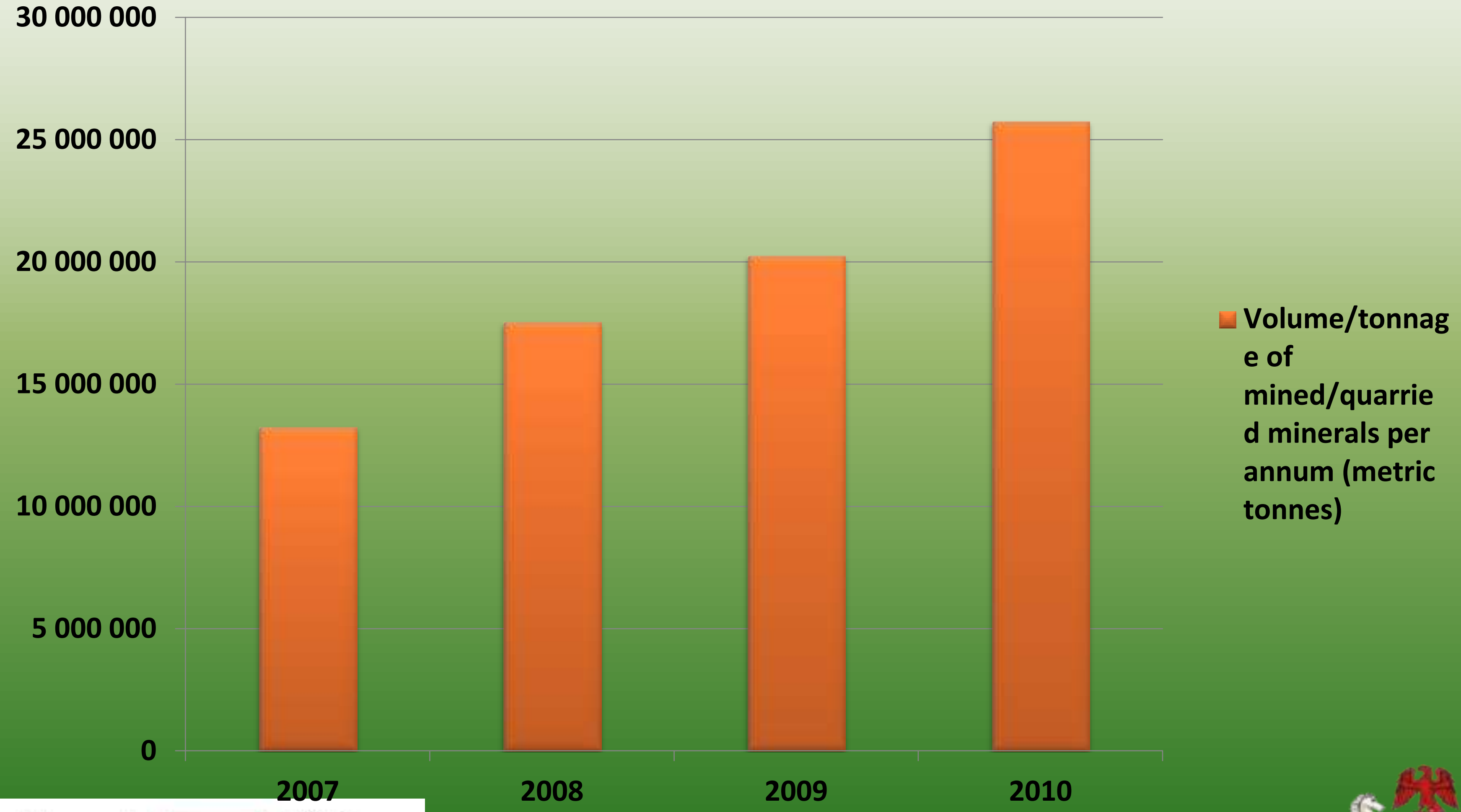
NEITI Nigeria Extractive Industries Transparency Initiative

TOTAL GOVERNMENT RECEIPTS FOR 5 YEARS (2007- 2011)



As a result of NEITI intervention and Federal Government reforms in the sector the revenue flows between 2010 and 2011 increased by 55.03%

VOLUME OF MINERALS MINED (TONNES)



Nigeria Extractive Industries Transparency Initiative

NEITI IMPACT IN THE SOLID MINERALS SECTOR (Cont'd)

- NEITI's intervention has led the Ministry of Mines and Steel Development to established the Solid Minerals Development Fund to support funding for the sector.
- Commenced the process of establishing ICT platforms for monitoring revenue payments and reduce leakages in the system

Head of Nigeria Delegation to EITI Sydney Conference receiving the Best EITI implementing country award on behalf of the Nigerian Government

NEITI Nigeria Extractive Industries Transparency Initiative

CONCLUSION

- The potentials of the solid minerals sector in Nigeria is yet to be maximised with activities in the sector largely characterised by artisanal mining.

- However, efforts are on by the government to diversify the economy and attract foreign direct investments in the sector to create jobs and contribute significantly to the country's GDP

NEITI Nigeria Extractive Industries Transparency Initiative

THANK YOU FOR LISTENING

NEITI Nigeria Extractive Industries Transparency Initiative