APPROVAL OF MATERIALITY FOR THE 2022-2023 OIL AND GAS INDUSTRY AUDIT

(Memo to NSWG meeting – March 22, 2024)

Determination of Materiality

Introduction

This document sets out the considerations of the NSWG to arrive at materiality decisions for the NEITI 2022-2023 Oil and Gas Industry Report. In addition, the NSWG agreed to the definitions of revenue streams as summarized in relevant sections of this document.

Scope of revenue streams

The revenue streams listed below were considered by the NSWG as the channels through which revenues accrue to the Government from the oil and gas sector. This was established after a review of the FAAC[1] Reports for 2022 and 2023, Nigeria's National Development Plan 2021 – 2025, Medium-Term Expenditure Framework (MTEF) & Fiscal Strategy Paper 2024-2026, Revised 2024-2026 Medium-Term Fiscal Framework and past NEITI Oil and Gas Industry Reports.

1. Proceeds from the sale of federation export crude oil
2. Proceeds from the sale of profit oil
3. Proceeds from the sale of domestic crude
4. Proceeds from the sale of federation gas
5. Proceeds from the sale of feedstock
6. Petroleum profit tax (PPT)
7. Royalty (oil)
8. Royalty (gas)
9. Signature bonus
10. Gas flare penalty
11. Concession rentals
12. Company income tax
13. Capital gains tax
14. Dividends from NLNG[2]
15. Education tax
16. Miscellaneous income (*Transportation fees inclusive*)
17. NDDC[3] 3% levy
18. NCDMB[4] 1% levy
19. Value-added tax
20. NESS fee

[1] Federation Account Allocation Committee

[2] Nigerian Liquified Natural Gas Limited

[3] Niger Delta Development Commission

[4] Nigerian Content Development & Monitoring Board

21. Withholding tax
22. Pay as you earn
23. Environmental Payments

The NSWG therefore concludes that these revenue streams will be included in the scope of the report.

Material revenue streams

To determine material revenues for 2022-2023, the NSWG considered the percentage contribution of each stream to the total revenue collected from the sector. Aggregate receipts in the year were obtained from publicly available sources (collecting agencies), where available. Where they were not, aggregate collections for the year were obtained from relevant collecting agencies.

Proceeds from the sale of federation export crude oil, sale of domestic crude, sale of feedstock and sale of federation gas, royalty oil, royalty gas, gas flare payment, signature bonus, concession rentals, dividends from NLNG and miscellaneous income were obtained from data provided to the Presidential Revenue Monitoring and Reconciliation Committee (PRM&RC) by the relevant agencies. The NSWG was unable to obtain values for sale of profit oil. ***(Note, Miscellaneous income is made up of pipeline or transportation fees and others)***

PPT payments, education tax and company income tax (gas income @ 30% CITA) were obtained from Tax Statistics Report 2022 by FIRS[5] publication. Value added tax, capital gains tax, withholding tax and pay-as-you-earn were obtained from the FIRS[6] publication, 3% NDDC levy from NDDC and the 1% NCD fund from NCDMB.

All ₦ receipts were converted to US$ at the CBN Rate for the 29th December 2022 (₦448.55: $1.00) ₦ to £ was converted at 540.0991 and ₦ to € at 478.9168. All referenced Reports except that of the PRM&RC are available on relevant agency websites.

[5] Federal Inland Revenue Service
[6] Federal Inland Revenue Service

Table 1: Summary of revenue streams and percentage contribution to total revenue 2022								
S/N	Revenue Streams	₦	€	£	US$	US$ Equivalent	% Contribution	Source of data
1	Proceeds from the sale of federation export crude oil	584,729,658,751.00				1,303,599,729.69	3.05%	FAAC revenue performance report (January - December) 2022
2	Proceeds from the sale of domestic crude	4,404,122,581,745.52				9,818,576,706.60	22.98%	FAAC revenue performance report (January - December) 2022
3	Petroleum profit tax/HT	4,209,017,200,000.00				9,383,607,624.57	21.96%	https://www.firs.gov.ng/tax-statistics-report/
4	Royalty (oil)				6,317,193,798.24	6,317,193,798.24	14.79%	NUPRC via formal request
5	NDDC 3% levy	57,493,797,789.46			160,255,353.13	288,432,363.03	0.68%	Via formal request to NDDC
6	Education tax	328,674,429,584.00				732,748,700.44	1.71%	https://www.firs.gov.ng/tax-statistics-report/
7	Proceeds from the sale of federation gas	708,007,652,447.82				1,578,436,411.65	3.69%	PRM&RC revenue performance report (January - December) 2022

8	Value-added tax	2,511,517,730,267.00				5,599,192,353.73	13.10%	https://www.firs.gov.ng/tax-statistics-report/
9	Proceeds from the sale of feedstock					-	0.00%	-
10	Withholding tax	50,698,426,616.53	4,773,157.10	48,294.43	558,658,036.43	671,685,405.99	1.57%	Via formal request to FIRS
11	Company income tax	2,649,191,100,000.00				5,906,122,171.44	13.82%	https://www.firs.gov.ng/tax-statistics-report/
12	Royalty (gas)	8,463,977,129.69			126,441,009.56	145,310,649.80	0.34%	NUPRC via formal request
13	Signature bonus	132,099,822,530.00				294,504,118.89	0.69%	PRM&RC revenue performance report (January - December) 2022-2024
14	Gas flare payment				151,828,999.70	151,828,999.70	0.36%	NUPRC via formal request
15	NCDMB 1% levy	7,737,044,261.17	667,232.00	82,140,174.10	100,567,084.42	100,567,084.42	0.24%	NCDMB via formal request
16	Miscellaneous income (Transportation fees inclusive)	13,416,309,755.00				29,910,399.63	0.07%	PRM&RC revenue performance report (January - December) 2022
17	Concession rentals				8,261,979.12	8,261,979.12	0.02%	NUPRC via formal request

18	Pay as you earn	1,628,046,670.54				3,629,576.79	0.01%	FIRS via formal request
19	Capital gains tax	45,572,200,000.00				101,598,929.89	0.24%	https://www.firs.gov.ng/tax-statistics-report/
20	Dividends from NLNG	119,734,605,423.00				266,937,031.37	0.62%	PRM&RC revenue performance report (January - December) 2023
21	Proceeds from the sale of profit oil	10,667,960,850.00				23,783,214.47	0.06%	PRM&RC revenue performance report (January - December) 2022
22	NESS Fee					-	0.00%	
23	Environmental Payments(EIA,PIA and Environmental audits, etc.)	40,419,000.00				90,110.36	0.00%	Via formal request to Fed Min Of Environment
		15,842,812,962,820.70				**42,726,017,359.83**		

Based on the analysis in Table 1 above, the NSWG determined that, all revenue streams that contribute 1.5% and above to total revenue will be considered material. It notes that at this threshold, 96.68% of total revenue will be reconciled.

The NSWG also decided, that the Independent Administrator (IA) shall investigate any discrepancies to a margin of 0.05% of the aggregate of all revenue streams.

The material revenue streams for the purposes of EITI reporting having contributed above the percentage threshold established for materiality are:

1. Proceeds from the sale of federation export crude oil
2. Proceeds from the sale of domestic crude
3. Petroleum profit tax
4. Royalty (oil)
5. NDDC 3% levy
6. Education tax
7. Proceeds from the sale of federation gas
8. Value-added tax
9. Proceeds from the sale of feedstock
10. Withholding tax
11. Company income tax

Description of material revenue streams

1. Federation export crude oil
   This refers to the federations share of crude oil from the various production arrangements. It could be in the form of:
   a. Export crude
   b. PPT (FIRS Crude)
   c. Royalty oil (DPR Crude)
   d. MCA (alternative funding)
   e. Reserve Development Project/QIT
   Federation share is from government equity share from joint ventures (JVs) or profit oil from production sharing contracts (PSCs) that is lifted by NNPC. It also includes in-kind payments for petroleum profits tax and royalty oil. Proceeds from the sales are paid into the designated revenue accounts in foreign currency.

2. Domestic crude
   This refers to the 445,000 barrels per day allocated as domestic crude taken from federation equity crude oil. Domestic crude is utilized for:
   f. Refinery operations
   g. Direct sale direct purchase program

   Proceeds from sale of domestic crude are paid into a designated revenue account (in local currency) at the Central Bank of Nigeria.

3. Petroleum profits tax
   The petroleum profits tax (PPT) is a tax imposed on the profits from petroleum operations in an accounting period. This tax is paid either in cash or in-kind by a company in production. Its implementation is guided by the Petroleum Profit Tax Act (PPTA), Laws of the Federation of Nigeria (LFN) 2004. PPT is collected by the Federal Inland Revenue Service (FIRS).

4. Royalty oil
   Royalty refers to payments, either in cash or in-kind, made by a holder of a concession to the federation based on the value of the quantity of Crude oil or Gas produced (saved after the oil has been separated from its components) from the field within the concession in line with the fiscal terms approved statutorily by the Government. Royalty payment is a statutory obligation of every corporate body involved in the production of oil and gas. It is guided principally by the Petroleum Industry Act 2021.

5. NDDC 3% levy
   NDDC 3% levy is a mandatory social payment made by oil and gas companies operating in the Niger Delta region. NDDC was established in 2000 with the mandate of facilitating rapid, steady, and sustainable development of the Niger Delta into a region that is economically prosperous, socially stable, ecologically regenerative, and politically peaceful. Pursuant to Section 14(b) of the NDDC Act, the Commission collects 3% of the total annual budget of any oil producing company operating onshore and offshore in the Niger Delta area, including gas - processing companies.

6. Education tax
   The payment of Education Tax (EDT) was promulgated under the Education Tax Act 7 of 1993 and amended by Act No 40 of 22 December 1998. It is a 2% rate charge on assessable profits of a registered company in Nigeria. EDT is administered by the FIRS.

7. Federation gas & feedstock
   This refers to the federation share of gas from all sources. It is either sold to the NLNG as feedstock or sold in the form of feed gas for NGL/LPG, gas to local IPPs, sales to industries and other domestic sales.

8. Value-added tax
   Value-added tax (VAT) is a form of tax charged on the supply of goods and services, which is eventually borne by the final consumer but collected at each stage of the production and distribution chain. The Value Added Tax Act (VATA) is the legal basis for the imposition of the tax in Nigeria. Section 2 of VATA provides for the tax (at the rate of 5%) to be charged and payable on the supply of all goods and services other than those goods and services listed in the VAT-exempt schedule to the Act. Disposal of interest is not one of the activities on the exempt list. The FIRS administers the VAT system in Nigeria.

9. Withholding tax
   Withholding tax is an advance and indirect taxation deducted at source from the invoices of the taxpayer. Its main purpose is to capture as many taxpayers as possible into the tax net. Withholding tax rates are usually 10% or 5% depending on the type of transaction and collecting authority for the tax (which can be the federal or state agency).

10. Company income tax
    This refers to the company income tax paid by gas producing companies @ 30% of chargeable profit. Oil and gas companies involved in gas operations are to be taxed under CITA and not PPTA.

Level of disaggregation

The NSWG agreed that all **data shall be disaggregated by individual project (where possible), company, government entity and revenue stream**.

In defining a 'project', Requirement 4.7 entails that the NSWG agrees a definition consistent with the United States Securities and Exchange Commission rules and the forthcoming European Union requirements.

The NSWG considered the European Union reporting accounting directives, United States Securities and Exchange Commission rules on disclosure of payments by resource extraction issuers and the Canadian ESTMA Technical Reporting Specifications definitions of a "project". Article 41(4) of the European Union Accounting Directive defines a project as: *"the operational activities that are governed by a single contract, license, lease, concession or similar legal agreements and form the basis for payment liabilities with a government. None the less, if multiple such agreements are substantially interconnected, this shall be considered a project."* The US securities and Exchange Commission defines (in almost the same wording) the term to mean the *"operational activities that are governed by a single contract, license, lease, concession, or similar legal agreement, which forms the basis for payment liabilities with a single government. Agreements that are both operationally and geographically interconnected may be treated by the resource extraction issuer as a single project."* The Canada's Extractive Sector Transparency Measures Act (ESTMA) also contains an equivalent definition of the term.

The NSWG, noted the consistency in these definitions, recognizing the legal agreement(s) governing extractive activities between the government and companies, that is, the contract that gives rise to payment liabilities to the government, as a **project**. Consequently, it defined a "project" in the context of EITI reporting to mean **any operational activity(s) that are governed by a single license, contract, agreement and/or any other similar legal document and form the basis for payment of liabilities with the government. These activities can be governed by a Petroleum Prospecting License (PPL) or Petroleum Mining Lease (PML). Where activities relating to one or more PPLs and/or PMLs are substantially interconnected and are governed by a single joint operating agreement, production sharing contract, service contract or other similar agreement, they may be treated as a single project.**

The NSWG recognized also that titles and permits governing rights to develop oil and gas are contained in PPLs and PMLs. This gives rise to the payment of certain liabilities such as bonuses and license renewal fees. Other liabilities such as royalties, petroleum profit tax, corporate income tax, contributions to the NCDMB fund and penalties for gas flared are established in the laws and regulations i.e., the Petroleum Industry Act 2021, Petroleum Profits Tax Act (2004) Cap (P13), Marginal Field Operations (Fiscal Regime) Regulations 2005, Nigerian Oil & Gas Industry Content Development Act 2010 (the NCDA) and the Flare Gas (Prevention of Waste and Pollution) Regulations 2018, etc. These liabilities are paid per company.

For the 2022-2023 exercise, the NSWG resolves that all data will be disaggregated per individual project (per the definition of a **Project** above), company, government entity and revenue stream as feasible. **The Report will also clearly indicate revenues that are assessed and paid per company or per license.**

Sample reporting format

Project 1 - SPDC JV or PSC or Company								
	Signature Bonus	**Royalty Oil**	**Royalty Gas**	**Fees**	**PPT**	**Production Entitlements**	**Others…**	**Totals**
Per Company								
Company 1					xxx	xxx	xxx	**xxx**
Company 2								**xxx**
Per license								
OPL1								**xxx**
OPL2	xxx			xxx				**xxx**
OML1		xxx	xxx	xxx				**xxx**
OML2		xxx	xxx	xxx				**xxx**
Totals								

Reporting entities

In determining the companies to be covered by the NEITI 2020 Oil and Gas Report, the NSWG considered all exploration and production companies that produced crude oil and/or gas in the year under review. This was based on the reasoning that all exploration and production companies will in the year make payments for either concession rentals, license renewal fees, signature bonus and/or royalty. It also considered the companies (operators) and equity partners that participate in DPR/NUPRC's annual crude oil and condensate reconciliation exercise for the years under review.

The NSWG agreed further, that material companies shall be established after collection of data, (before initial reconciliation) based on each company's contribution to total revenue in 2022-2023.

The list of companies to be considered are:

1. TEPNG (BONNY, ODUDU)
2. ADDAX(APDN+APEN)
3. CNL (ESCRAVOS, PENNINGTON)
4. AGIP (AENR+NAOC+NAE)
5. ESSO E&P (ERHA, USAN)
6. MPN (YOHO, QIT)
7. SNEPCO(BONGA)
8. SPDC (BONNY, FOT, EA)
9. TUPNI (EGINA & AKPO)
10. STARDEEP
11. STERLING ENERGY E & P COMPANY LTD
12. STERLING GLOBAL
13. AITEO
14. BELEMA
15. SEPLAT
16. ALL GRACE ENERGY
17. AMNI
18. BRITTANIA U
19. CHORUS
20. CONSOLIDATED OIL
21. CONTINENTAL OIL
22. DUBRI
23. ENERGIA
24. EROTON
25. EXCEL
26. FIRST E & P
27. FRONTIER OIL LTD
28. GREEN ENERGY INTERNATIONAL LTD
29. HHOG
30. MIDWESTERN
31. MILLENIUM
32. MONI PULO (PETROLEUM DEVT) LIMITED
33. NETWORK OIL AND GAS LTD
34. NEWCROSS
35. NIGER DELTA PETROLEUM RESOURCES LTD
36. NEPL
37. ORIENTAL ENERGY RESOURCES LTD
38. PANOCEAN OIL CORPORATION LTD
39. PILLAR OIL

40. PLATFORM
41. UNIVERSAL
42. WALTERSMITH
43. YINKA FOLAWIYO

Other Company:

- NIGERIA LNG LIMITED

State Owned Enterprise:

- Nigerian National Petroleum Company Limited (NNPCL)

Receiving Government Agencies are:

1. Federal Inland Revenue Service

2. Nigeria Upstream Regulatory Commission

3. Niger Delta Development Commission
4. Federal Ministry of Finance, Budget, and National Planning
5. Nigerian Content Development and Monitoring Board
6. Nigeria Sao Tome Joint Development Authority

Other Government Agencies:

1. Central Bank of Nigeria
2. Nigeria Mid and Downstream Regulatory Authority
3. Office of the Accountant General of the Federation
4. Revenue Mobilization and Fiscal Allocation Commission
5. Federal Ministry of Environment
6. National Oil Spill Detection and Response Agency
7. National Environmental Standards and Regulations Enforcement Agency
8. Hydrocarbon Pollution Remediation Project

NEITI responsibility under the NEITI Act 2007
The NSWG also considered its responsibilities as defined in the NEITI Act 2007. The Act mandates NEITI;

a) Section 2(c) –To eliminate all forms of corrupt practices in the determination, payments, receipts and posting of revenue accruing to the Federal Government from extractive industry companies, and
b) Section 3(f) – To monitor and **ensure that all payments** due to the Federal Government **from all extractive industry companies**, including taxes, royalties, dividends, bonuses, penalties, levies, and such like, are duly made.

Consequently, the NSWG decided that to every extent possible, all revenue streams except NESS fees, PAYE and miscellaneous income shall be reconciled by the IA. Finally, the NSWG confirms that the IA will follow strictly the data assurance procedures as shall be set out in the Inception Report, for the NEITI 2022-2023 Report.

Other materiality decisions
The NSWG also considered the nature of the following specific revenue streams in determining their materiality:

State-owned enterprise transactions
The NSWG identifies the NNPCL as the only state-owned enterprise in the oil and gas industry. The NNPC, on behalf of the Federation, participates in joint ventures with oil companies, holds concessions in production sharing contracts and service contracts. NNPC also operates through a host of subsidiaries. These subsidiaries are in the form of joint ventures such as the case of Hyson (Nigeria) Limited or wholly owned companies such as NNPC E&P Limited (NEPL), NNPC Energy Services Limited (EnServ), National Engineering and Technical Company (NETCO). NNPC also holds shares (for the government) in the Nigeria LNG Limited (NLNG).
The NNPCL collects revenues on behalf of the government from.

i. its sales of government profit oil and gas from relevant sources,
ii. its sales of all in-kind revenue streams due to government (and its agents) from all sources,
iii. dividends
iv. loan repayments, interest, and dividends from governments investment in NLNG,
v. Other miscellaneous income from, and
vi. transportation revenue from its co-owned infrastructure from the joint venture operations.

Materiality of SOE transactions

The NSWG considers sale of government export crude oil, domestic crude, revenues from in-kind flows due to government (including crude allocated for royalty and petroleum profits tax), and sale of gas and feedstock as material transactions for EITI reporting. Dividend from NLNG and miscellaneous income are considered immaterial. These decisions were based on the contribution of each category of the SOE transaction to total oil revenue.

In-kind payments
The NSWG notes that in-kind revenue streams are revenues from non-financial transactions that involve the settlement of liabilities with crude oil allocations instead of financial payments. These transactions typically occur under:

1. Production sharing contracts, where the government (license owner) enters (through the NNPC) a contract with an exploration and production company that allows the company to explore for oil and gas resources with its technology and resources, with the hope of recovering its investment and share the rewards with the license owner. In-kind revenue streams are utilized for the settlement of;
    a. royalty oil - to meet royalty liability due to the government for the period,
    b. tax oil - to meet PPT liability for the period,
    c. cost oil - to meet PSC operator CAPEX and OPEX costs, and

   d. profit oil - shared between PSC operator and the government in an agreed profit-sharing ratio.
2. Joint venture alternative funding arrangements, where government, unable to meet with its cash call obligations on a timely basis, enters alternative funding arrangements with its joint venture partners to provide the funds needed to enable the running of oil and gas operations in specific fields. These alternative arrangements are in the form of:
   a. third party financing, where the JV partners agree to source for financing from third parties to fund a specific project with a projected robust cash flow instead of utilizing the cash call arrangement. To achieve this, the JV partners create a Special Purpose Vehicle (SPV) assigning the right of future production from a selected project to the SPV. The SPV then enters into a long-term sales and purchase agreement with buyers, which is then used as security for the loan required for financing the project. Proceeds from sales of crude oil and/or gas are remitted to a dedicated escrow account with the lending bank from which payments are subsequently made for;
      i. debt servicing (principal and interest) and any other loan requirement, and
      ii. the balance (if any) in the account is shared among the JV partners according to equity holding
   b. modified carry arrangements, where the other JV partners, agrees to "carry" NNPCs equity contribution for JV operations, in the form of a loan which is payable through tax offsets (carry tax relief) and in-kind crude oil for the balance of carry cost (carry oil) and profit share (share oil). NNPC lifts and markets the carry oil and share oil, due to the carrying party, and pays cash to the operator for the cash financing provided.

All in-kind revenue streams accruing to government (and its agents) are lifted and marketed by the NNPC. These include;

i. Royalty oil and other license fees paid for in-kind from PSCs, on the account of the NUPRC,
ii. PPT (tax oil) from PSCs, on the account of Federal Inland Revenue Service,
iii. Revenues to government from MCAs for royalty, PPT, EDT and CITA, and
iv. Revenues to government accruing from projects under third-party financing agreements.

Materiality of in-kind payments

The NSWG considered the percentage contribution of each category of in-kind revenues to total oil revenue and concludes that in-kind flows allocated for the settlement of royalty and PPT are material for the purposes of EITI reporting. See Table 1 for details.

Infrastructure provisions/ barter arrangement

Infrastructure provisions and barter arrangements are any provisions in the form of goods and services (including loans, grants and infrastructure works) in full or partial exchange for oil, gas or mining exploration or production concessions entered between the government or any of its agents with any third party(s). The NSWG confirms that there were no infrastructure provisions in full or partial exchange for oil and gas exploration or production concessions in 2022-2023. The NSWG also confirms that there were no barter arrangements in 2022-2023.

The NSWG confirms that volumes utilized for the Direct Sales Direct Purchase (DSDP) are not bartered but funds realized from the sale of crude is used to purchase petroleum products for domestic consumption. It confirms further that data for volumes utilized for the DSDP is collected and analyzed. This involves collecting data from the relevant unit or subsidiary in the Nigeria National Petroleum Company Limited (NNPCL) via designed templates. Thereafter, a validation & reconciliation of the data with source documents and all relevant receiving accounts with the CBN is carried out.

Transportation revenue

The NSWG confirms that transportation revenue accrues to government through the transportation of crude oil by third parties (sole risk and marginal field operators) through pipelines owned by the joint venture (JV) partners. These pipelines are managed by the JV operator based on terms agreed to in the Joint Operating Agreement (JOA). The NSWG determined that 95% of crude produced onshore is transported to terminals through the JV pipeline structures. The transportation revenue identified by the NSWG in this category is in the form of capital charge, water handling charge, transportation charge and operating charges. These fees are determined by the JV operator based on prevailing market rates. They also confirm that crude handling charges are paid by third parties to the JV operator in cash (not in-kind) and the third parties capture these payments as operating expenses hence they are tax deductible. The NSWG assumes that accrued revenue is shared based on equity holding of the partners as is the case with all income and expenses for the JV.

The NSWG has further determined that no such revenues accrue in the gas sector. It considered that the Nigeria Gas Company (NGC), the NNPCL subsidiary responsible for the gathering, treatment and distribution of gas is a 100% owned subsidiary of NNPC, so by extension, NNPC owns the pipelines through which gas is gathered and distributed. For more details of NSWG deliberations on pipeline integrity and pipeline utilization see materiality doc 2015.

Definition of transportation revenue

After due consultation and review, the NSWG defines charges paid (in the form of capital charge, water handling charge, transportation charge and operating charges) by third party users of the pipelines owned by JV companies (of which NNPC owns between 55% to 60% equity) as transportation revenue for the period under review. Further, the NSWG confirms that applicable rates for handling the crude is determined by the operator, this may be based on the volume of crude transported by third parties on the JV assets. The NSWG understands that the applicable rates used by the operators for the different forms of charges is negotiated per customer and cannot be divulged for commercial reasons. This revenue is typically reported by NNPC as a part of miscellaneous income. The NSWG confirms that transportation revenue will be captured in the 2022-2023 NEITI Report.

Materiality of transportation revenue

The NSWG considers transportation revenue to be immaterial based on its contribution to total revenue for the year under review. See Table 1 for details.

Furthermore, the NSWG confirms that a reporting procedure which involves collecting transportation revenue data from covered entities via a reporting template and the unilateral disclosure of same information through EITI reporting will be adopted.

Subnational payments and transfer

Sub-national payments

The NSWG defines a direct payment to a subnational government resulting from a contractual obligation, national law, or local regulation as a sub-national payment(s). The NSWG defines a subnational government agency as an agency whose scope of operation is at the sub national level. Sub-national payments identified include WHT, VAT and PAYE. PAYE payments are made to state tax collecting agencies, WHT payments are made both to federal and state tax collecting agencies while VAT payments are made to the federal tax collecting agency.

Materiality of sub-national payments

The NSWG determines that VAT and WHT are material for reporting. This decision was based on each revenue streams contribution to total revenue (see Table 1 for details). The NSWG determines further, that other sub-national payments i.e. PAYE shall be disclosed unilaterally as it has determined that PAYE is not an extractive specific revenue stream.

Data for VAT and WHT will be collected from companies and reconciled to payments made as gathered from FIRS records. While PAYE will be collected from the companies only. Reporting templates exist for these collections and the NSWG affirms that the IA will abide by the agreed data assurance procedures.

Subnational transfers

The NSWG identifies Nigeria's 3 federating units Federal, State and Local. Any transfer of funds to the State and Local governments are considered sub-national transfers. These transfers are guided by the Nigerian constitution along with some judgements of the Supreme Court and are administered by the Revenue Mobilization Allocation and Fiscal Commission (RMAFC)[7].

The current revenue allocation formula and distribution of Federation Account Revenue among the three federating units is in Table 3 below:

Table 2: Revenue allocation formula

	%
Federal Government	45.83
State Government	23.25
Local Government Councils	17.92
13% Derivation	13.00
Total	100.00

Source: FAAC Committee records 2017

[7] See considerations made by NSWG for the 2015 Report to arrive at materiality decisions

Revenue accruing to the federation includes revenue from oil and gas activities which is categorised as mineral revenue. 13% of net mineral revenue is shared among oil and gas producing states based on indices generated monthly by the RMAFC. Indices are computed based on actual production for both crude oil and gas. The Central Bank of Nigeria (CBN) , Office of the Accountant General of the Federation (OAGF) and the Federation Account Allocation Committee (FAAC) play roles in the collection and the actual transfers of these revenues to the mineral producing states.

Materiality of sub-national transfers

The NSWG categorizes sub-national transfers as material but recognizes that the reconciliation of transfers of this nature will be challenging as a result of the constitutional autonomy of all the federating units. However, the Report will include an analysis of actual disbursements of 13% derivation to states and what ought to have been disbursed based on indices computed by RMAFC. The NSWG confirms that there are no discretionary or ad hoc transfers.

Social expenditure

Social expenditures are payments or contributions by extractive companies to promote development and foster better partnerships with host communities. These payments can be mandatory (mandated by law or contractual obligations) or non-mandatory (i.e., discretionary) and can be made either in cash or in-kind.

Mandatory social payments in the Nigerian context are made to the Niger Delta Development Commission (NDDC) and Nigerian Content Development Monitoring Board (NCDMB). Section 14 (b) of the NDDC Act, mandates the Commission to collect 3% of the total annual budget of upstream companies operating onshore and offshore in the Niger Delta area, including gas processing companies, while Section 104 of the Nigerian Oil & Gas Industry Content Development (NOGICD) Act of 2010 provides that 1% of every contract in the upstream sector of the Nigeria Oil and Gas industry shall be deducted at source and paid into the Fund. This fund is managed by the NCDMB. Neither payments accrue to the fedetation.

Commented [AA1]: Lets discuss this bit IA, The EITI disagrees with the classification of the NDDC commission as being both a social expense and a subnational payment. NDDC is a federa agency collection a fee from companies based-off a federal law albeit the fund being generated by the NDDC being used for subnationa socioeconomic and infrastructural development.

Non-mandatory social expenditures are expenditures incurred by companies to increase their social capital with the communities they operate in. These are usually in the form of implementing their Community Development Programmes (CDPs), Memorandum of Understanding (MOUs) signed between companies and host communities and projects embarked on by companies to get their annual work-plans signed off by the DPR. Non-Mandatory social expenditures carried out by companies include:

- Provision of amenities and infrastructure (road, potable water, health centres, etc.)
- Educational scholarships (Primary. Secondary and Tertiary)
- Skills acquisition (fashion designing, hairdressing, cobbling etc.)
- Agriculture support (provisions of seedlings, fertilisers, fishing gears, etc.)

Based on the analysis in Table 1 above, NDDC 3% levy is considered material while NCDMB is not material for the 2022-2023 NEITI Report. The NSWG concludes further that non-mandatory social expenditures even though material will be disclosed unilaterally due to autonomous nature of the federating units of Nigeria.

Quasi-fiscal expenditure

Requirement 6.2 of the EITI Standard 2023 defines quasi-fiscal expenditures as any arrangements whereby SOEs undertake public social expenditure such as payments for social services, public infrastructure, fuel subsidies and national debt servicing outside the national budgetary process. The NSWG examined the IMFs definition of quasi-fiscal expenditure and determined that these expenditures can be in the form of:

material but recognizes that the reconciliation of transfers of this nature will be challenging as a result of the constitutional autonomy of all the federating units

- Loan guarantees,
- national debt servicing,
- Charging less than commercial prices,
- Provision of social services/public infrastructure,
- Pricing for budget revenue purpose,
- Exchange rate guarantees,
- Paying above commercial prices to suppliers, and/or
- Fuel subsidies etc.

Consequently, any expenditure made (in the categories listed above) by the NNPC or its subsidiaries on behalf of the federation outside the budgetary process is considered as quasi-fiscal expenditure.

The NSWG mandates the IA to determine if there were any such payments made above the materiality threshold of 1.5% in the year under review.

The NSWG confirms that a reporting procedure will be followed which involves collecting quasi-fiscal expenditure data from the relevant covered entity(s) (NNPCL, CBN etc.,) via reporting templates. Where these payments are under the materiality threshold, they will be unilaterally disclosed.