Nigeria Extractive Industries Transparency Initiative

THE PRESIDENCY

Revenues, Deductions, Analysis of Disbursement and Application of Funds by Selected Federal Beneficiary Agencies 2007 - 2011

SIAO

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The report and all appendices relating to the report are intended for the use of the National Stakeholder Working Group (NSWG) of NEITI for the purpose of that initiative and any reliance placed upon them by third parties shall be in accordance with the NEITI Act of 2007.

Abstract

This report is the second report of the Nigeria Extractive Industries Transparency Initiative (NEITI) on the review of the Federation's Fiscal Allocation and Statutory Disbursement 2007 – 2011. It is a continuation of the first report on Revenue, Deductions and Analysis of Disbursement by the Federal Supervisory and Regulatory Agencies from 2007 – 2011.

The report is for the use of the National Stakeholders Working Group (NSWG) of the NEITI in accordance with the global organisation's initiative.

The report focuses on the pre-selected Federal entities that benefit directly or indirectly from the Federation's Mineral Revenue, hereinafter referred to as the **Federal Beneficiary Agencies**. It shows the revenue sources and actual revenue from 2007 – 2011 to the nine (9) Beneficiaries considered in this exercise and the allowable/actual utilisation of funds accruing to the agencies in the period under review. A selection of projects carried out by the agencies within the same period were independently verified and presented in this report.

The scope of this report comprises the following:

- Background of the entities in terms of the purpose of establishing them
- The entities' sources of revenue and actual revenue for the period considered
- The utilisation of their funds, analysed over diverse spectra
- Mode of operation of the entities and;
- Analysis of the projects carried out by the entities

The content of this report is a collection and concise representation of the data and information received from the covered entities during the course of the project.

This report, however, contains no expression of the consultant's opinion on the information presented herewith. The consultant's observations and recommendations on the position of this project as a whole for the period under review will be duly presented in a separate report sequel to this.

Transmittal Letter

The Executive Secretary

Nigeria Extractive Industries Transparency Initiative

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06 May 2014

Report on Revenue, Deductions, Analysis of Disbursement and Utilisation of Funds by Selected Beneficiary Agencies 2007 - 2011

SIAO (Chartered Accountants) was appointed, pursuant to the NEITI Act, by the National Stakeholders Working Group of the Nigeria Extractive Industries Transparency Initiative to undertake a Fiscal Allocation and Statutory Disbursement Audit of the years 2007 – 2011 and to prepare a report.

Our engagement was undertaken in conformity with the International Standard on Related Services applicable to agreed-upon procedures for special purpose engagements. The procedures performed were those set out in the Terms of Reference appended to this draft report, except where stated otherwise including its appendices.

It should be noted that the procedures performed do not constitute either an audit or areview and, as such, no assurance is expressed; had we performed additional procedures, an audit or areview, other matters might have come to light that would have been reported.

The draft report has been prepared on the basis of work carried out up to December 30, 2013. You should therefore bear in mind when considering this that our draft report may alter or be refined as our work progresses and the report is subject to further review upon receipt of additional information/documents.

Our draft is for your information only and should not be quoted, referred or transmitted to another party in whole or in part without our prior written consent. We shall be pleased to receive your observations on our draft report.

Yours faithfully,

SIAO

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Executive Summary

Overview

The achievement of NEITI's goals aimed towards national development started with the publishing of the Oil and Gas reports from 1999 – 2011. The reports not only presented the amount paid to and received by the Federal Government from the oil and gas industry within the period but also showcased the intricacies in the processes involved in the sector.

In the a to derive optimum benefits from the nation's Mineral Revenue (MR), several entities were established to intervene in specific sectors pertinent to the development of Nigeria with their revenue sources predominantly sought from the nation's MR.

Other entities created were the Federal Government of Nigeria's Special Funds; these funds were set up with the aim to sustain the development of the country through strategically defined channels of intervention into the revenue driving sectors of the economy.

For NEITI to achieve its broader goal of enhancing better governance and accountability, NEITI's effort would have to transcend beyond the previous audit that have focused on the government realising full benefits of its MR from the oil exploratory companies. The next step therefore was the FASD audit; which would look at the total accrual to the FA, its disbursement and most importantly, its utilization by the various beneficiaries within the period under review.

At inception of the Fiscal Allocation and Statutory Disbursement (FASD) Audit 2007 – 2011, the exercise was divided into three phases based on established relationships among the stakeholders; phase I of the project involved a review of the Federation Revenue (with emphases on the Mineral Revenue (MR)), its specific components and the agencies saddled with the responsibility of collecting, remitting and monitoring the revenue flows to the Federation Account (FA). It also showed the disbursement from the account from 2007 – 2011. The second phase focused on the agencies and special funds set up by the Federal government to address challenges with the sustainable development in diverse sectors of the Nigerian economy.

In accordance with the Terms of Reference, this report covers and is limited to the revenue, disbursement and actual utilization of funds by the pre-selected Federal Beneficiary Agencies from 2007 - 2011. The pre-selected entities covered in this phase are as follows:

- Central Bank of Nigeria (Development of Natural Resources)
- Excess Crude Oil Account
- Federal Government of Nigeria (Share of Derivation & Ecology)
- Niger Delta Development Commission (NDDC)
- Petroleum Equalisation Fund (Management) Board PEF(M)B
- Petroleum Product Pricing and Regulatory Agency (PPPRA)
- Petroleum Technology Development Fund (PTDF)
- Stabilization Fund
- Tertiary Education Trust Fund (TETFund)

Please note that due to the inability of the Central Bank of Nigeria (CBN) to fill the templates on the inflows into the Excess Crude Account (ECA) as at the time of compiling this report, we are unable to present a report on the Account in this submission. We are currently making efforts to get our contact officers in the bank to obtain this information to enable us conclude our report on the ECA by our next submission.

Approach and Methodology

The major source of data for the Fiscal Allocation and Statutory Disbursement Audit was the template filled by each of the covered entities. The entities were requested to provide monthly data to enable us ascertain total inflows and outflows of revenue collected and disbursed.

To further authenticate data filled on the templates by covered entities, a validation exercise was carried out. This was executed by comparing data compiled on the templates with their corresponding source documents (See Audit Programme in Appendix 3).

In accordance with the ISRS 4400 standards, the approach applied in this project in performing the agreed-upon procedures with NEITI, include the following:

1. **Inquiry and Analysis** – Inquiry was carried out with the use of predefined data collection template which were reviewed by all the participating stakeholders in the project and agreed for use within the limit of this project.

2. **Re-computation, Comparison and Other Clerical Accuracy Checks** the templates filled by the agencies was casted and cross casted and an independent computation/schedule of the data given was prepared.

3. **Observations** – The overall observations from the project are reported in a separate report as agreed with NEITI and stated in the TOR with corresponding recommendations presented against them. However, few key observations were highlighted against each of the covered entity's report.

4. **Inspections** – Projects carried out by the covered entities were selected for verification based on a stratified random process.

5. **Confirmations** – At the end of the validation exercise, during exit meetings with the covered entities; sign-offs from key staff were obtained as a confirmation, authentication and proof of non-misrepresentation of the entities' financial information.

All discrepancies in the underlying and/or differing data from various sources pertaining to a specific transaction were reported. Such transactions were specifically identified and the nature of the discrepancy, where determined have been summarised in this report.

Summary of the Beneficiary Agencies' FASD Audit 2007 – 2011 Report

S/N	Entities	Revenue and Utilisation	Observations	Recommendations
1	**NDDC** The Niger Delta Development Commission was established in2000 by the NDDC Establishment Act. This Act repealed the oil mineral producing areas Commission decree 1998 among other things. The main source of revenue to the commission are as follows: ▪ Federal Govt. Subventions ▪ Oil Companies Contribution ▪ Donation and Grants ▪ Recovery on Mass transits ▪ Insurance Claims ▪ Other Income ▪ Disposal of assets ▪ Contractors' fee ▪ Bank Interest	Records have shown that the commission received total revenue of **NGN 593.961 billion** from 2007 to 2011. The commission spent **NGN459.237 billion** on recurrent and capital related projects. The typical projects and programmes embarked on by the Commission for which some have been completed while a large number of them were stated to be on-going within the region include: ✓ Education - which includes books, scholarship and infrastructures; ✓ Health including drugs, medical professionals and hospital infrastructures; ✓ Transportation including mass transit on roads and waterways; ✓ Road infrastructures such as bridges, landing jetty and land reclamation; ✓ Electrification projections; ✓ Skill acquisition and youth development; ✓ Agricultural development programmes; ✓ Security and logistics projects; ✓ Environment and waste management; ✓ Portable water projects etc.	The key findings from the FASD exercise in NDDC are as follows: ✓ Absence of Updated Financial Statements ✓ The Federal Government of Nigeria is to contribute the equivalent of 15% of the total monthly statutory allocations due to the member states of the Commission from the Federation Account and 50% of monies due to member states of the Commission from ecological Funds. ✓ It was noted that contribution is based on appropriation in the annual Federal Government budget which is significantly less than the amount due if contributions were made in accordance with the Act. ✓ The enabling Act is silent on the issue of how the budgets of the oil producing companies are obtained by the Commission. It neither mandates the oil and gas producing companies to send copies of their annual budgets to the Commission directly nor directs National Petroleum Investment Management Services (NAPIMS) and the Department of Petroleum	1. The federal government of Nigeria should contribute to the commission in accordance with the existing Act establishing it. 2. The board should take the necessary steps to get the National Assembly to amend the present NDDC Act 2000 with a view to ensuring that the annual budgets of the oil and gas producing companies are easily obtained by the Commission as of right, and basis for computation of contribution clearly established. 3. It is recommended that periodic reconciliations be done on project master schedule in the Directorate of Finance and the Projects Monitoring Unit in order to ensure that the list of projects are correctly recorded by the different departments. 4. It is also recommended that the Commission should carry out a comprehensive review of their projects to determine their status. 5. Where contracts have been abandoned, contractors should be prosecuted to enable the commission recover advances to them. Also, the terms of advance payment guarantees (APG) should be invoked and related funds recovered.

			Resources (DPR) to forward their budgets to the Commission. ✓ It was observed that a total number of 22 projects were duplicated in the projects schedule with a total contract sum of N1.18billion, mobilization payments of N370.70million, interim payment certificates (IPC) issued to the tune of N156.81 million and mobilization recovered on IPC's of N93.09 million. ✓ It was observed that substantial work has not been carried out in significant number of projects even though mobilization has been paid. For instance based on review from this audit, projects with contract sum of NGN284.884 billion and mobilisation or advance payments of N63.558 billion was made but was not certified for work done on the established milestones or progression and therefore no interim payment certificate (IPC) had been issued. ✓ Instances where the presumed contract sums were less than the actual payment in the project listing of the Commission was observed. It indicated existence of upward variation or over payments in	6. Management should ensure that detailed evaluation of projects is done before award of contract. Contractors should be held responsible for their bid and acceptance of offer. Where material and labour variations are to be made, the commission should consider subjecting the contract to the whole process of tender and re-award. 7. It is further recommended that all project related payments be duly processed and made directly to the contractors/third parties. There should be proper documentation of the evidence of collection of such funds by the third parties.

			respect of these contracts and the monitoring list was not updated. ✓ It was also observed that there was a general allocation of NGN7.442 billion to the nine state offices of the Commission for the completion of small ticket projects which were neither identifiable nor scheduled for monitoring and proper management	
2	**PPPRA** The Petroleum Products Pricing Regulatory Agency (PPPRA) was established via an Act of the National Assembly in 2003 as an autonomous agency to primarily determine the pricing		• It was observed that subsidy was not paid on Household Kerosene (HHK) in 2010 and 2011 • A marginal difference of N11, 301,153.67 in 2007 between	1. Subsidy payment should be made through PSF from the Central Bank of Nigeria (CBN) on the approval of the Accountant General of the Federation based on the claims approved by

	policy of petroleum products and regulate their supply and distribution. The major sources of revenue to this agency are disbursement from Excess Crude oil Account.		the audited account and the CBN statement was also observed. • It was further observed that the NNPC deducts its subsidy payment at source from domestic crude sales.	PPPRA. NNPC should be made to direct all its subsidy issues to PPPRA like other importers.
3	**Development of Natural Resources** There are basically 2 Sources of revenue which are: • Statutory allocation: 1.68% of FGN share of allocation of Federation account. • Allocation from Excess crude account	Total revenue received from 2007 to 2011 was N365 Billion.	• Contrary to the implied purpose of setting up the Fund, it served as a borrowing fund for the FGN to meet its obligations in areas such as: ○ Budget deficits ○ Fertilizer ○ Agriculture • There is an outstanding balance of N339,052,733,601.84 due from the FGN (based on withdrawals made).	1. It is recommended that NEITI should carry out full audit of the Fund from inception to obtain a complete overview of the Fund and determine the total outstanding balance from the Federal Government to the Account as at December 2011. 2. A high level committee should be set up by the Federal Government to recover all unpaid loan from the Fund without further delay. 3. The Federal Government should have operational guidelines for the release of the Fund mainly for stabilisation purposes.
4	**Share of Derivation and Ecology** **The Ecological Fund** was originally established in 1981 through the **Federation Account Act (1981)** based on the recommendation of the Okigbo Commission. The Act has subsequently been modified by Decrees 36 of 1984 and 106 of 1992 respectively; and further modified through the Allocation of Revenue/Federation Account etc. (modification) order of 8th July 2002. The Fund is an intervention facility established to address serious ecological problems across the country Sources of Revenue are two: • Statutory allocation: 1% of FGN	Findings from this audit show that the amount received as statutory allocation from 2007 to 2011 was N 164 billion while that of Excess crude oil was N 53 billion.	• Disbursements from the fund were made to beneficiaries outside the purpose of setting up the fund. • The sum of N19 billion is being owed to NEMA from the fund; out of over N43 billion due to the agency, only N23.77 billion was paid in the period under review. • Only 36 out of 139 projects have been completed from 2007 – 2011.	Same as above.

	share of allocation of Federation account. • Excess crude Allocation Beneficiaries are: • National Emergency Management Agency (NEMA IS ENTITLED TO 20% STATUTORY DEDUCTIONS FROM THE 1% SHARE OF DERIVATION AND ECOLOGY), • National Committee on Ecological Problems and ; • Direct assistance to the State Governments on the approval of Mr President.		• The processes set up for project evaluation before payments are made from the fund were disregarded in the disbursement from the fund.	
5	**PTDF** Prior to the establishment of the PTDF, the Gulf Oil Company Fund was in existence and its Act was repealed by the promulgation of Act No 25 0f 1973 and established the Petroleum Technology Development Fund (PTDF) as a Fund for the purpose of training and education of Nigerians in the oil and gas industry. The Sources of revenue to the Fund during the years under review were ✓ Signature Bonus/Oil Block Concession allocation, ✓ Local and foreign currency Investment income, ✓ Tenders/Contractors fee and others Beneficiaries are: ✓ Schools(primary, Secondary and Tertiary Institution) ✓ Stakeholders in Oil and Gas Industries.	Total revenue for the years under review was N 99.6billion Fund utilisation activities are as follows: ✓ Scholarship for MSc and PhD ✓ Awards, Endowment & Prizes, ✓ Institution Support-Others, ✓ PTDF Assisted Projects –Secondary Schools, ✓ PTDF Assisted Projects –Primary Schools, ✓ Galaxy Backbone Plc., and National Mathematical Centre	• The PTDF Establishment Act (Decree No. 25) of 1973 provides that all signature bonuses should be credited into the PTDF account; however, the Federal Government pegged the sum of $100,000,000 (One Hundred Million Dollars) as annual fund to the Agency. • We observed that the total projects awarded in the period under review was 632; 246 completed, 4 revoked and 24 have unknown statuses	1. The Federal government should abide by the legislation that governs the fund
6	**Stabilization Fund** The Stabilization Fund (SF) generally	The total sum of N 110 billion was received as revenue from 2007 to 2011.	Reviewing the CBN bank statement for the Fund and OAGF	1. We recommend that NEITI should carry out audit of the fund

	refers to the mechanism set up by a government or central bank to insulate the domestic economy from large influxes of revenue, as from commodities such as oil. A primary motivation is maintaining a steady level of government revenue in the face of major commodity price fluctuations (hence the term "Stabilization"). Sources of Revenue are two: • Statutory allocation: 0.5% of FGN share of federation allocation. • Excess crude Allocation		ledger, it was shown that the Fund served as a pool to grant loan to fund various expenditures during the period under review,	from inception to obtain a complete overview of the fund as at December 2011. 2. A high level committee should be set up by the Federal Government to recover all unpaid loan from the fund without further delay. 3. The Federal Government should have operational guidelines for the release of the fund meant strictly for Stabilization purposes.
7	**The Tertiary Education Trust Fund (TETFUND) was** established under the Tertiary Education Trust Fund (Establishment), Act, 2011 which repealed education tax Act Cap.E4 Laws of the Federation of Nigeria, 2004 and Education tax fund (Amendment) Act No .17, 2003 and came to effect in June 2011 with mandate to engage in the rehabilitation, restoration and consolidation of tertiary education in Nigeria. The Fund is managed by Board of Trustees established under the Section 4 of the new Act The Sources of statutory revenue allocated to the fund came from: • Oil and Gas revenue and • Non-Oil and Gas revenue Beneficiaries are: • Fed. Min., Commission and Special Projects • State Primary Education Board • University • State Secondary Education Board • Beneficiary Staff Training & Development • Polytechnics • Colleges of Education	The total revenue received by the TETFUND from 2007 to 2011 was N366 billion. The Fund utilized its revenue on provision of : ✓ Essential physical infrastructure for teaching and learning ✓ Instructional materials and equipment ✓ Researches and publications ✓ Academic staff training and development and ✓ Any other need which, in the opinion of the Board of Trustees, is critical and essential for the improvement of quality and maintenance of standards in the higher educational institutions	The fund does not have a comprehensive accounting and operational manual; hence, there is insufficient guide for accounting and operations' processes.	1. There is a need for ETF to tackle the issue of undue political control and interference by Governors over the execution of the ETF funded projects in their respective states; 2. There is a need to educate the Governors on ETF intervention policies which are rooted in accountability and standards and are performance driven; 3. As part of the exit strategy for basic and Secondary Education Intervention, beneficiaries with accumulated un - accessed funds should be allowed to merge all their outstanding allocations and propose projects to be funded with the back log of funds; 4. There is a need to explore the possibility of developing prototypes for adoption by beneficiaries in order to maintain standards and uniformity in projects executed by them which would ultimately minimize the challenges posed by un - accessed funds;

	• Libraries • Monotechnics • ICT • Capacity Building • Sports • Book Development • Research • Vocational Training • Police/Para military			5. Re –examine the Fund's Intervention Policies with a view to making appropriate recommendations for retention or modifications, if necessary;
	Petroleum Equalisation Fund (Management) Board The Petroleum Equalisation fund Management Board is a scheduled Parastatal of the Ministry of Petroleum Resources,established by Decree No.9 of 1975 (as amended by Decree No. 32 of 1989), mainly to administer Uniform Prices of Petroleum products throughout the country.	A total of N245.23 billion was received by PEF (MB) throughout the review period. Most of its expense was on claims amounting to almost N195 billion**.**	✓ Utilization of Fund is not separated between core activity and administrative purposes. The disbursements out of the fund are carried out from the same bank accounts for both purposes. ✓ The PEF (M) B paid claims to major and independent oil marketers only after deducting the contributions and allowances due from the marketers to PEF (M) B ✓ In some cases, bridging claims were paid to some independent oil marketing companies without deducting the National Transportation Average (NTA) contribution due from them. ✓ The Fund does not impose penalties promptly on defaulting independent and major oil marketers who did not pay their contribution to	1. It is recommended that the utilization of the Fund's resources should be distinguished between core activities, which include settlement of claims and receipt of NTA contributions from administrative activities for management of Fund expenses. 2. It is also recommended that management of PEF(M)B should ensure that it does not honour any claims due to independent or major oil marketing company until that company settles all previous indebtedness to PEF(M)B 3. It is further recommended that management should take advantage of the provision in the Act establishing the Fund and recover any outstanding balances, together with the appropriate penalty. 4. It is also highly recommended that the Budget Department should continue reviewing all expenditures before they are paid and also ensure that their review is properly documented for easy

			the Fund. ✓ This audit's review of PEF(M)B management letter for 2008 and 2009 showed that there was no documentary evidence that the Budget Department carried out review of the expenditures before payments were incurred as at 2007. It is noteworthy to state that this observed deficiency in the operations of the Fund as at 2007 has been addressed.	reference.