

FAAC POST MORTEM SUB-COMMITTEE

REPORT ON DEDUCTIONS FOR PRIORITY PROJECTS, COST OF COLLECTION AND PAYMENT OF SUBSIDY BY NIGERIA NATIONAL PETROLEUM CORPORATION (NNPC) BEFORE PAYMENT OF 13% DERIVATION TO OIL PRODUCING STATES.

1.0 INTRODUCTION

- 1.1 You may recall that at the Federation Account Allocation Committee (FAAC) meeting held on Friday, 20th August, 2021, the issue of deductions made by NNPC on Priority Projects, Under-Recovery and Cost of Collection before computing 13% derivation to Oil Producing States was discussed. Some members had observed that Mineral Revenue to the Oil Producing States were derived after Priority Projects, Cost of Collection and others have been deducted while in the case of VAT Revenue Allocation, computations for North East Development Commission (NEDC) were made on the gross VAT Revenue.
- 1.2 Based on the above premise, the FAAC Plenary mandated the FAAC Post Mortem to examine the matter and report back.

2.0 FAAC Post Mortem Sub-Committee subsequently set up an ad-hoc Committee to examine the issues raised with the following terms of reference:

- a.) To determine whether it is appropriate for NNPC to deduct funds for Priority Projects, Under-Recovery and Cost of Collection from Revenue generated before computing the 13% derivation to Oil Producing States;
 - b.) To examine the legal provision (if any) which empowers NNPC to make deductions on the Federation Account;
 - c.) To determine when the deductions from the Priority Projects and value Shortfall (Subsidy) started and how much is outstanding in favour of the Oil Producing States, if any;
 - d.) Advice FAAC on appropriate procedures for further deduction(s) from Federation Revenue by NNPC in line with the Revenue Allocation Act.
- 2.1 The Sub Committee wrote to NNPC and OAGF to make presentations on the issue based on the terms of reference.

2.2 FINDINGS FROM NNPC/OAGF PRESENTATIONS

Analysis of the responses from NNPC and OAGF presentations revealed the following:

- a.) Provision for Budget Oil production volume, budget benchmark price, average exchange rate was outlined in the 2021 Fiscal framework;
- b.) Gross Federation Account inflows were classified into Oil Revenue and Non-Oil Revenue;
- c.) The Oil Revenue comprises of Profit Oil from Crude Oil and Gas sales, Petroleum Profit Tax on Oil and Gas, Oil and Gas Royalties, Concessional Rentals, Gas flared penalty, Miscellaneous Revenue, Exchange Gain, Incidental Oil Revenue. While the Non-Oil Revenue includes Corporate Tax, Company Income Tax, NLNG Tax, Stamp Duties, Value Added tax, Import Duties, Excise Duties and Fees, Surcharge, Tax Amnesty, FGN Independent Revenue;
- d.) Deductions on Oil Revenue included Cost Recovery (cost associated with production), Budget Oil production volume net incremental Oil production for Repayment Arrears (RA), Fiscal deductions (base Joint Venture Cash Calls + PEF + Modified Carry Arrangement + Repayment Areas), other Federally funded Upstream Projects (Government Priority Projects), 13% Derivation, Special Federation Transfers and Police Trust Fund;
- e.) Deductions on Non-Oil Revenue were cost of collection, transfer to North East Development Commission (NEDC) and Police Trust Fund;
- f.) Deductions on VAT were Cost of Collection and transfer to North East Development Commission (NEDC) ;
- g.) Net Oil and Gas Revenue is derived after cost associated with production and other deductions are charged before 13% derivation is computed;
- h.) Net VAT Revenue is arrived at after Cost of Collection, transfer to North East Development Commission (NEDC) have been deducted.

2.3 From the recommendations of the Ad Hoc Committee, The FAAC Post Mortem Sub-Committee adopted the report and requested the OAGF and RMAFC to work out the 13% derivation and report back. (See **Appendix 3.**)

2.4 The OAGF and RMAFC and FAAC Post Mortem Sub-Committee met severally to compute other deductions made from 1999 to 2021 (See attached analysis **Appendices 2a -2d**)

2.5 From the analysis made, the summary of deductions is presented as in Table I on page 3:

'Appendix I'

Table 1: Summary of Deductions made before 13% Derivation to Oil Producing States

		Subsidy	Priority Projects	Police Trust Fund	Total
S/N	Year	=N=	=N=	=N=	=N=
1	1999		18,253,534,135.83	-	18,253,534,135.83
2	2000	-	35,737,216,668.69	-	35,737,216,668.69
3	2001	-	37,611,315,000.00	-	37,611,315,000.00
4	2002	-	16,310,997,500.00	-	16,310,997,500.00
5	2003	-	-	-	-
6	2004	-	-	-	-
7	2005	-	-	-	-
8	2006	205,474,237,175.00	-	-	205,474,237,175.00
9	2007	236,641,070,038.09	-	-	236,641,070,038.09
10	2008	179,589,675,478.46	-	-	179,589,675,478.46
11	2009	198,110,212,084.57	-	-	198,110,212,084.57
12	2010	416,459,361,251.62	-	-	416,459,361,251.62
13	2011	785,908,667,932.18	-	-	785,908,667,932.18
14	2012	-	-	-	-
15	2013	1,766,707,659,430.58	-	-	1,766,707,659,430.58
16	2014	638,077,820,748.91	-	-	638,077,820,748.91
17	2015	315,360,465,964.17	-	-	315,360,465,964.17
18	2016	13,617,984,556.22	-	-	13,617,984,556.22
19	2017	126,538,585,673.15	-	-	126,538,585,673.15
20	2018	691,586,264,341.20	103,216,719,217.70	-	794,802,983,558.90
21	2019	537,209,203,284.39	188,403,687,302.40	-	725,612,890,586.79
22	2020	133,624,659,061.15	260,597,320,141.04	17,336,301,852.98	411,558,281,055.17
23	2021	1,027,783,036,216.37	262,902,680,184.84	15,322,580,120.52	1,306,008,296,521.73
Total		7,272,688,903,236.06	923,033,470,150.50	32,658,881,973.50	8,228,381,255,360.06
13% Derivation		945,449,557,420.69	119,994,351,119.57	4,245,654,656.56	1,069,689,563,196.81

5.0 CONCLUSION

- a) It is against Section 162 (2) of the 1999 Constitution of the Federal Republic of Nigeria (As amended) for NNPC or any agency of Government to make any deduction(s) from the Federation Revenues accruing from Oil Revenue (comprising Profit Oil from Crude Oil and Gas sales, Gas sales, Petroleum Profit Tax on Oil and Gas, Oil and Gas royalties, concessional rentals, Gas flared penalty, Miscellaneous Revenue, Exchange Gain, Incidental Oil Revenue) without first computing the 13% Oil Derivation to the Oil Producing States, as enshrined in the 1999 Constitution of the Federal Republic of Nigeria (As amended).
- b) Since all the deductions were for Federation expenses, that is, Subsidy, Priority Projects, etc.; therefore the responsibility is on the Federation.

'Appendix I'

- c) The Oil Producing States were shortchanged to the sum of **One Trillion, and Sixty Nine Billion, Six Hundred and Eighty Nine Million, Five Hundred and Sixty-three Thousand, One Hundred and Ninety Six Naira, Eighty one Kobo (₦1,069,689,563,196.81)**
- d) The practice of deductions without taking into consideration the 13% derivation should stop henceforth.

6.0 RECOMMENDATION

6.1 Based on the need to ensure equity, fairness and justice, the Sub-Committee recommends as follows:

- a.) That the above sum should be refunded to the Oil Producing States in adherence to the provisions in **Section 162 (2) of the 1999 Constitution of the Federal Republic of Nigeria;**
- b.) That the refund be made to the Oil Producing States in any of the following options:
 - i.) Gradual refund of the sum in **Thirty-Six (36)** equal monthly instalments of **₦29,713,598,977.69;**
 - ii.) Gradual refund of the sum in **Forty-Eight (48)** equal monthly installments of **₦22,285,199,233.27;**
 - iii.) Gradual refund of the sum in **Sixty (60)** equal monthly installments of **₦17,828,199,159,386.61;**
- c.) RMAFC to produce the indices for the period under consideration to enable OAGF disburse appropriately.

7.0 Thank You.


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(Kaigaman Katsina)

Chairman, FAAC Post Mortem Sub-Committee
13th December, 2021