IMPACT OF THE 13% DERIVATION FUND IN THE NIGER-DELTA

PRESENTED BY: FUNMI ADESANYA

JANUARY, 2021

ABOUT US

ACIOE
ASSOCIATES

ADVISORY | GOVERNMENT RELATIONS | REGULATORY AFFAIRS | INVESTMENT FACILITATION

ACIOE Associates is an advisory services firm providing solutions in Strategy, Government Relations, Regulatory Affairs, Economic Development, Advocacy, Investment Facilitation, and Policy Analysis.

Our team provides advisory services on critical sectors, including Health, Agriculture, Social Impact, and Government relations.

We have supported governments (Federal and Subnational), development partners, and organizations around sustainable solutions to the challenging economic, political, and development issues within the countries we operate.

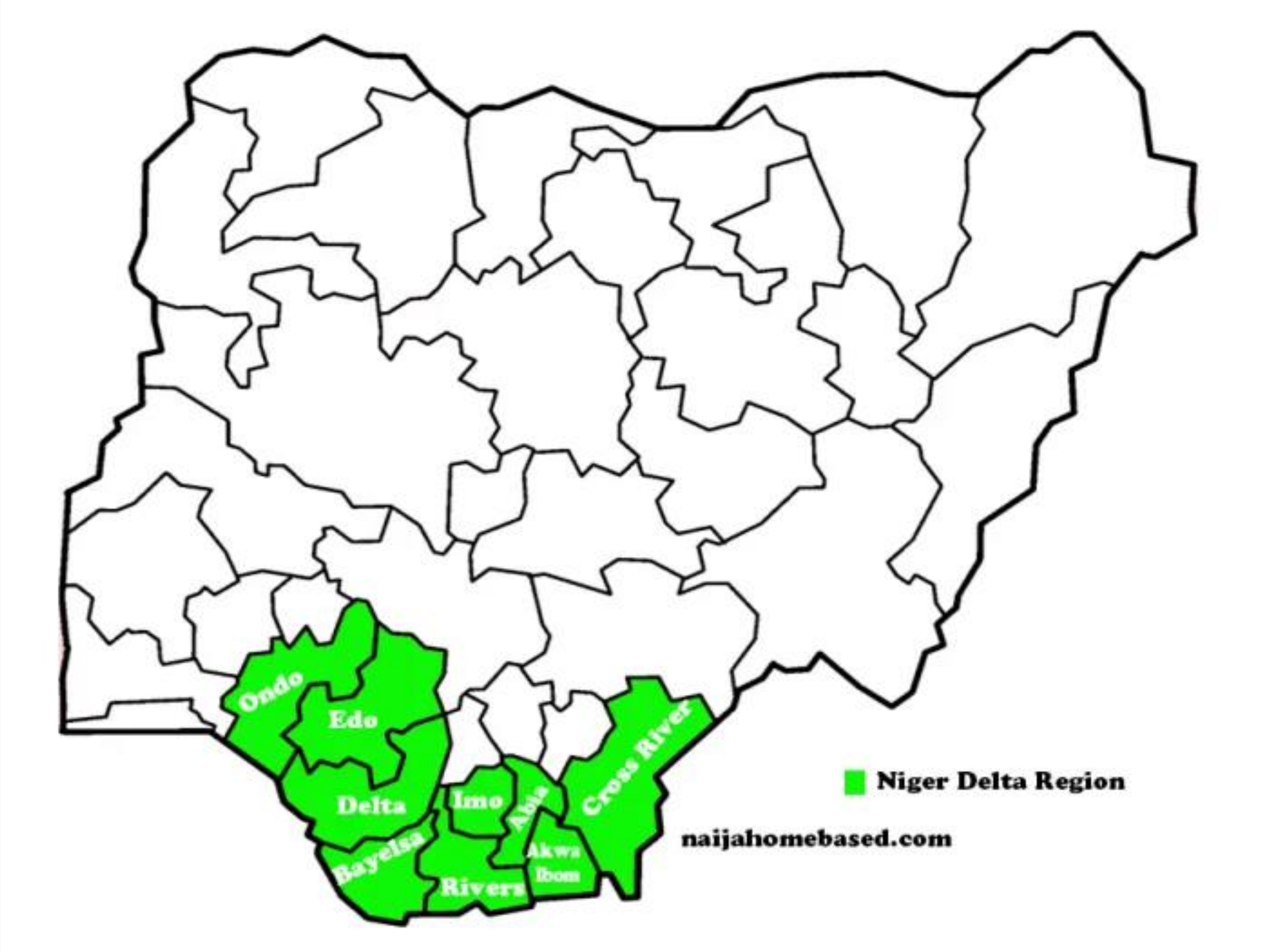
FOR MORE INFO VISIT

www.acioe.com

PRESENTATION

OBJECTIVES & OVERVIEW

ACIOE conducted a study to analyse the impact of the derivation funds guaranteed by Section 162 (2) of the 1999 Constitution (the "Constitution") and paid by the Federal Government of Nigeria ("FGN") to the oil producing states in Nigeria (the "Niger Delta States"), between 2009- 2019 (the "Review Period'), on the development of the Niger Delta States of Nigeria and proffer options that will ensure the efficient utilization of the derivation funds received by the Niger Delta States.



Nigeria adopts derivation, in the revenue sharing arrangements between its national and subnational governments. The Principle of derivation is entrenched in Section 162 (2) of the 1999 Constitution.

For the purpose of the study, we have defined the Niger Delta in terms of oil producing states as defined by the Niger Delta Development Commission (Establishment, etc.) Act ("NDDC Act").

We have, in light of the Court Case of Attorney-General of Cross River vs Attorney-General of the Federation & Anor, excluded Cross River State from the analysis undertaken in this Study.

OBJECTIVES & OVERVIEW

As such the States reviewed in this Study are: Abia State; Akwa Ibom State; Bayelsa State; Cross River State; Delta State; Edo State, Imo State; Ondo State and Rivers State (the "Niger Delta States").

- The Niger Delta States are the main beneficiaries of the derivation sharing arrangement guaranteed by the Constitution. This is because, the crude oil and natural gas that are mainly sourced from these states, form up to 80 per cent of Nigeria's revenue. The FGN, has allocated over Six Trillion Naira to the Niger Delta States during the Review Period.

- The main issue for determination was whether the present under-development and prevalent impoverishment in the Niger Delta States is attributable to the quantum of the derivation funds paid to the Niger Delta region of Nigeria, requiring an increase in the current derivation percentage of 13%, or the failure to appropriately utilise the derivation funds received, necessitating the need to revamp the present derivation utilisation structures in these states.

RESEARCH & METHODOLOGY

ACIOE ASSOCIATES

In terms of methodology our research utilized a descriptive & analytical approach to review the impact of the derivation funds, received by the Niger Delta States during the Review Period on the development of the Niger Delta States.

Methodology 01

Data was gathered through secondary and primary sources. Secondary Data was amassed through desk research

Methodology 02

Primary data was generated from Key Informant Interviews ("KII"). The KIIs were selected based on their understanding of the key issues researched etc.

Methodology 03

Focus on specific study locations: For the purpose of this study we focused on oil producing communities .

Methodology 04

Focus on specific study locations: For the purpose of this study we focused on oil producing communities .

Methodology 05

Mapped Stakeholders engagement : 60 stakeholders were engaged across the 24 LGAs selected

Methodology 06

Examined the flow of derivation funds to the Niger Delta States and the revenue management structures deployed by the Niger Delta States

Methodology 07

For an assessment of infrastructural projects in the selected LGAs, we deployed parameters that attempted to measure the functionality of facilities in the areas of health, electricity, water and education This was complemented by an assessment of the the communities' perception.

We analyzed the functionality of facilities using various parameters of assessment e.g. date of establishment, last date of renovation and upgrading , the condition of the facility etc.

CHALLENGES

Some challenges encountered in the course of our data gathering exercise:

- COVID-19
- Industrial Action
- Paucity of Financial Information

The challenges highlighted impacted our ability to access and review the financial records covering the Review Period. In most cases, we were only able to obtain financial records covering not more than 3 years. In addition, our inability to access most of the executive stakeholders, prevented us from conducting interviews with the executive stakeholders in the Niger Delta States to review the financial records accessed on their respective websites.

ANALYSIS

STATE	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	TOTAL
ABIA	3,751,132,191	5,441,355,772	4,736,592,967	4,227,403,550	6,727,011,368	6,507,179,236	3,889,034,763	1,938,023,011	3,899,154,937.67	7,917,565,713	6,839,514,467	55,873,967,974
AKWA-IBOM	69,576,500,855	107,125,388,643	99,088,822,764	150,938,116,230	180,787,030,794	183,060,832,816	116,691,397,950	63,307,425,363	93,268,713,316	149,055,368,692	119,702,919,950	1,332,602,517,373
BAYELSA	33,473,038,887	65,527,909,519	78,729,284,509	102,679,373,783	121,740,791,065	117,317,270,261	67,277,852,388	40,970,822,145	72,287,039,958	116,071,974,324	95,776,656,376	1,388,476,485,346
DELTA	55,612,867,907	83,260,893,242	92,250,852,138	119,079,389,248	129,394,485,324	133,669,224,868	88,963,542,211	47,090,971,141	81,055,600,747	168,122,762,155	165,227,534,009	1,163,728,122,990
EDO	3,473,413,962	4,932,191,791	8,572,913,054	10,877,172,193	13,972,009,947	15,965,781,137	10,424,620,327	4,000,602,573	7,394,300,488	20,890,680,538	18,344,174,954	118,847,860,9645
IMO	4,065,595,152	5,327,268,552	4,928,049,666	5,890,149,714	6,485,673,411	6,264,787,766	3,726,575,580	2,101,193,712	3,695,229,401	5,999,624,552	9,545,326,099	1,282,575,983,954
ONDO	14,869,086,383	18,891,956,844	14,953,230,033	20,010,157,727	24,251,378,270	24,447,614,941	14,717,904,393	10,856,126,641	14,846,749,497	18,185,881,952	13,246,698,028	189,276,784,715
RIVERS	75,797,813,308	98,567,875,329	102,724,247,770	127,507,254,442	131,668,723,118	121,750,740,136	69,633,832,299	44,730,385,388	70,175,029,256	114,052,834,883	99,905,131,617	1,056,513,867,547
	GRAND TOTAL											6,587,895,590,863

A total sum of ₦ 6, 587,895, 590,862.78 was disbursed to the Niger Delta States by the FGN , as 13 per cent derivation funds accruing to these States, from the revenues generated by Nigeria from oil and gas and resources during the Review Period.

ANALYSIS :Individual State Analysis

The use of distinct commissions to manage the 13 per cent derivation funds as practiced by:

- Delta State
- Edo State
- Ondo State
- Imo State
- Abia State

The use of a pooled revenue structure for the management of the 13 per cent derivation funds as practiced by:

- Akwa-Ibom State
- Bayelsa State
- Rivers State

ANALYSIS :Imo State Analysis

#2 IMO

Population: 4,970,758

ALLOCATION

N1.2 trillion

REVENUE MANAGEMENT

ISOPADEC

40% of the fund is to be allocated to ISOPADEC

1.5% spent on social capital development

No legal framework to undertake high profile projects

5.4% was allocated to ISOPADEC in 2016

The 1.5% social capital expenditure was calculated based on available financial statements for the year 2017-2018

ANALYSIS

:Delta State Analysis

#3 DELTA

Population: 4,112,445

ALLOCATION

N1.1 trillion

REVENUE MANAGEMENT

DESOPADEC

50% of the fund is to be allocated to DESOPADEC

6% spent on social capital development

The social sector is poor and unsatisfactory

Less than 50% was allocated to DESOPADEC

The 6% social capital expenditure was calculated based on available financial statements for the year 2015-2019

#5 ONDO

Population: 5,811,623

ALLOCATION

N189 billion

REVENUE MANAGEMENT

OSOPADEC

40% of the fund is to be allocated to OSOPADEC

30.2% spent on social capital development

Significant impact of fund on education sector

75% was allocated to OSOPADEC

The 30.2% social capital expenditure was calculated based on available financial statements for the year 2010-2019

ACIOE ASSOCIATES

#6 EDO

Population: 5,000,000

ALLOCATION

118 billion

REVENUE MANAGEMENT

EDSOGPADEC

40% of the fund is to be allocated to EDSOGPADEC

17.8% spent on social capital development

Communities are unsatisfied with the commission

50% was allocated to EDSOGPADEC in 2015

The 17.8% social capital expenditure was calculated based on available financial statements for the year 2012-2019

ANALYSIS :Abia State Analysis

ACIOE ASSOCIATES

#8 ABIA

Population: 2,845,380

ALLOCATION

55.8 billion

REVENUE MANAGEMENT

ASOPADEC

Average of 23% was allocated to ASOPADEC

33.4% spent on social capital development

Oil producing communities are least impacted by the fund

Communities still face infrastructural challenges

The 33.4% social capital expenditure was calculated based on available financial statements for the year 2015-2019

#1 BAYELSA

Population: 2,277,961

ALLOCATION

N1.3 trillion

REVENUE MANAGEMENT

Pooled Revenue Structure

Funds received is 34% of total state revenue

16% spent on social capital development

Social sector is poor and epileptic

Education sector needs attention

The 16% social capital expenditure was calculated based on available financial statements for the year 2012-2014

#4 RIVERS

Population: 7,303,900

ALLOCATION

N1.05 trillion

REVENUE MANAGEMENT

Pooled Revenue Structure

Funds received is 34% of total state revenue

7.5% spent on social capital development

Oil producing communities are least impacted by the fund

Social services are mostly funded by IOCs

The 7.5% social capital expenditure was calculated based on available financial statements for the year 2013-2019

ANALYSIS :Individual State Analysis

It is useful to note that the Niger Delta States, practice two main revenue management strategies with respect to the 13 per cent derivation funds. These strategies include:

The use of distinct commissions to manage the 13 per cent derivation funds as practiced by:

- Delta State
- Edo State
- Ondo State
- Imo State
- Abia State

The use of a pooled revenue structure for the management of the 13 per cent derivation funds as practiced by:

- Akwa-Ibom State
- Bayelsa State
- Rivers State

ANALYSIS :Akwa-Ibom State Analysis

#7 AKWA-IBOM

Population: 5,451,000

ALLOCATION

1.3 trillion

REVENUE MANAGEMENT

Pooled Revenue Structure

Funds received is 53% of total state revenue

11.5% spent on social capital development

The social sector is poor and unsatisfactory

Oil producing communities aren't beneficiaries of fund projects

The 11.5% social capital expenditure was calculated based on available financial statements for the year 2010-2012, 2015-2019

SUMMARY OF FINDINGS

ACIOE ASSOCIATES

Our assessment of the quality of health, water, education, social development skills and electricity accessed by the selected oil communities within the Niger Delta and the perception of the members of the assessed communities, reveal the following : (a) Access to electricity is minimal (b) Absence of potable drinking water;(c) deplorable health care facilities; (d) poor educational infrastructure.

01

Most of the basic amenities that exist in the selected oil communities are provided by either joint venture partnerships between the NDDC or Nigerian National Petroleum Corporation or IOCs as part of the IOCs' corporate social responsibility. This trend is more prevalent in States like Akwa Ibom, Bayelsa and Rivers States where the IOCS provide water, health, electricity supply and education facilities pursuant to GMOU agreements between the IOCS and the respective oil producing communities in the aforementioned States.

02

Lack of a structured framework for commissioning infrastructure projects across the communities, which has left a number of oil producing communities with little or no infrastructure .

03

SUMMARY OF FINDINGS

ACIOE ASSOCIATES

States that manage the derivation funds through a revenue management commission like Abia, Delta, Edo, Ondo and Imo States, have a better focus on the development of the rural oil producing oil communities in their States. Unlike Akwa Ibom, Bayelsa and Rivers States who focus more on the development of urban areas, who are rarely oil producing areas.

04

States that manage their derivation funds through commissions, are required to fund the commissions with a percentage of the derivation funds received. The funding percentage ranges from 40-50 per cent. These states except for Ondo State, who pays its Commission more than the percentage prescribed, rarely comply with the prescribed funding percentages. These States subsequently pool the balance of the derivation funds into a centralized pool where other expenditures of the States are made

05

States like Delta, Akwa Ibom and Bayelsa, spent an abysmally low average of 6, 11.5, 16.4 and 7.4 per cent respectively, on their social capital expenditures during the years reviewed, notwithstanding that the derivation funds received by these States during the reviewed years, represented an average of 40.6, 53, 41 and 34 per cent respectively, of the States' total revenues

06

SUMMARY OF FINDINGS

Indigenes of the oil producing communities across the Niger Delta States desire that the derivation funds should be given directly to oil producing communities for effective management as the facilities that exist, are not reflective of the resources taken from them or the damages done to their environment.

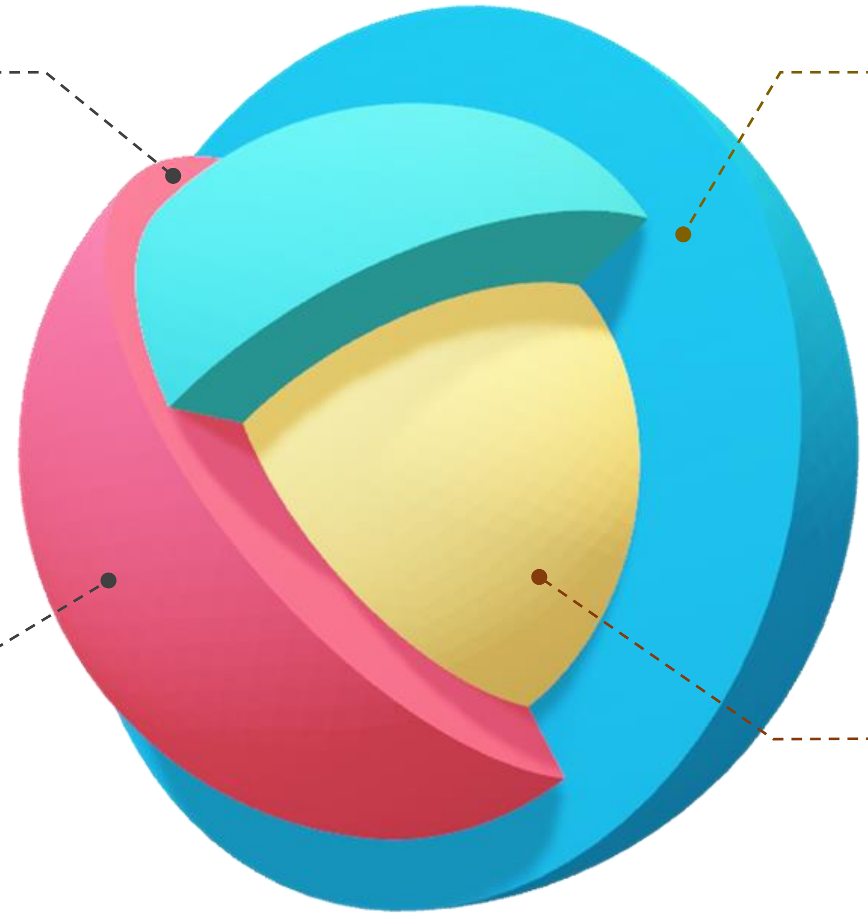
07

Finally, our studies reveal that the aggregate sum of N 6, 587,895, 590,862.78 (Six Trillion, Five Hundred and Eighty -Seven Billion, Eight Hundred and Ninety-five Million, Five Hundred and Ninety Thousand, Eight Hundred and Sixty-two Naira and Seventy-Eight Kobo), paid to the Niger Delta States by the FAAC during the Review Period, in compliance with the provisions of Section 162 (2) of the Constitution, have had little or no impact on its citizens.

08

HIGHLIGHTED ISSUES

Our review of the utilisation of the 13 per cent derivation funds allocated to the Niger Delta States, in accordance with Section 162 (2) of the Constitution, revealed that the utilisation process of the utilisation funds in these states is plagued by a number of issues, which diminish the impact of the 13 per cent derivation funds in the Niger Delta. These issues include:



RECOMMENDATIONS

Our recommendations are as follows:

01

The Legislation of Fiscal Rules: Legislation of fiscal rules to improve transparency and accountability of public expenditure as practiced in Ghana and Uganda. Such as rules on:

- uniform vertical transfers of derivation funds to curb the practice of discretionary transfers currently practiced by Niger delta States:
- The prescription of adequate budget preparation procedures that ensures a proper needs assessment of the intended beneficiaries are carried, ahead of prospective budget implementations;
- the development of resource allocation criteria that are 'downwardly accountable', particularly to the intended beneficiaries of the derivation funds;
- Consistent publishing of fiscal information and ensuring access to such information; and
- Earmarking a considerable proportion of the derivation funds for specific sectoral development such as health, education, facilitation of portable water etc.

RECOMMENDATIONS

Our recommendations are as follows:

02 Memorandum of Understanding between the Niger Delta States and Oil Producing Communities

RECOMMENDATIONS

ACIOE ASSOCIATES

Our recommendations are as follows:

03 Climate Change

RECOMMENDATIONS

ACIOE ASSOCIATES

Our recommendations are as follows:

03 Usage of Data

THANK YOU FOR YOUR TIME

Please contact us by sending an email to - contactus@acioe.com