FEDERATION ACCOUNT ALLOCATION COMMITTEE (FAAC)
POST-MORTEM SUB-COMMITTEE

COMMUNIQUE ISSUED AT THE END OF A 3-DAY RETREAT ON EVALUATION OF ISSUES EMANATING FROM THE FEDERATION ACCOUNT 2019-2022 HELD AT THE UNITY HALL GOVERNMENT HOUSE, ASABA, DELTA STATE FROM SUNDAY, 13TH TO TUESDAY, 15TH NOVEMBER, 2022

1.0 PREAMBLE

1.1 The Federation Account Allocation Committee (FAAC) Post-Mortem Sub-Committee held a 3-day Retreat from Sunday, 13th to Tuesday, 15th November, 2022 with the theme **Evaluation of Issues Emanating from the Federation Account January, 2019 to September, 2022** at the Unity Hall Government House, Asaba, Delta State.

1.2 The aim of the Retreat was to appraise the programmes, achievements and challenges of the FAAC Post-Mortem Sub-Committee for the period 2019 to 2022 and to identify the major challenges involved in the operations of the Revenue Generating Agencies with the view to proffering solutions to aid the agencies perform optimally.

1.3 In a welcome address, the Chairman, FAAC Post Mortem Sub-Committee, Kabir M. Mashi (Kaigaman Katsina) welcomed all participants to the Retreat. He specifically thanked the Executive Governor of Delta State, His Excellency, Senator Ifeanyi A. Okowa, for hosting the retreat. He also thanked the Chairman, Revenue Mobilisation Allocation and Fiscal Commission, Mohammad Bello Shehu for his support in ensuring the smooth running of the FAAC Post Mortem Sub-Committee. He appreciated the Hon. Minister of Finance, Budget and National Planning, Hajiya Zainab Shamsuna Ahmad, CON and the Accountant General of the Federation (Overseeing), Mr. Sylva Okolieaboh, for their goodwill messages. He reminded participants that FAAC Post Mortem Sub- Committee periodically carries out annual retreat and programmes with the aim of addressing specific issues around the operation and management of the Federation Account. Since the economy is dynamic, several activities/operations of Agencies of Government have impacted on the Federation Account during the period under review. In particular, the implementation of the Petroleum Industry Act (PIA), 2021 and the changes it has brought in the revenue accruals into the Federation Account. On this note, he stated that all the papers selected for presentation in the retreat are targeted at finding the impact of the PIA on revenue accruals into the Federation Account particularly the transition of Nigeria National Petroleum Corporation to Nigeria National Petroleum Company Limited.

1.4 The Retreat was declared open by His Excellency, Senator Ifeanyi Okowa, the Executive Governor of Delta State ably represented by Chief Patrick Ukah, the Secretary to the State Government of Delta State. He welcomed all participants to the State and noted that the retreat could not have come at a better time than now. He applauded the work of the FAAC Post Mortem Sub-Committee in enhancing revenue accruals into the Federation Account which has benefitted the three tiers of Government especially the Oil producing States of the Federation where several refunds were received as a result of the efforts of the Sub-Committee.

1.5 The Hon. Minister of Finance, Budget and National Planning, Hajiya Zainab Shamsuna Ahmad, CON, the Chairman, Revenue Mobilisation Allocation and Fiscal Commission, Mohammad Bello Shehu and the Accountant General of the Federation (Overseeing), Mr. Sylva Okolieaboh, delivered goodwill messages.

2.0 PAPERS PRESENTED:

2.1 The following papers were presented at the Retreat:

i. Overview of PIA 2021 by **Prof. Uche Uwaleke**;
ii. Implications of PIA 2021 on Federation Account Revenue by **Dr. Afolabi E. Olowookere**;
iii. Impact of PIA on Federation Account: From NNPC to NNPC Limited by **Dr. Ahmed Adamu**;
iv. Implications of Petroleum Industry Act (PIA), 2021 on Federation Account Revenue: What roles for RMAFC by **Casimir I. Anyanwu, PhD**;
v. Beyond Oil: Diversification Imperatives for Sub National Governments by **Prof. Seth Akutson**;
vi. Mitigating the Adverse Impact of Fuel Subsidy Removal: What Role for Governments by **Prof. Uche Uwaleke.**

3.0 OBSERVATIONS:

3.1 Consequent to the Papers presented and discussions that ensued at the Retreat, the following observations were made:

i. The Petroleum Industry Act (PIA) was signed into law on the 16th of August, 2021 with the aim to restructure and transform the Nigerian Oil and Gas industry;

ii. The Petroleum Industry Act (PIA) seeks to provide governance, legal, regulatory and fiscal framework for the Nigerian Petroleum Industry as well as to influence Government's directions on its monetary and fiscal policy interventions in a manner that Oil and Gas provides greater and stable contribution to the economy;

iii. The shareholding of NNPC Limited has been a concern to the Sub-Nationals and all relevant stakeholders;

iv. The introduction of Hydro-carbon Tax in the PIA is a positive step to boost revenue into Federation Account;

v. Section 64(c) gives NNPC Limited the role of lifting and selling royalty oil and tax oil on behalf of Nigerian Upstream Petroleum Regulatory Commission, (NUPRC) and Federal Inland Revenue Service, (FIRS) respectively for an agreed commercial fee;

vi. NNPC Limited will also lift and sell profit oil and profit gas before remitting to the Federation will charge 10% management fee and also 30% for the Frontier Exploration Fund;

vii. Conflicts in revenue remittances and regulations are observable under the new Act as Section 24 (5) and Section 47 (4) directed the NUPRC to pay any unutilized money at the end of each financial year into the Consolidated Revenue Fund;

viii. Additional funds were provided in the PIA 2021 to improve Frontier Explorations, expand the Midstream and Downstream Gas Infrastructure as well as ameliorate the plight of host communities, which is expected to mitigate hostilities and crisis;

ix. FAAC distribution has always been central in financing government operations both at the national and sub-national level accounting for over 70% of their total Revenue;

x. The PIA establishes the Nigerian Upstream Petroleum Regulatory Commission (NUPRC) and Nigerian Midstream and Downstream Petroleum Regulatory Authority (NMDPRA) as regulators in petroleum industry with likely frictions in the regulation of the sector;

xi. The Commission (NUPRC) is to recommend the grant, revocation and assigning of interests in petroleum prospecting licenses and petroleum mining leases to the Minister which is a departure from the sole power previously exercised by the Minister;

xii. New royalty rates are based on production which would now be calculated on a field basis, dependent on the chargeable volume of the crude and condensates produced per field:

Onshore areas – 15%
Shallow water-12.5%
Deep offshore (greater than 200m water depth) – 7.5%
Frontier basins – 7.5%

xiii. Royalties unpaid after 30 days from the due date will be considered a debt to the Commission (NUPRC) and subject to interest at prevailing CBN rate;

xiv. The Act defines host community as any community situated in or appurtenant to the Area of Operation of a licensee or lease (termed "Settlor");

xv. Settlors come together and be responsible for a trust overseen by board of trustees for the benefit of the communities;

xvi. The Settlors are to create a trust registered with the Corporate Affairs Commission (CAC) financed by an annual contribution of 3% of actual annual operating expenditure of the preceding financial year of upstream companies;

xvii. In any year where an act of vandalism, sabotage or other civil unrest occurs which causes damage to petroleum and designated facilities or disrupts production activities within the host communities will forfeit its entitlement to the extent of the cost of repairs;

xviii. In the short term, Government revenue will drop significantly due to reduced taxes and royalties;

xix. Revenue Mobilisation Allocation and Fiscal Commission (RMAFC) has the constitutional responsibility in dealing with matters involving the Federation Account;

xx. RMAFC is poorly funded thus militating against its monitoring function;

xxi. NNPC Limited shall transfer the 30% of profit Oil and profit Gas to the frontier exploration fund escrow account dedicated for the development of frontier acreages only;

xxii. Under the PIA, Petroleum Profit Tax (PPT) will be replaced with Companies Income Tax (CIT) and Hydrocarbon Tax (HT);

xxiii. Hydrocarbon Tax will not apply to companies with investments in the deep offshore areas thus attract investment into the sector;

xxiv. The dual Tax regime in the Petroleum Industry (Hydrocarbon Tax and Company Income Tax) as opposed to the single Tax regime (Petroleum Profit Tax) has its own advantages and disadvantages;

xxv. The tax regime in the PIA is significantly lower than pre-PIA thus systematically and substantially reduce the revenue accruable to the Federation Account.

xxvi. NNPC Limited is still the sole suppliers of petroleum products and its prices should be 100% deregulated within six months of implementation of PIA with an extension of 18 months;

xxvii. NNPC Limited has not remitted revenue into the Federation Account since January, 2022 to date;

xxviii. The rising level of public debt and the increasing ratio of debt service to revenue is worrisome;

xxix. The contribution of Oil revenues to Federation account revenues have been challenged owing to the structural constraints bedevilling the Oil sector, including the unsustainable subsidy on petrol, which operates as a first line against gross Oil revenues.

xxx. Fuel subsidy removal will improve Government revenues, however, it will increase inflation which would significantly impact low income household by increasing their cost of living.

4.0 RECOMMENDATIONS:

4.1 Based on the above observations, the Retreat recommended as follows:

i) The PIA is work in progress and should be pursued to ensure gradual implementation;

ii) The RMAFC should conduct a study to comprehensively examine the costs and benefits of implementing the PIA;

iii) The shareholding of NNPC Limited should reflect the Vertical allocation formula for the Federal, State and Local Governments;

iv) NNPC Limited should not charge additional fees for lifting and selling royalty and tax oil on behalf of NUPRC and FIRS;

v) The RMAFC should look into the charge of 10% as management fees and another 30% Frontier Exploration Fund before remitting profit oil and gas into the Federation Account;

vi) Any unutilised money from the operations of NUPRC or any other agency should be paid into the Federation Account at the end of the year contrary to the provisions of Section 47(4) of the PIA and in accordance with Section 162 (1) of the 1999 Constitution (as amended);

vii) Streamline the regulatory roles of the NUPRC and NMDPRA to remove any envisaged duplication of functions to ensure smooth operation of the sector;

viii) The RMAFC should ensure that all unpaid royalties after 30 days from the due date are debt on the NUPRC and must be paid with interest at CBN prevailing rate;

ix) The framework for implementing PIA needs to address the issue of energy transition. There is need for stakeholders within and outside the sector to begin engagement on strategic initiatives that would address this global trend in shifting to cleaner and environmentally friendly energy sources;

x) Government at all levels should continue to intensify effort to improve independent/internal revenue generation;

xi) The on-going amendment to the 1999 Constitution (as amended) should be concluded to allow the devolution of powers to States to regulate on some items under the Exclusive List such as issuance of mining licences and streamline some other items under the Concurrent List such as provision of education, power, roads and environment;

xii) Consequent to **(xi)** above, States and Local Governments should receive commensurate share in the revised Revenue Allocation Formula being proposed by RMAFC;

xiii) Reduction in cost of governance, prudent management and transparency in all tiers of government;

xiv) The downstream operations of the petroleum industry should be fully deregulated to provide for the removal of subsidy;

xv) Nigeria cannot continue to sustain the provision of subsidy on PMS because of the negative impact it has on the nation's revenue. Accordingly, subsidy on PMS should be phased out;

xvi) Revenue proceeds accruing from subsidy removal should be used for the benefit of the entire population and should be put to projects having direct impact on the citizens such as Education, Healthcare, Skill accusation, etc;

xvii) The Act of the RMAFC should be amended to provide for adequate administration, funding from the CRF (as first line charge) and the power of enforcement to ensure its independence and discharge of its Constitutional functions.

5.0 CONCLUSION

5.1 Participants concluded that the Retreat was timely. The papers presented were insightful and educative as it exposed participants on the PIA and its impact on the revenue accruals into the Federation Account. Government is urged to implement the recommendations contained in this communique are implemented.

5.2 Finally, the FAAC Post Mortem Sub-Committee appreciates the Executive Governor of Delta State, His Excellency, Senator Ifeanyi A. Okowa and the good people of Delta State for hosting the 2022 Retreat in the State and thanked all the Resource Persons and participants for the fruitful deliberations at the Retreat.

15/11/2022

Chairman, FAAC Post Mortem Sub-Committee

15/11/22

Secretary, FAAC Post Mortem Sub-Committee