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When rainy day funds run dry: corruption and mismanagement of Nigeria's Excess Crude Account

Pallavi Roy[1], Mitchell Watkins[2], Adeola Adenikinju[3], Nkechi Oranye[4], Festus Osagu[5], Yetunde Omotosho[6], Olusanya Olubusoye[7] and Emmanuel Falobi[8]

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[1, 2] SOAS University of London.
[3, 4, 5, 6, 7, 8] Centre for Petroleum Energy, Economics and Law. University of Ibadan

All correspondence to:
Pallavi Roy (pr16@soas.ac.uk)

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Acronyms and abbreviations

CSO	Civil society organisation
DCA	Domestic Crude Allocation
ECA	Excess Crude Account
FRA	Fiscal Responsibility Act of 2007
GDP	Gross domestic product
IMF	International Monetary Fund
LMICs	Low- and middle-income countries
MTEF	Medium Term Expenditure Framework
NIF	Nigeria Infrastructure Fund
NPDC	Nigerian Petroleum Development Company
NNPC	Nigerian National Petroleum Corporation
NRGI	Natural Resource Governance Institute
NSIA	Nigeria Sovereign Investment Authority
OPFR	Oil Price-based Fiscal Rule
RGI	Resource Governance Index

Executive summary

Developing countries dependent on natural resource revenues to finance their budgets are characteristically prone to the boom-and-bust economic cycles driven by volatility in commodity markets. In order to insulate themselves from global shocks, many natural resource-dependent countries have set up sovereign wealth funds. These are investment vehicles intended to provide stability against economic shocks by covering unexpected budget deficits, allocating resource revenues to specific expenditure items, or saving for future generations.

This study examines sources of corruption in Nigeria's largest sovereign wealth fund, the Excess Crude Account (ECA). The ECA was established in 2004 to save excess oil revenues against budget shortfalls due to the volatile crude oil prices. At its height, the ECA accumulated almost $20 billion and was a major source of stabilisation funds during the 2008 global financial crisis, when oil prices fell rapidly by more than $100/per barrel (bbl). During the crisis, the ECA was used to fill budget gaps and enabled Nigeria to get through the crisis without a significant accumulation of debt.

In contrast, during the Covid-19 pandemic, the ECA has been unable to provide budget stability due to insufficient resources. Prior to the pandemic, the ECA dwindled to an all-time low of just $72 million. In 2020, the pandemic caused a historic contraction in Nigeria's gross domestic product (GDP) of 3.2% and an expansion of the budget deficit to 4.7% of GDP. In order to meet its fiscal needs during the pandemic, Nigeria was forced to turn to sources of external finance, including the International Monetary Fund (IMF) and multilateral lenders, due to a lack of funds in the ECA.

This study examines the sources of mismanagement and corruption of the ECA that led it from being an effective economic stabilisation tool during the 2008 global financial crisis to being rated one of the most poorly governed sovereign wealth funds within little more than a decade. The study focuses on three primary sources of corruption: (1) alteration of the ECA's annual savings level by the legislature; (2) under-contributions to the ECA by the Nigerian National Petroleum Corporation (NNPC) and its subsidiaries; and (3) unapproved and indiscriminate withdrawals from the ECA.

Our analysis estimates that nearly $70 billion in funds were not transferred to the ECA due to the legislature lowering the benchmark price and the NNPC failing to transfer funds. Our analysis also examines improper withdrawals from the ECA. Based on available data on contributions and withdrawals, there was an estimated net transfer of -$3.5 billion to the ECA between 2005 and 2015. The data shows that the ECA experienced substantial and consistent withdrawals at times when the economic environment was strong (2005–2006 and 2011–2014) and when it was weak (2008–2010). In fact, withdrawals peaked in 2011 – the same year that Nigeria recorded its highest oil revenues. Major sources of ECA withdrawals include current-year expenditures, fuel subsidies, debt financing, and power projects – all of which are outside the fund's mandate.

Entities like the ECA and state-owned enterprises like the NNPC are part of an extensive network of patronage that goes beyond the control of formal institutional structures. This makes insulating the ECA from political interference an ambitious, if not impossible task. It is clear that the distortions in the way that ECA funds are managed cannot be addressed just by increasing transparency and accountability via 'big bang' reforms, as these will be opposed by those in positions of power.

We therefore recommend that a share of funds allocated to the ECA be redirected to the sovereign wealth funds managed by the Nigeria Sovereign Investment Authority (NSIA). The NSIA funds have relatively more efficient administration and lower levels of distortion. The organisation is able to achieve this because it has both a constitutional mandate to generate earnings (and therefore incentive) and ability to ensure this. It is an external-facing institution that is forced to manage its reputation as a credible investment fund in a highly competitive international market. Its international portfolio already provides it with some protection against capture.

Also, a substantial portion of the fund is invested in domestic projects via the Nigeria Infrastructure Fund (NIF), which is subject to monitoring by those with an interest in mobilising political support. The NIF is already investing in fertiliser programmes, healthcare and infrastructure investments that are targeting broad and disparate communities. Moving funds from the ECA to the NSIA could help National Assembly members deliver public goods to their constituents in more redistributive ways that benefit the country's development. This does not mean that the political motives for keeping the ECA functioning will disappear, but creating competing incentives by expanding the role of the NSIA can help reduce leakage. Concerns of expending oil revenues on potentially populist projects will be valid. However, if the NSIA employs a portfolio approach towards project selection, the risks of extensive wastage can be effectively mitigated.

1. Introduction

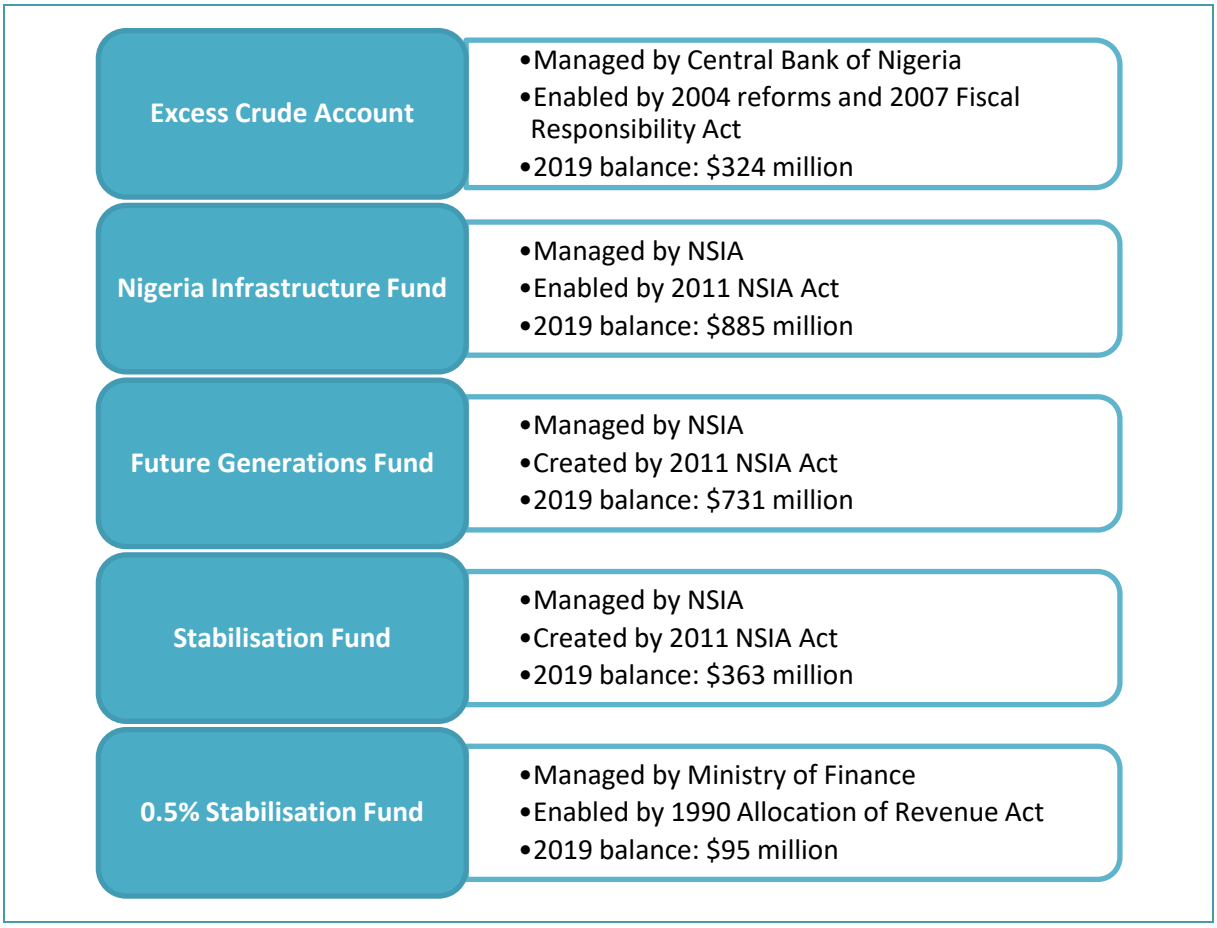
Developing countries that primarily depend on revenues from natural resources to finance their budgets are characteristically prone to the boom-and-bust economic cycles driven by volatility in international commodity markets. In order to insulate themselves from global shocks, many natural resource-dependent countries have set up sovereign wealth funds with revenues from oil, gas or mineral sales. These funds are investment vehicles intended to provide stability against economic shocks by covering unexpected budget deficits, allocating resource revenues to specific expenditure items, or saving for future generations. As of 2014, natural resource sovereign wealth funds globally held approximately $4.0 trillion in assets (Bauer et al., 2014).

The Covid-19 pandemic has cost millions of lives and disrupted economic activity worldwide. It has severely stressed the finances of developing countries, who have limited fiscal capacity to respond to global shocks. In particular, the economies of resource-dependent developing countries have been particularly hard hit by the twin blow of the pandemic and the subsequent collapse of the commodities market. During the pandemic, countries have drawn more than $130 billion from sovereign wealth funds (Arnold, 2020). Countries such as Russia, Bahrain, Kuwait, Iran and Angola have drawn heavily on their natural resource sovereign wealth funds to fill declining revenues (ibid.). However, many other resource-dependent developing countries, such as Nigeria, have already exhausted their sovereign wealth funds or did not save enough for the crisis. Without sufficient 'rainy day' funds, these countries have been forced to resort to external financing, predominantly from the International Monetary Fund (IMF), to meet their budget deficits. Equally, as observed in Adenikinju (2017), despite the strong fiscal linkage of oil wealth with the Nigerian economy, there is no link between oil wealth and Nigeria's socio-economic development.

This study examines the case of Nigeria and its largest sovereign wealth fund, the Excess Crude Account (ECA). In addition to the ECA, the Nigerian government established the Nigeria Sovereign Investment Authority (NSIA) in 2011. NSIA created three distinct funds: (1) the Nigeria Infrastructure Fund (NIF); (2) the Future Generations Fund; and (3) the Stabilisation Fund. The size of the NSIA-managed funds has been smaller in scale, with the balance of the funds never exceeding $2 billion. The Ministry of Finance also operates a fund, the 0.5% Stabilisation Fund, supported by the Allocation of Revenue Act of 1990, which is limited in scale relative to the ECA and NSIA-managed funds. Figure 1 outlines the structure of Nigeria's sovereign wealth funds. The ECA was established in 2004 to save excess oil revenues against budget shortfalls due to the volatility of crude oil prices. At its height, the ECA accumulated almost $20 billion and was a major source of stabilisation funds during the global financial crisis of 2008, when oil prices fell sharply from a peak of $147 per barrel in July 2008 to $39 per barrel in February 2009. In 2008 and 2009, Nigeria used the ECA to fill budget gaps and weather the crisis without significant accumulation of debt.

Due to the global decline in oil prices as a result of the Covid-19 pandemic, and Nigeria's continued exposure to oil revenues, Nigeria is currently facing a severe fiscal crisis. Oil revenues account for less than half (45%) of government revenues and over 80% of exports (Nigeria Extractive Industries Transparency Initiative (NEITI), 2020). The pandemic has magnified these existing vulnerabilities, leading to a historic contraction in gross domestic product (GDP) growth of 3.2% in 2020, and the budget deficit rising to 4.7% of GDP (IMF, 2021b). Prior to the pandemic, the ECA dwindled to an all-time low of just $72 million and was unable to cover increases in the country's budget deficit. In order to meet its fiscal needs during the pandemic, Nigeria was forced to turn to sources of external finance, including the IMF and multilateral lenders. In 2020, Nigeria received $3.4 billion in emergency financial assistance from the IMF under the Rapid Financing Instrument to support efforts to address the severe economic impact of the Covid-19 shock and the sharp fall in oil prices (IMF, 2021a). Furthermore, general government gross debt as a percentage of GDP rose sharply from 29% in 2019 to 35% in 2020 (IMF, 2021b).

Figure 1: Hybrid structure of Nigeria's sovereign wealth funds



Source: BudgIT research, 11 March 2020, https://mobile.twitter.com/budgitng/status/1237665712191266816

This study examines sources of mismanagement and corruption of the ECA, which went from being an effective economic stabilisation tool during the 2008 global financial crisis to being one of the most poorly governed sovereign wealth funds in sub-Saharan Africa, within a decade (Natural Resource Governance Institute (NRGI) 2017, 2021). While the Nigerian oil

and gas sector did increase its score by 11 points since the most recent survey published in 2017, it is still placed in the 'weak' category. Our study focuses on three sources of mismanagement of the ECA: (1) alteration of the annual savings level by the legislature; (2) under-contributions by major oil companies, including the Nigerian National Petroleum Corporation (NNPC) and its subsidiaries; and (3) unapproved and indiscriminate withdrawals of funds from the ECA. Our analysis estimates that nearly $70 billion in funds were not transferred to the ECA as a result of undue changes in the benchmark price of oil and a failure to transfer funds by Nigerian oil companies. Furthermore, based on available data on ECA contributions and withdrawals, it is estimated that there was a net transfer of -$3.5 billion between 2005 and 2015. Major sources of ECA withdrawal include current-year expenditures, fuel subsidies, debt financing, and power projects (NEITI, 2017). The data shows that the ECA experienced substantial and consistent withdrawals at times when the economic environment was strong (2005–2006 and 2011–2014) and when it was weak (2008–2010). The Fiscal Responsibility Act (2007) does not specify the modalities for withdrawal and allocation, leading to indiscriminate withdrawals and sharing by the three tiers of government (NEITI, 2017). Based on this body of evidence, it is clear that the ECA has not fulfilled its intended purpose of being a savings account to see the country through difficult economic times.

This paper is structured as follows. The next section outlines our analytical framework of corruption. Section 3 provides a history of the ECA, how it is funded, and its primary institutional actors. Section 4 presents estimates of under-contributions to the ECA. Section 5 discusses major sources of indiscriminate withdrawals from the fund. Section 6 discusses the implications of misuse of the ECA for Nigeria's fiscal stability, while Section 7 presents our conclusions and recommendations.

2. Analytical framework

Anti-corruption work has often focused on transparency and accountability reforms, especially involving civil society and citizen groups. The link between transparency and accountability has long been debated in governance related to service delivery (Joshi, 2010). One key assumption here is that once demands for accountability are made, violations will be exposed and that this will result in improved outcomes. However, this rarely happens in practice. This is because rule violations are widespread in low- and middle-income countries (LMICs). As a result, powerful organisations prefer to operate informally through the politics of clientelism, and enforcement of laws is either selective or partial (Khan, 2018). As a consequence, citizens can be aware of transgressions and yet little is implemented by way of accountability mechanisms.

Recent attempts to increase transparency and accountability have moved beyond service delivery in sectors such as health to focus on open data in national budgets and fiscal transparency (Onigbinde, 2020). In contexts where access to data and its delivery to citizens is not at scale, providing citizens with open data and organising collective action in concert with public institutions with relevant mandates is an important first step, as has been evidenced by the work of the Extractive Industries Transparency Initiative (EITI) and of civil society organisations (CSOs) like BudgIT in Nigeria. Yet, in LMIC contexts, formal processes do not often work as they are meant to, given that many of the 'enforcers' (politicians, the bureaucracy, police, even the media) are themselves embedded in informal power networks. In such contexts, demands for accountability from citizens – while necessary – are not sufficient. At the same time, actors with the incentive to enforce rules might be unable to do so as they do not have the power or capability.

The latest scores for Nigeria on the Resource Governance Index (RGI) are a good example. Nigeria scores a healthy 64 on open data but has very low scores on all other indicators for 'enabling environment'.[1] In fact, it has increased its score from 40 to 64 for open data but has made little overall progress in the composite score for enabling environment, moving from 31 in 2017 to just 34 in 2021 (NRGI, 2021). Open data is a good start, but how does one move forward to accountability that can be enforced? As demonstrated by research from Anti-Corruption Evidence (ACE), led by SOAS (Khan and Roy, forthcoming), in contexts where the rule of law is weak, transparency and accountability measures have to be considered together with a configuration of power and interest.

The transmission mechanism from transparency to accountability to outcomes is not linear, even in higher-income countries where the rule of law is stronger. It becomes even more difficult to implement in LMICs. It could well be that even with a robust governance

[1] This includes criteria like regulatory quality, rule of law, control of corruption, voice and accountability, political stability and government effectiveness, along with open data. See NRGI, 'Nigeria Oil & Gas' (https://resourcegovernanceindex.org/country-profiles/NGA/oil-gas?years=2021).

framework on paper, accountability standards are not met, nor are the desired outcomes achieved. This is because the political settlement or distribution of power is such that rules get distorted or selectively designed, keeping in line with the relative power of the relevant organisations in a sector (Khan, 2018). If the well-designed framework goes against the interests of powerful organisations in the sector, they will most likely not be implemented or will be redesigned. The solution lies in identifying a configuration of interest and power that can provide scope for incremental reforms with a better chance at being successful. Most anti-corruption strategies recognise the need to identify the interest or incentive of players involved in implementing reform. Yet if such players do not have the capability or power to implement rules, corruption is unlikely to be constrained. This is the critical link in the transmission chain that is often missed.

Corruption in the extractive sector is especially challenging and characterised by a 'hierarchy of benefits' where rent capture occurs across all sections of society, from powerful politicians to lower-level managers and functionaries of oil companies, to communities that are involved in illegal activities in the sector. Entities such as the ECA and state-owned enterprises such as the NNPC are part of an extensive network of patronage, irrespective of the party in power in Nigeria. In instances where corruption is so 'networked' and where the majority of players in the sector are free riding on the rents it provides, research must complement the robust efforts of Nigerian CSOs to increase transparency and accountability with insights on *how this anti-corruption strategy can be implemented and by whom*.

Our analysis of the political settlement in such adverse contexts points to a possible pathway where transparency efforts are driven by a more specific understanding of data requirements and constraints to either accessing that data or acting on it. The first step, therefore, is not about identifying the data needs but the political economy problem to be solved. The NSIA is an example of where governance frameworks have helped achieve investment goals but these have been complemented by an incentive structure based on the need to maintain its reputation, which we discuss in Section 7. Identifying this incentive is the next step. While the NSIA is not the focus of this paper, it is discussed in relation to its better performance when compared to the ECA.

We aimed to address these issues through a mix of research methods, including a workshop involving sector stakeholders in Abuja, a workshop with international sector experts, an extensive scoping and review of relevant Nigerian budgetary documents, and four in-depth interviews with experts in Nigeria.

3. Overview of ECA

The ECA was established in 2004 by the national government under former President Obasanjo. It is intended to stabilise and insulate the country's economy from volatility in crude oil prices in international markets. The ECA governing institution is made up of the President, the state governors and the local government executives. The ECA is funded based on the Oil Price-based Fiscal Rule (OPFR), which states that the difference between the market price of crude oil and the budgeted 'benchmark' price, as contained in the government's 2019 Appropriation Bill, is to be allocated to the ECA. The projected savings to the ECA based on the OPFR are defined in the equation below. Proceeds from oil below the benchmark price enter Nigeria's budget through the Federation Account and are then allocated to the ECA.

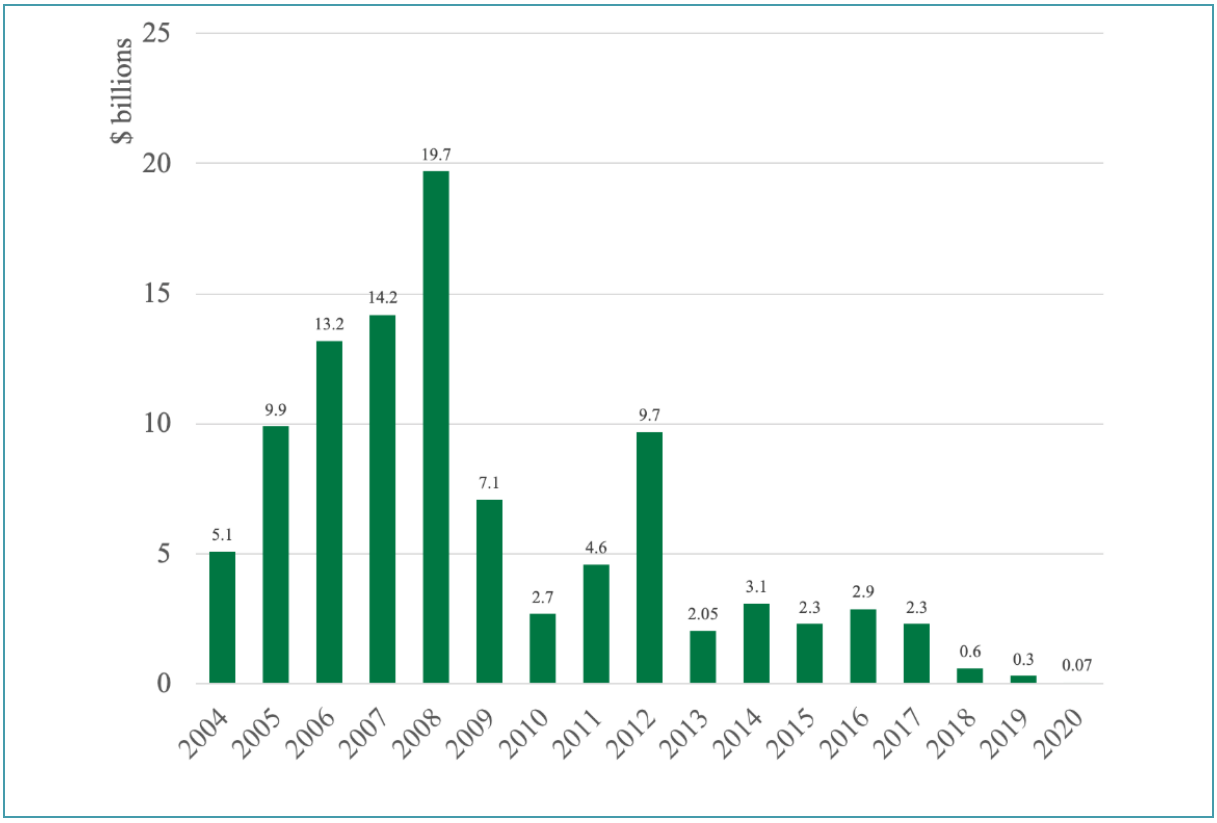
$$ECA\ Savings = \left(\text{Market Price}_{\text{per barrel}} - \text{Benchmark Price}_{\text{per barrel}}\right) * \#\ \text{Barrels Sold}$$

The Budget Office of the Federation and the Federal Ministry of Finance are legally responsible for proposing the appropriate benchmark price and production level that will allow for sufficient budget funding as well as savings to the ECA. These offices oversee the implementation of the *President's* vision across the executive branch and are expected to ensure that the budget benchmark price is consistently below the projected international oil price. Thus, both the Budget Office and the Ministry of Finance make recommendations for the level of the benchmark oil price and submit their recommendations to Nigeria's legislature, the National Assembly, for approval. The benchmark price should be based on a three-year moving average of the world price of oil. The Federal Executive Council should approve the benchmark price and then send it to the National Assembly, which has the constitutional mandate of appropriation and can increase or reduce the benchmark price that is finally used in the budget.

In practice, however, the benchmark crude oil price that is used to project the amount to be saved is not determined by a rigorous process. The National Assembly usually determines the budget benchmark based on what it sees as projected prices of a barrel of crude, reduced by an arbitrarily determined percentage – usually about 20% less than the budget price of a barrel. For a mechanism that is so critical for Nigeria's economic stability, the lack of rigour and oversight in this process is problematic.

Figure 2 presents the balance of the ECA from 2004 to 2020. In 2004, it received an initial deposit of $5 billion. Between 2004 and 2008, it experienced consistent growth, totalling $19.7 billion by 2008. The fund was used to weather the fiscal burden of the global financial crisis that began in 2008 and was quickly depleted to $2.7 billion in 2010 before rebounding to $9.7 billion in 2012. From 2012 to 2020, the ECA has held insufficient funds to insulate Nigeria's economy from oil price volatility, with an average balance of $1.7 billion over this period. It was unable to provide a sufficient source of funding to address fiscal deficits due to the oil price collapse in late 2014. Despite the gains made from the export of crude oil since 2017, the ECA balance moved from $2.3 billion in 2017 to only $72 million in June 2020 or 0.22% of the 2020 budget (Olisah, 2020).

Figure 2: ECA balance, 2004 to 2020



Source: IMF 2018; Reuters, 2020.

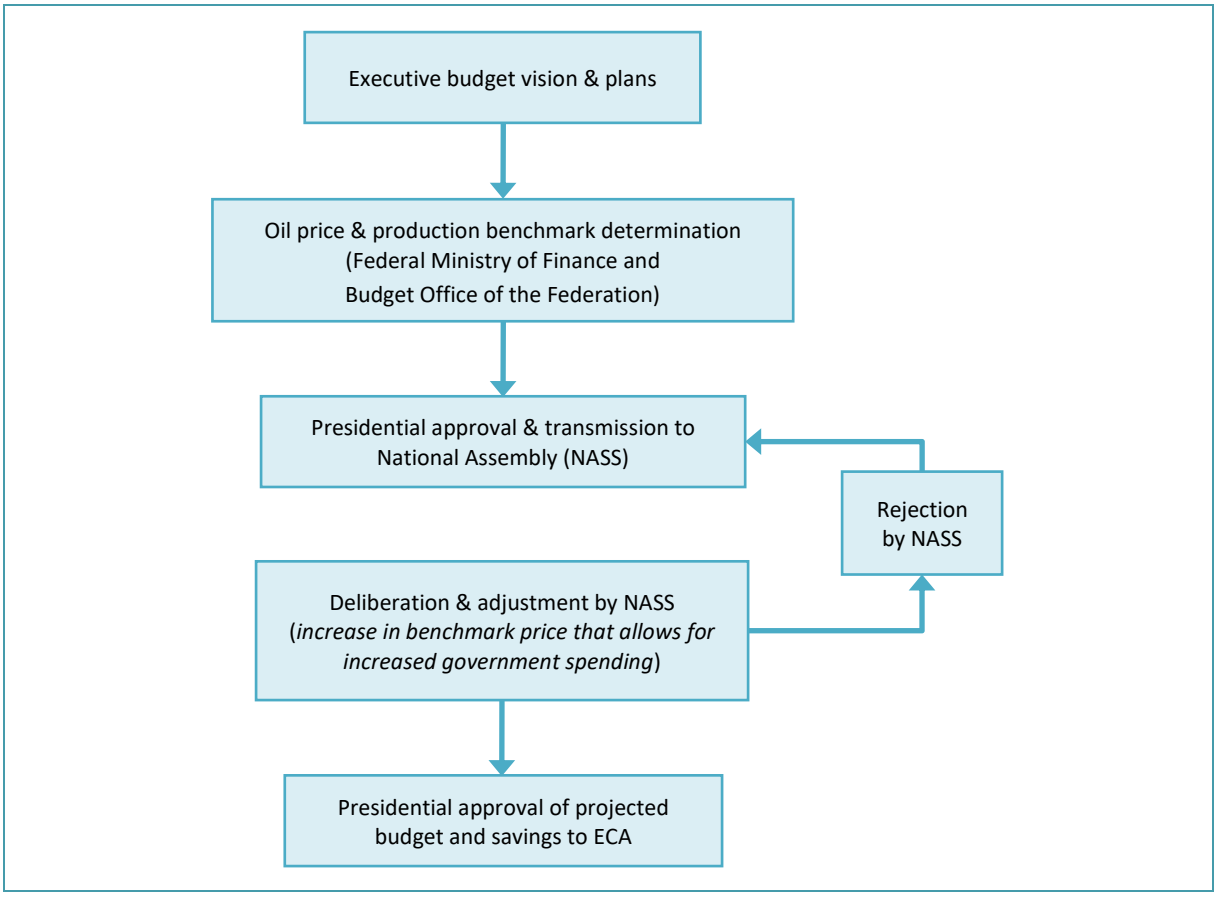
4. How the ECA is underfunded

Our analysis examines two sources of insufficient funding: (1) alteration of the benchmark crude oil price by the legislature; and (2) under-contributions to the ECA by the NNPC and its subsidiaries. The analysis focuses on the period from 2005 to 2015.

4.1. Legislative alteration of benchmark price and ECA savings

The first part of our analysis examines under-contributions to the ECA due to the legislature altering the benchmark crude oil price. The analysis utilises data from the Budget Office, the Federal Ministry of Finance and the Central Bank of Nigeria. As discussed earlier, the legislature approves the benchmark oil price based on recommendations made by offices of the executive branch. In general, the legislature is less conservative than the executive in saving funds in the ECA and, instead, often seeks to maximise the size of the current budget. On several occasions, the National Assembly has increased the benchmark price to allow for an expanded budget, a practice referred to as 'budget padding', which accommodates their own interests. Altering the benchmark price provides an opportunity for legislators to increase the amount originally allocated to them by the executive branch from the sale of oil. Approval of the benchmark price has thus been a source of friction between the President and the National Assembly. However, the expanded budgets have been signed into law by the President due to the threats of delay in approval by the legislature. Figure 3 summarises the benchmark price decision-making process that determines annual budgetary expenditures and savings to the ECA. As our analysis demonstrates, the change in the proposed benchmark price diverted approximately $19 billion that would have been saved in the ECA into the budget for government expenditures from 2005 to 2015.

Figure 3: Decision-making process on ECA contributions



Source: Authors' own.

Before proceeding to the analysis, it is important to give a brief illustrative case of how the legislature has altered the benchmark price. After signing the 2019 Appropriation Bill, President Muhammadu Buhari noted that the National Assembly had added 90 billion nairas ($295 million) to the budget. To cater for this additional amount, an upward review of the benchmark price was carried out by the members of the National Assembly, thereby leading to a reduction in the funds contributed to the ECA. This practice of the National Assembly reviewing the crude oil benchmark price to fund additional spending has been commonplace; it occurred in more than half of the years of our study period.

Table 1 presents the difference between the proposed benchmark, the approved benchmark and the realised average crude oil price from 2005 to 2015. Figure 4 presents the divergence between the three prices graphically over this same period. The difference between the realised price and the approved and benchmark prices represents the proportion of oil revenue that is to be allocated to the ECA. The difference between the proposed and the approved benchmark prices represents the proportion of oil revenue that was not saved in the ECA due to a change in the benchmark price. Table 1 shows that the National Assembly adjusted the proposed benchmark price in the years 2006, 2008, 2010, 2011, 2012 and 2013. There was notable room for additional savings to be made into the ECA during these years, particularly during the oil boom from 2010 to 2014, when the average price of crude was

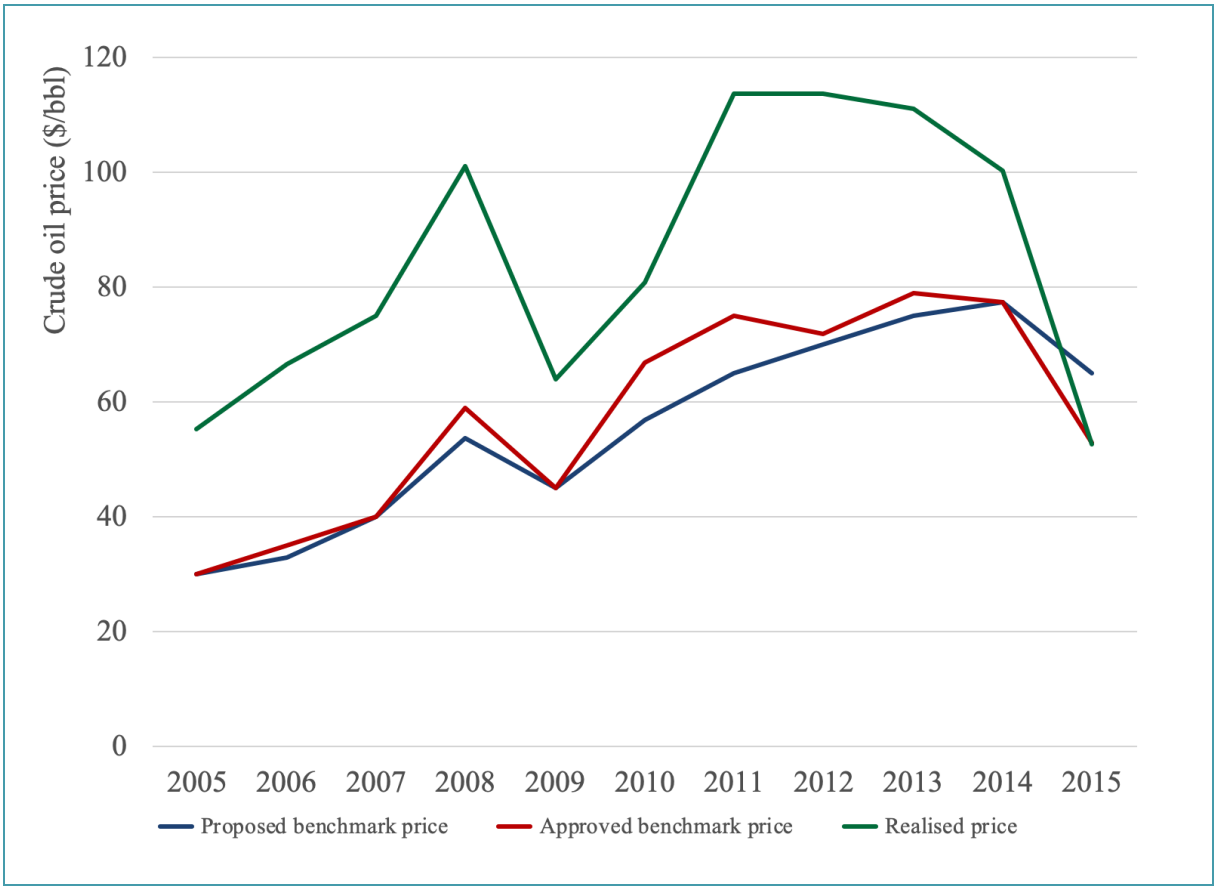
consistently above $100/bbl. At the end of the study period, in 2015, the proposed price was correctly revised downwards to reflect the rapidly falling price of crude oil.

Table 1: Crude oil benchmark and actual prices

Year	Proposed benchmark price ($/bbl)	Approved benchmark price ($/bbl)	Benchmark price differential ($/bbl)	Realised price ($/bbl)
2005	30.0	30.0	0.0	55.2
2006	33.0	35.0	2.0	66.7
2007	40.0	40.0	0.0	75.0
2008	53.8	59.0	5.2	101.0
2009	45.0	45.0	0.0	63.9
2010	57.0	67.0	10.0	80.9
2011	65.0	75.0	10.0	113.8
2012	70.0	72.0	2.0	113.7
2013	75.0	79.0	4.0	111.0
2014	77.5	77.5	0.0	100.4
2015	65.0	53.0	-12.0	52.7

Source: Budget Office, Federal Ministry of Finance and Central Bank of Nigeria.

Figure 4: Benchmark and realised crude oil prices



Source: Authors' computation using data from the Central Bank of Nigeria and the Budget Office of the Federation.

Table 2 presents the under-contributions to the ECA (or the potential savings that have not been realised) due to the legislature's manipulation of the benchmark price. To estimate the size of these under-contributions, Table 2 multiplies the difference between the proposed and approved benchmark prices (column 1) by the realised annual production (column 2). It suggests that over $19 billion in oil revenue – a value equivalent to the largest annual balance of the ECA – was not allocated to the fund from 2005 to 2015 due to the legislature altering the benchmark crude price. Notably, we find that the $10 alterations to the benchmark price by the legislature in 2010 and 2011 resulted in significant under-contributions to the ECA of $9 billion and $8.7 billion respectively. The potential over-contribution to the ECA in 2015 represents the additional amount that would have been transferred if the proposed price were left unreviewed. If we exclude 2015 from the analysis, legislative alterations to the benchmark price between 2005 and 2014 resulted in $28.3 billion in under-contributions or lost savings to the ECA.

Table 2: Estimated ECA under-contributions due to legislature altering the approved benchmark price

Year	Benchmark price differential ($/bbl)	Realised annual production (Mbbl)[2]	ECA under-contributions ($ billion)
	(1)	(2)	(3)
2005	0.0	919.0	0.0
2006	2.0	869.4	1.7
2007	0.0	803.3	0.0
2008	5.2	768.4	4.0
2009	0.0	770.7	0.0
2010	10.0	901.1	9.0
2011	10.0	868.7	8.7
2012	2.0	848.5	1.7
2013	4.0	796.9	3.2
2014	0.0	805.1	0.0
2015	-12.0	776.1	-9.3
			Total: 19

Source: Authors' computation using data from the Central Bank of Nigeria.

Another challenge is the selective interpretation of the ECA rule by governments. In some cases, a finance minister has claimed that two premises need to exist before the ECA rule is achieved. These are that the benchmark price is exceeded, and the planned volume of output must be achieved. The budget is set on the two parameters: an assumed barrel price and a set volume of output. According to this interpretation, when the benchmark price of the barrel was exceeded but projected volumes were not achieved, the lever to ensure transfers to the ECA was not activated. Hence this would also lead to under-contributions.

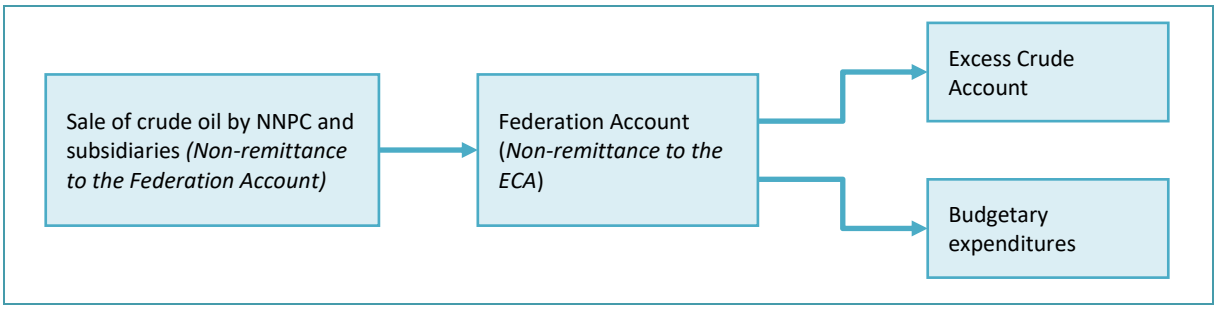
[2] Million barrels

4.2. Withholding of oil revenue to the ECA by the NNPC and its subsidiaries

The second part of our analysis on under-contributions to the ECA estimates the difference between the expected and actual transfers to the fund. The analysis attempts to estimate the amount of oil revenue intended for the ECA that was not transferred from powerful sectoral actors, primarily the NNPC and its subsidiaries. This analysis utilises data from the Central Bank of Nigeria's Bulletin, the Budget Office, and the *2005-2015 Report on the ECA to the National Economic Council (NEC)*.

The Nigerian National Petroleum Corporation is the entity through which the Federal Government regulates and participates in the country's petroleum industry. It sells around 1 million barrels of oil a day, or almost half of Nigeria's total production (Sayne et al., 2015). NNPC oil was worth an estimated $41 billion in 2013 alone and still constitutes the government's second largest revenue stream today, accounting for about 89% of foreign exchange earnings (ibid.). The NNPC is required to transfer revenue realised from crude sales and other activities to the Consolidated Revenue Account before transferring to the Federation Account. The Federation Account is then used to fund the ECA and current budgetary expenditures based on the OPFR. Figure 5 presents an overview of the process by which revenues from the sale of crude oil are allocated to the Federation Account and, subsequently, the ECA.

Figure 5: Funding of the ECA by sale of crude oil



Source: Authors' own.

To refocus the NNPC and improve the governance of the oil and gas sector, the Nigerian government recently assented to the Petroleum Industry Act (PIA). The Act aims to commercialise the NNPC, ensure that it is competitive, eliminate the burden of subsidy on the corporation, and finally eliminate the ability of government to use the NNPC for patronage.

However, the NNPC faces several challenges. These include operational challenges due to poor governance, opacity in operations, poor funding through the budgetary process leading to its inability to recover operational costs, allegations of corruption (often due to poor disclosures and a lack of transparency), and pressure from the government in power to support expenditures that are often illegal. Unachieved benchmark production targets have been blamed partly on incessant crude oil theft and sabotage, which at its height accounted

for an estimated volume above 300,000 barrels per day of oil loss. (Before the Petroleum Industry Act, the NNPC was legally mandated to ensure the supply of petroleum products as the importer of last resort. The NNPC expended significant resources to import petrol and sell at a subsidised cost, rendering it unable to cover costs without deductions from crude sales.) It is noteworthy that since the creation of the NNPC, no administration has been spared allegations of corruption. The most recent allegation was of a failure by the corporation to pay $20 billion in oil revenues to the government, made by the erstwhile governor of the Central Bank, Lamido Sanusi.

First, there is little transparency surrounding earnings from the NNPC or its subsidiaries. Civil society groups have particularly scrutinised the NNPC's trading subsidiaries of Duke and Carlson and the upstream subsidiary, the Nigerian Petroleum Development Company (NPDC) (Sayne et al., 2015). For example, there is no evidence that the NNPC transferred $12.3 billion to the treasury (the estimated total of sales of Yoho crude from NPDC offshore block OML 119 between 2005 and 2014) (ibid.). Second, after the 2008 global financial crisis, the NNPC has allocated more oil to complicated and non-transparent arrangements. These include strategic alliance agreements, crude-oil-for-product swap agreements, the sale of oil to fund 'alternative financing' debts between NNPC and its joint venture partners, and the practice of companies paying taxes and royalties with oil instead of money. These processes lack oversight, transparency, and consultation with actors outside of the NNPC. Thirdly, the NNPC also spends and holds back substantial sums of oil revenue as its operating costs rather than transferring the funds to the Federation Account. The classification of NNPC operating costs has become highly discretionary and vulnerable to patronage. A substantial source of withholding of funds relates to operating costs of the Domestic Crude Allocation (DCA) programme. For example, during the oil boom of 2010–2013, treasury receipts from oil sales fell significantly. This is attributed to a dramatic increase in the NNPC withholding funds, which totalled $25 billion from domestic crude sales alone (ibid.).

The sector is the source of resources for the dense patronage network that provides the country with redistributive rents at the expense of economic efficiency and inclusive growth (Thurber et al., 2010). And the NNPC is central to this. One of the key informant interviewees told us that the process of creating the Medium Term Expenditure Framework (MTEF) is flawed. The MTEF is a strategy paper that sets out the three-year rolling plans for expenditure and resource allocation for Nigeria. The National Assembly is able to move budgets and sums without any sanction, with little challenge – even from the Office of the President, regardless of the party in power. This leaves scope for considerable corruption in the process. Resources are not just informally transferred; even formal transfers are opaque. There is scope for much discretion and distortion in Nigeria's federal budget in terms of how non-oil transfers are made across the economy. While value added taxes, corporate income tax, customs and excise duties make up a significant portion of the country's non-oil budget, the category of 'independent revenue' is without much clarity and leaves scope for distortion. This is because it accrues to the Federal Government directly and includes dividends and surpluses from state-owned enterprises (Federal Ministry of Finance, 2014). It is, therefore, theoretically possible for governments to make transfers from the oil sector through these means, before income from the sector is taxed (Roy, 2017).

In estimating the expected transfer to the ECA, Table 3 shows the approved benchmark price, the realised crude oil price and realised annual production. The total realised revenue from the sale of crude oil is then calculated in column 4 by multiplying the realised price by realised annual production (fiscalisation) for each year. To calculate the expected transfer of oil revenues to the budget, we multiply the approved benchmark price by the realised annual production. The expected transfer of oil revenues to the budget is reported by year in column 5. Following the OPFR, revenue realised from the sale of crude oil in excess of the approved benchmark price, whether from exports or from the DCA, should be transferred to the ECA. Therefore, to calculate the expected transfer to the ECA, we multiply the difference between the realised and approved benchmark price (column 2 minus column 1) by the realised annual production (column 3). The expected transfer of oil revenues to the ECA is reported by year in column 6.

Table 3: Expected transfers to the national budget and the ECA

Year	Approved benchmark price ($)	Realised crude oil price ($)	Realised annual production (Mbbl)	Realised revenue ($ billion)	Expected transfer to budget ($ billion)	Expected transfer to ECA ($ billion)
	(column 1)	(column 2)	(column 3)	(column 4)	(column 5)	(column 6)
2005	30.0	55.2	919.0	50.7	27.6	23.1
2006	35.0	66.7	869.4	58.0	30.4	27.5
2007	40.0	75.0	803.3	60.2	32.1	28.1
2008	59.0	101.0	768.4	77.6	45.3	32.3
2009	45.0	63.9	770.7	49.2	34.7	14.6
2010	67.0	80.9	901.1	72.9	60.4	12.5
2011	75.0	113.8	868.7	98.8	65.2	33.7
2012	72.0	113.7	848.5	96.5	61.1	35.4
2013	79.0	111.0	796.9	88.4	63.0	25.5
2014	77.5	100.4	805.1	80.8	62.4	18.4
2015	53.0	52.7	776.1	40.9	40.9	0.0

Source: Derived from Central Bank of Nigeria Bulletin, Budget Office of the Federation, and authors' calculations.

Table 4 reports the differences between the expected transfers to the ECA based on the OPFR and actual transfers reported by the National Economic Council. Data on the actual annual transfers to the ECA is drawn from the *Report of the NEC Committee on the ECA for January 2005 to June 2015*. Based on this comparison, we estimate that $50 billion were not allocated to the ECA from 2005-2015 due to under-contributions resulting from the withholding of oil revenues from the Federation Account. Specifically, we find significant under-contributions of over $10 billion in 2007, 2012, 2013, and 2014 individually. The size of under-contributions based on withholding of oil revenues are substantial in size and exceed the balance of the ECA in any given year in the study period.

Table 4: Difference in actual and expected transfers to the ECA

Year	Expected transfer to ECA ($ billion)	Actual total transfer to ECA ($ billion)	Difference ($ billion)
2005	23.1	27.5	-4.4
2006	27.5	33.3	-5.8
2007	28.1	13.3	14.7
2008	32.3	32.3	0.0
2009	14.6	6.8	7.7
2010	12.5	11.0	1.6
2011	33.7	31.0	2.7
2012	35.4	24.1	11.3
2013	25.5	11.2	14.3
2014	18.4	8.4	10.0
2015	0.0	2.2	-2.2
Total	251.1	201.2	50.0

Source: NEITI, 2017; and authors' calculations.

5. Withdrawals from the ECA

In addition to insufficient funding, an additional source of mismanagement of the ECA is unapproved and indiscriminate withdrawals. The Fiscal Responsibility Act of 2007 outlines the rules for ECA funding and withdrawals. It states that the account shall be inaccessible to all levels of government within the federation, except when the 'reference commodity price falls below the predetermined level for a period of three consecutive months'. However, withdrawals from the ECA have not been in line with this provision, and have led to the depletion of the fund during normal economic times. The Federation Account Allocation Committee is the body that is statutorily empowered to distribute federation revenues. However, it has accounted for less than 25% of total disbursements (NEITI, 2017). Also, withdrawals from the ECA by the Committee are subject to the approval of the executive, governors and local government executives, but this has not happened in practice. The President of Nigeria has, at various times, been accused of making indiscriminate withdrawals from the ECA. Furthermore, the Central Bank and the 'Resolution of the House of Assembly' have also at various times been listed as the approving authority for withdrawals from the ECA (ibid.). Also, in several cases, the approving authority for a withdrawal was not disclosed, underscoring a lack of transparency in the process (ibid.).

In comparison, the Nigeria Sovereign Investment Authority (NSIA) was established in May 2011 as a stabilisation and investment fund for the three tiers of government, and aimed to prepare Nigeria for a future without hydrocarbons. It is modelled on the Kuwait Fund and others. The NSIA has a better governance framework that protects it from government interference and illegal withdrawals. It operates three funds to deliver on its mandate: a Stabilisation Fund (holds US T-Bills and corporate bonds); a Future Generations Fund (holds hedge funds, venture capital funds and equities); and the Nigeria Infrastructure Fund, which comprised more than half the total funds held in 2020 (Global SWF Data Platform, 2021). The NSIA does have to respond to political demands as it also has to invest in strategic sectors like agriculture and infrastructure development as part of the Infrastructure Fund. But it has a well-managed and relatively diversified portfolio as a result of the investment focus. One of the reasons for Nigeria's better performance in the RGI Index in 2021 was because the survey included the NSIA's performance (NRGI, 2021). Currently, the fund has about $2.1 billion available for investment.

The NSIA is generally thought to have a better governance framework and investment outcome for two reasons. Unlike in the case of the ECA, the funds are not accrued to the federation or consolidated revenue accounts. In the case of the ECA, it is usual practice to deduct a substantial sum – sometimes classified as royalty – from oil and gas revenues before it is paid into the Federation Account. This practice has even been deemed illegal by the country's auditor-general (Olawoyin, 2018), yet it continues. However, this is not the case with the NSIA. Given its investment mandate, it also has to ensure that it enjoys a favourable rating as a fund manager. This provides an element of a firewall between fulfilling a political mandate and being driven by investment efficiency.

There have been suggestions that given the ECA's perceived illegality, it should be closed altogether, and the balance transferred to the NSIA. However, the fundamental challenge of designing a more fool-proof mechanism for funding the NSIA remains.

Table 5 presents the reported inflows and outflows from the ECA based on the *Report of the NEC Committee on the ECA for January 2005 to June 2015* (see NEITI, 2017). Figure 6 presents the data graphically. From 2005 to 2015, inflows to the ECA totalled $201 billion, and outflows totalled $204.7 billion, resulting in a net transfer of -$3.5 billion over the period. The data shows that the ECA experienced substantial and consistent withdrawals both at times of a strong economic environment (2005–2006, 2011–2013) and a weak one (2008–2010). Based on this evidence, it is clear that the ECA has not fulfilled its intended purpose of serving as a savings account to see the country through difficult economic times or shocks.

Table 5: ECA inflows and outflows

Year	Total inflows ($ billions)	Total outflows ($ billions)
2005	27.5	23.6
2006	33.3	30.0
2007	13.3	12.8
2008	32.3	26.6
2009	6.8	19.3
2010	11.0	15.9
2011	31.0	28.4
2012	24.1	20.0
2013	11.2	17.6
2014	8.4	8.6
2015	2.2	2.0
Total	201.2	204.7

Source: NEITI, 2017.

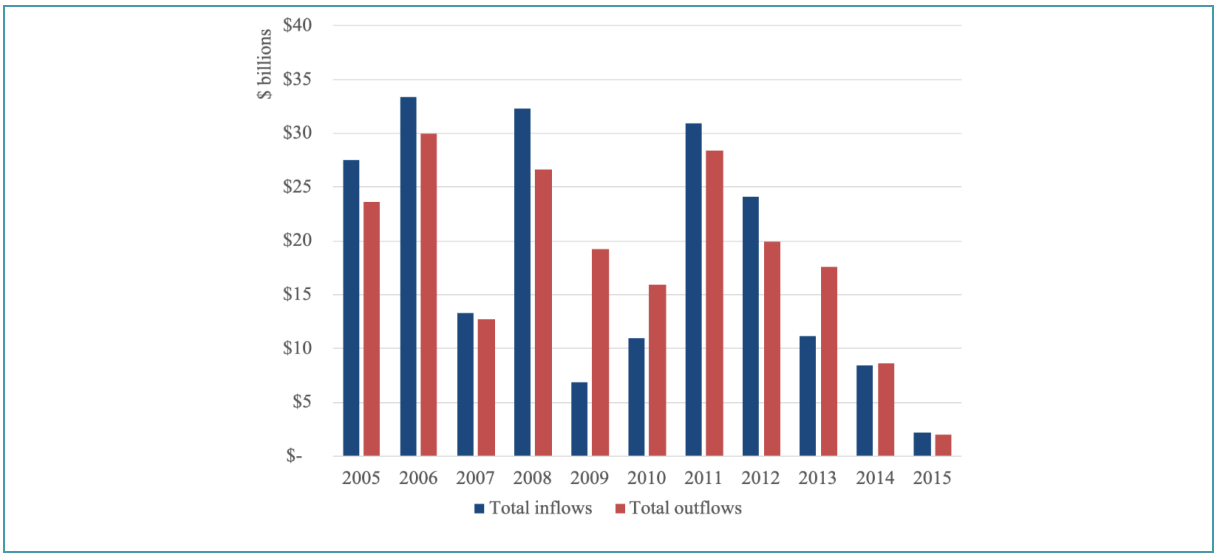
In contrast, data on withdrawals from the ECA provides evidence that the fund has primarily been used as an expenditure fund rather than a stabilisation fund. Why has this happened? The indiscriminate withdrawals from the fund can be traced back to its creation, and to disagreement between the details of the Fiscal Responsibility Act of 2007 and the Nigerian Constitution. The ECA was created as part of the National Economic Empowerment and Development Strategy economic reforms of the Obasanjo administration. The creation of the ECA was approved by the Federal Government following nationwide consultations and debates among stakeholders (NEITI, 2017). An attempt was made to legalise and institutionalise the ECA in the Fiscal Responsibility Act. However, the Act does not specify guidelines for withdrawal when the price falls below the benchmark price for three consecutive months.

Specifically, the Act does not specify ECA withdrawal limits, types of expenditures, or what level of government shall receive funds (Gillies, 2010). The ambiguity of the Act has contributed to indiscriminate withdrawals and sharing of the funds by Nigeria's three tiers of

government (ibid.). Furthermore, legal challenges to the ECA stem from the provisions of Nigeria's 1999 Constitution, namely Chapter 162, which provides for the sharing of 'any amount standing to the credit of the Federation account among the three tiers of government'. As a result, the ECA has primarily served as an auxiliary expenditure account. Although withdrawals from the fund could have a beneficial impact on development by increasing social expenditures, they weaken the ability of the Nigerian government to protect the economy from boom-and-bust cycles.

One key informant to this study also pointed out how some legal withdrawals from the ECA led to significant drawdowns that served no immediate developmental purpose.[3] According to that key informant, the ECA was one way for the government – essentially the Central Bank – to have ready access to dollars to pay portfolio investors who bring in dollar investments at a guaranteed rate when they repatriate. While this might not seem to serve a useful purpose, it is important to keep in mind that given Nigeria's history of devaluing its currency (the naira), at least until 2015 (the Buhari government has been following the reverse, that of an appreciated naira – see Roy et al., 2022, for the adverse consequences of this) any investor (for instance, hedge funds) wanting to bring in dollars would also want a guarantee that when it was time to repatriate, the value of the dollar would not fall. Therefore, even if the value did depreciate, the Central Bank would be able to provide dollars at the earlier higher value from the ECA. For the investor, dollars in the ECA were a hedge against devaluation and the Central Bank used it as such, but for Nigeria, this was a loss of revenue (given that it would have to make up for any shortfall between the earlier higher value and the current depreciated value of the dollar). For an LMIC economy that needs to build forex reserves, the Central Bank of Nigeria cannot be directly faulted for this mechanism. But it does point to fundamental structural weaknesses in the Nigerian economy that will need more than such short-term solutions to be addressed effectively.

Figure 6: ECA inflows and outflows



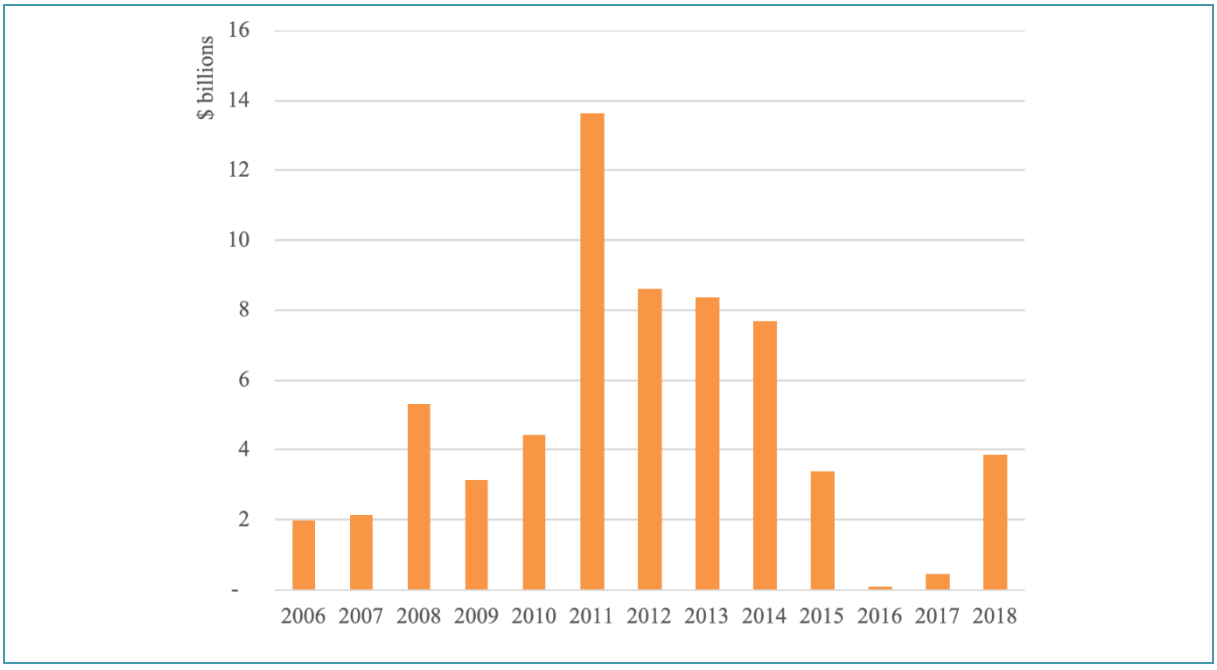
Source: NEITI, 2017.

[3] Key informant interview 2. 5 November 2021.

Data from the *Report of the NEC Committee on the ECA for January 2005 to June 2015* (see NEITI, 2017) finds that 67% of withdrawals from the ECA violated the operating principles of the fund. Major sources of ECA withdrawals include fuel subsidies, debt financing, and power projects (ibid.: 30). Of these sources, fuel subsidies comprise the largest share of withdrawals specified in the 2015 report. Fuel subsidies in Nigeria account for a substantial portion of the government's budget – an estimated $4.8 billion per year – almost double the expenditures on health. According to the Federal Ministry of Finance, $10.85 billion was transferred from Nigeria's ECA for subsidy payments between 2011 and 2014 alone (Okeowo et al., 2019).

Figure 7 shows Nigeria's fuel subsidy amounts by year. The intent of the ECA is to delink the budget from the crude oil price and, as such, any increase in the price of crude oil should lead to increased savings through the ECA. However, Figure 7 illustrates that the fuel subsidy was a major barrier to the accumulation of savings in the ECA, particularly during the 2010–2014 oil boom. Despite numerous attempts at reform, Nigeria has never successfully removed petrol subsidies, in large part because of strong popular opposition to reform. In recent years, the sustainability of the fuel subsidy has become a major issue as domestic demand for fuel continues to stress the country's fiscal stability. The collapse in oil prices during the global Covid-19 pandemic allowed the government to propose the removal of subsidies on fuel in 2020. The potential removal of subsidies in the future provides a unique opportunity for increased savings to be transferred into the ECA. However, initial actions by the government in March 2021 indicate that Nigeria is keeping the price of gasoline unchanged despite increasing crude prices (Osae-Brown and Clowes, 2021).

Figure 7: Nigeria's historical expenditure on fuel subsidies



Source: NNPC, 2018; Okeowo et al., 2019.

6. Implications of ECA mismanagement for fiscal stability

This section examines the impact of under-contributions and indiscriminate withdrawals from the ECA on Nigeria's fiscal stability. Thus far, our study finds that $69 billion in oil revenue that *should* have been transferred to the fund between 2005 and 2015 was not, due to the legislature altering the benchmark price and due to withholding of funds by powerful actors in the sector. Also, we demonstrate that the ECA's withdrawal guidelines have not been adhered to, and nearly $120 billion was withdrawn from the fund at times when the economic environment was relatively strong (2005–2006 and 2011–2013).

How has mismanagement of the ECA impacted Nigeria's ability to respond to global shocks?

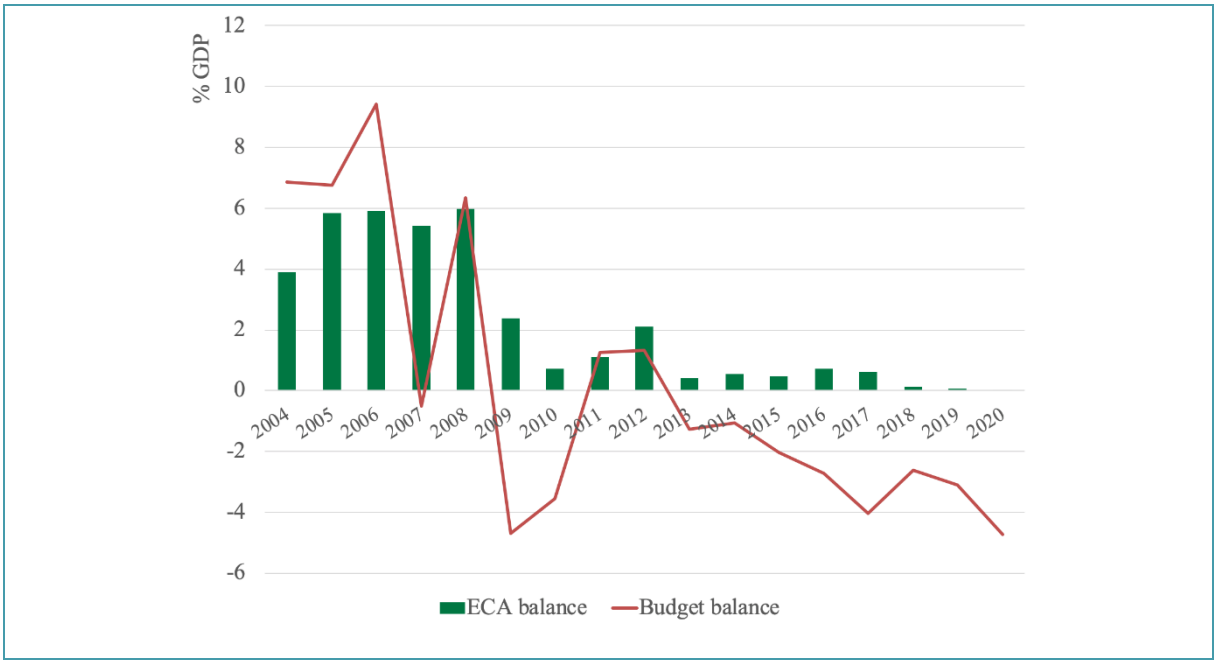
To answer this question, Figure 8 plots the government budget balance and balance of the ECA as a percentage of GDP from 2004 to 2020. Following the oil price crash in 2008 and 2009, the fund was able to play a significant role in stabilising the economy. Figure 8 shows a significant decline in the ECA balance in 2009 and 2010 to cover the significant budget deficits in those years. The ECA balance declined from nearly $20 billion (or 6% of GDP) in 2008 to $2.7 billion (just 0.7% of GDP) in 2010. From 2005 to 2010, the ECA generally functioned as it was initially designed to. It accrued significant savings from oil revenues during strong economic times and disbursed those funds in response to a global economic shock that had a severe impact on commodity markets.

However, the ECA was unable to provide a sufficient buffer for the 2014 commodity crisis or the 2020 Covid-19 pandemic. The preceding analysis finds evidence that mismanagement of the ECA was heightened between 2010 and 2014. During this period of high oil prices, the ECA should have accumulated significant savings. However, the National Assembly twice altered the benchmark oil price by $10 – in 2010 and 2011 – resulting in nearly $18 billion in forgone savings to the ECA. Additionally, under-contributions to the ECA based on withholdings from the Federation Account by the NNPC and other sectoral actors totalled $40 billion between 2010 and 2014, or 80% of the 10-year total withholding estimate. Finally, the ECA experienced high rates of withdrawals between 2011 and 2014, largely due to an increase in the burden of fuel subsidies.

Following the 2014 oil collapse, the ECA experienced minimal growth until 2017 and a gradual decline until 2019. In 2019, the fund was nearly completely depleted, at $300 million – a balance equivalent to just 1.5% of what it had been prior to the global financial crisis in 2008. In response to the pandemic, $250 million was withdrawn for Covid-19 stabilisation funds. Due to mismanagement of the fund, the ECA did not have sufficient resources to cover the increased deficit of -4.71% of GDP in 2020. In order to meet its fiscal needs during the pandemic, Nigeria was forced to turn to sources of external finance, including the IMF. In 2020, Nigeria received $3.4 billion in emergency financial assistance from the IMF under the Rapid Financing Instrument (IMF, 2021a). Furthermore, Nigeria also turned to multilateral and bilateral loans for finance. Figure 9 demonstrates the rise in Nigeria's debt from 2014 to

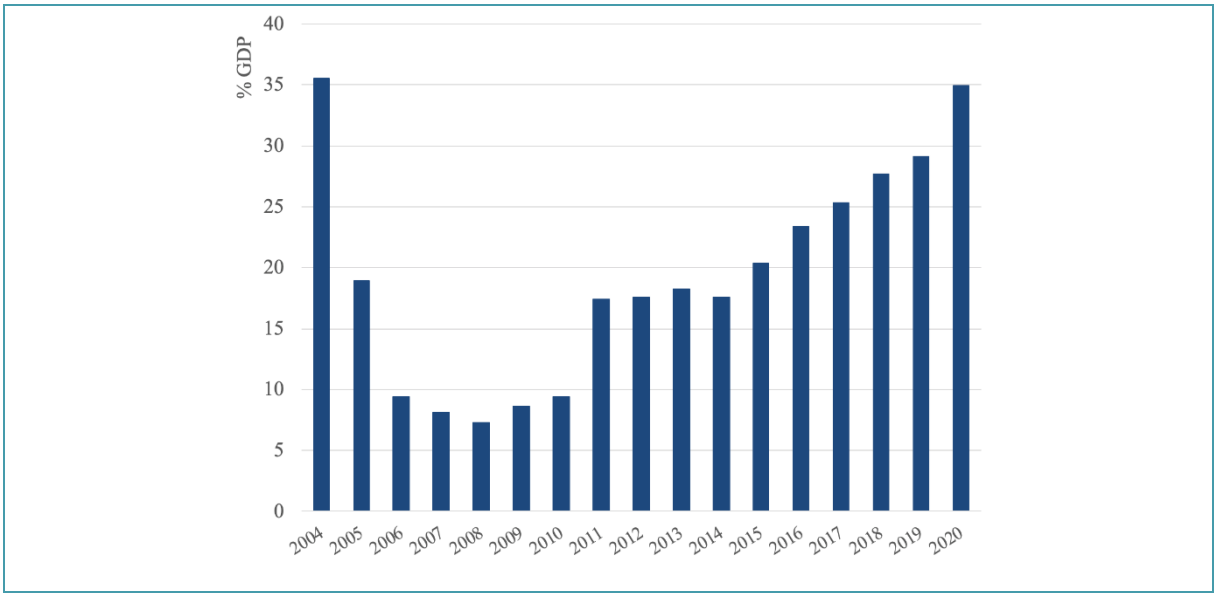
2020. As a result, general government gross debt as a percentage of GDP rose from 17.5% in 2014 to 35% in 2020 (IMF, 2021b).

Figure 8: Government fiscal and ECA balance as a percentage of GDP



Source: IMF, 2018, 2021a; Reuters, 2020.

Figure 9: Government debt as a proportion of GDP

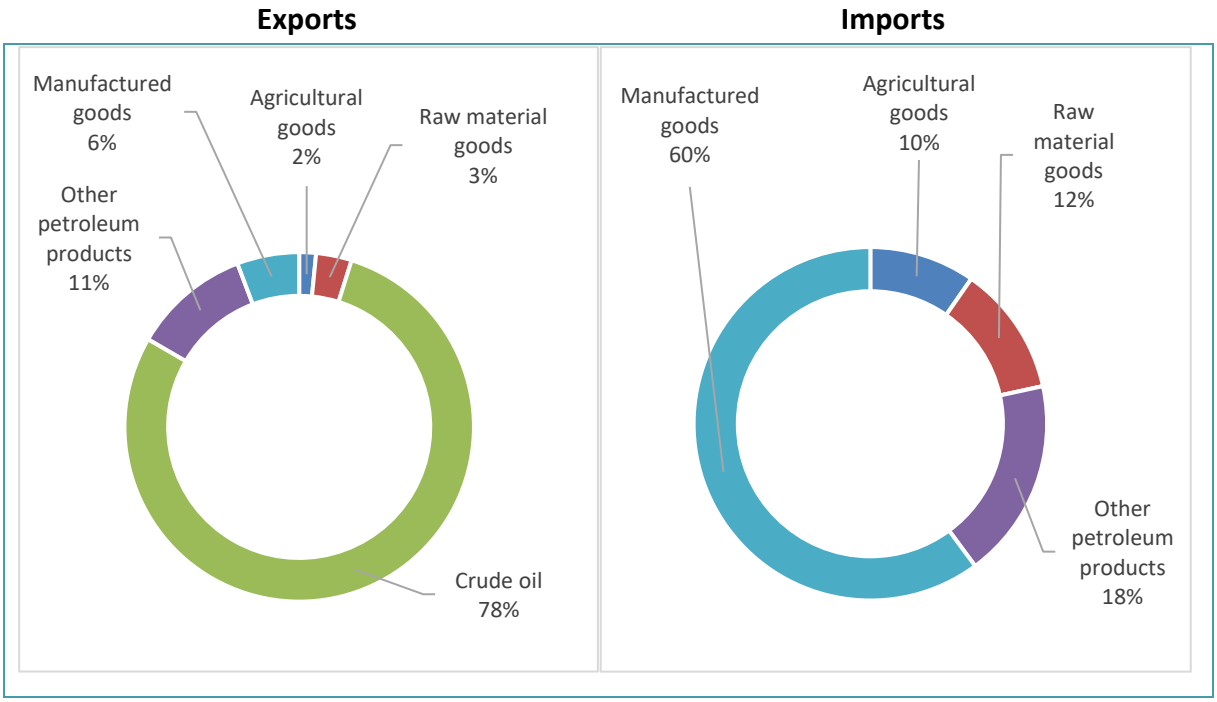


Source: IMF, 2021b.

The oil and gas sector also accounts for the majority of Nigeria's export earnings (Figure 10). While the current geopolitical situation as a consequence of the Russian invasion of Ukraine will ensure high oil and gas prices in the short to medium term, this will not necessarily mean a windfall for Nigeria (over 78% of its exports are crude oil). This is because around 18% of its imports are refined crude products, which will also have higher prices, impacting

both its reserves position and inflation. It is vital that Nigeria takes advantage of current oil prices to reinvigorate and replenish the ECA amid global decarbonisation efforts. How the ECA saves funds, and how much it saves, is critical at this point in time.

Figure 10: Breakdown of 2021 Nigerian exports and imports by economic sector



Source: National Bureau of Statistics, Foreign Trade Goods Statistics (Q3 2021).

7. Recommendations and Conclusion

As outlined in Section 2 of this report, the operations of politically significant organisations and mechanisms such as the NNPC and the ECA are affected by informal institutional structures (such as patronage networks) in the macro-political settlement that are beyond their control. This makes insulating them from political interference an ambitious, if not impossible task. In the case of Nigeria's ECA, it is clear that the distortions in how its funds are managed cannot be addressed merely by increasing accountability via 'big bang' reforms, as these will be opposed by those in positions of power. However, the workings of the NSIA, which controls the country's other wealth funds, can provide a successful pathway in a context that many otherwise see as constraining for efficient investment and fund management. The relatively more efficient administration of the NSIA points to lower levels of distortion and capture, and the institution is able to achieve this because it has both the mandate (and therefore incentive) and ability to ensure this.

The NSIA's constitutional mandate to generate earnings for Nigeria is the obvious incentive. But the more fundamental incentive is that as an external-facing institution, it has to manage its reputation as a credible investment fund in a highly competitive international market. This is also the reason why it has the capability to insulate the internationally focused sections of the fund from political interference. Yet a substantial portion of the fund is invested in domestic projects via the Nigeria Infrastructure Fund. Here, our hypothesis is that the competitive clientelist political settlement in Nigeria, in which two roughly equally balanced parties vie for power via elections, will become important in the context of how investment funds are managed. This is because the need for informal transfers to larger groups of constituents, and not just within narrower patronage networks based on kinship, will increase as political mobilisation increases (Roy, 2017).

Transfers from the ECA move to the Federation Account and cannot be used to fund programmes. But there is a high likelihood that members of the National Assembly will identify electoral advantage in using the Nigeria Infrastructure Fund for programmatic politics or where patron-client interactions take place through formal spending programmes (Wyatt, 2012). Though first used in the context of the evolution of patron-client politics in India, this is likely to become the pattern in Nigeria too. The Nigeria Infrastructure Fund is already investing in fertiliser programmes, healthcare, and infrastructure investments that are targeting broad and disparate communities. Moving funds from the ECA to the NSIA could help National Assembly members reach out to constituents in more redistributive ways. This does not mean that the political motives for keeping the ECA functioning will disappear, but that creating competing incentives via expanding the remit of the NSIA could help reduce leakage. The NSIA's international portfolio already provides it with some protection against capture. A combination of needing to produce results on both fronts means that the NSIA can act in ways that will reduce corruption and shrink the ECA. Concerns of expending oil revenues on potentially populist projects are valid, but with a portfolio approach towards project selection, the risks of extensive wastage can be mitigated.

It is true that the Nigerian government is struggling with limited fiscal space given the current macroeconomic conditions and therefore has a limited appetite for saving. However, this is where the role of Nigeria's CSOs and advocacy become crucial. The logic to move to the NSIA is clear. What needs to be pursued is the incentive for it – that is, the ability to offer programmatic and productive spending to constituents via the NSIA. With a portfolio approach, this is a strategy that could lead to effective results.

Our analysis estimates that nearly $70 billion of funds were not transferred to the ECA due to the legislature altering the benchmark price and the NNPC withholding funds. Furthermore, the study also examined withdrawals from the ECA. Based on available data on contributions and withdrawals, it is estimated that there was a net transfer of -$3.5 billion from 2005 to 2015. The data shows that the ECA experienced substantial and consistent withdrawals at times when the economic environment was strong (2005–2006 and 2011–2014) and when it was weak (2008–2010). Based on this evidence, it is clear that the ECA has not fulfilled its intended purpose of serving as a savings account to help Nigeria get through challenging economic times or global shocks.

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Anti-Corruption Evidence (ACE) Research Consortium
SOAS University of London, Thornhaugh Street, Russell Square, London WC1H OXG
T +44 (0)20 7898 4447 • **E** ace@soas.ac.uk • **W** www.ace.soas.ac.uk

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