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Evidence of subnational government sovereign boundary percolation in Nigeria

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ABSTRACT



This study analyzes data from 1999–2019, evidencing strategies utilized by Nigerian Subnational Governments (SNGs) for attracting inward Foreign Direct Investment (FDI). These strategies are unique for several reasons, including the fact that they highlight the evidence of paradiplomacy in Nigeria, a case study that is understudied in the paradiplomacy literature. These strategies are also a deviation from the conventional protocols for FDI mobilization in Nigeria. Drawing on Duchacek's conceptualization of these strategies as a percolation of sovereign boundaries, i.e. the idea that SNGs are permeating inter-sovereign 'sieves' designed to restrict their forays into the international plane, this paper conceptually maps and empirically assesses the varied expressions and prevalence of these strategies. Although these strategies are yet to be constitutionally challenged by the central government, they reveal a growing porosity of Nigeria's sovereign boundaries and necessitate a critical reassessment of the extant intergovernmental frameworks that govern FDI mobilization in Nigeria.

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KEYWORDS Foreign economic relations; Nigeria; subnational government; foreign direct investment

1. Introduction

The reliance on capital importation, especially the Foreign Direct Investment (FDI) component by developing countries like Nigeria, makes it an important policy objective for central and subnational governments (UNCTAD 2018, 185; 2009). Nigeria's subnational governments (i.e. the 36 states and the Federal Capital Territory (FCT)¹, hereafter referred to as SNGs) compete to attract FDI into their respective jurisdictions, amongst other things, to access capital to meet their economic development objectives (Aniyie 2021).

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Despite the importance of inward FDI mobilization to Nigeria's SNGs, they have a limited remit to coordinate these activities. This is because the Nigerian federal government (FG) and its agencies enjoy plenary powers, i.e. exclusive jurisdiction on matters of external economic relations (Omiunu and Aniye 2022, 2018; Spiro 2001; Gambari 1991). The preeminent authority of the FG and its agencies in Nigeria's external economic relations is pursuant to items 20, 26, 31, 39, and 62 of the Exclusive Legislative List of the *1999 Constitution of the Federal Republic of Nigeria (CFRN 1999)*. Although not expressly stated in the CFRN 1999, the powers of the FG extend to the coordination of FDI mobilization. The foregoing is corroborated by the provisions of the *Nigerian Investment Promotion Commission Act (NIPCA)*, which vests the Nigerian Investment Promotion Commission (NIPC), a federal agency with the sole responsibility for FDI coordination in the country. The NIPCA conspicuously omits any reference to the role of SNGs in this process by their non-inclusion in the governing council of the NIPC. This omission is intriguing, considering SNGs are the direct destinations for FDI in Nigeria. The functions and powers of the NIPC, as delineated in sections 4 and 5 of the Act, further reinforce the FG's pre-eminence in regulating inward FDI mobilization. Under the extant framework, the only avenue for any meaningful SNG contribution to regulating inward FDI mobilization in Nigeria is under the auspices of the National Economic Council (NEC). The NEC, headed by the Vice President, includes the Governors of the SNGs and is responsible for advising the President on coordinating and planning the federation's economic affairs.

From the preceding, the assumption is that Nigeria's SNGs are expected to engage in FDI-related activities within the framework established by FG. This is, however, at odds with the current reality in an increasingly interdependent global order, where SNGs are traversing sovereign boundaries to achieve various foreign-policy goals (Nganje 2014; Cornago 2010; Soldatos 1990). This phenomenon, according to Duchacek (1990, 14), could occur in two directions – 'from within out', where subnational authorities independently initiate trans-sovereign processes to safeguard or advance their domestic interests, and 'from without in', where they become the focus of trans-sovereign interactions (or interferences) and independently react to external opportunities (like reverse investment) or threats. In this paper, Duchacek's sovereign boundary percolation exposition is applied as a conceptual frame to examine how Nigeria's SNGs are engaging in inward FDI mobilization despite their limited constitutional powers to operate in this space.

The preceding provides background for this paper, which presents evidence from 1999 to 2019 of Nigeria's SNGs' percolation of the sovereign boundary to engage in the FDI mobilization space. The paper conceptually maps and empirically assesses these strategies' varied expressions and prevalence to demonstrate that Nigeria's SNGs are actively side-stepping the conventional protocols to develop unique mechanisms for promoting,

facilitating and retaining inward FDI in their respective jurisdictions. It is also argued that Nigerian SNGs' paradiplomatic interactions in the FDI space are nuanced, functional, often experimental, and primarily focused on economic development. The paper also explores the plausible reasons why the FG has yet to constitutionally challenge the activities of the SNGs while exploring the potential implications if this trend goes unchecked and uncoordinated.

The paper aims to contribute to the paradiplomacy literature by using Nigeria as a case study to shed light on the contemporary expressions of sub-national foreign relations in Africa, a region that has received scant attention in the global paradiplomacy literature. Also, the focus on Nigeria broadens the range of case studies on paradiplomacy in Africa (Tavares 2016). Furthermore, the mapping and categorization of paradiplomatic activities and strategies utilized by Nigeria's SNGs, although descriptive, provide a useful foundation and framework which can be replicated in other case studies in Africa and beyond.

Structurally, the paper is divided into five parts. Part two, which follows this introduction, describes the methodology utilized for the research; part three presents empirical evidence to corroborate the assertion that Nigeria's SNGs are actively side-stepping the conventional protocols to develop their unique mechanisms for promoting, facilitating and retaining inward FDI in their respective jurisdictions. Part four synthesizes the information and presents some conclusions based on the evidence from the retrieved data. Part five concludes the paper.

2. Methodology

This paper is part of a study which utilized a deductive framework and combined anecdotal knowledge, interviews, and document analysis to interrogate the legal, policy, and practical dimensions of the activities of Nigerian SNGs in the foreign (economic) relations sphere.² The conclusion so far is that in Nigeria, the federal government is vested with the constitutional powers and control over the institutions that drive and underpin foreign economic relations (Omiunu and Aniyie 2018) and that the presence of Nigeria's SNGs in the FDI space is a contradiction of the conventional configuration of foreign relations law in Nigeria (Omiunu and Aniyie 2022). This conclusion was premised on two distinct phases of the study, which utilized interviews and document analysis to contextualize and clarify information regarding the phenomenon of SNG's presence in the foreign relations sphere.

In addition, a key outcome of the previous phases of the study is the identification of a conceptual framework for this paper, which is the culmination of previous phases of the study. Hence, the categorization of the phenomenon in this paper is based on Duchacek's exposition of sovereign boundary percolation by SNGs to promote their interests outside of the

boundary of the sovereign to which they belong (Duchacek 1990). The understanding from Duchacek's seminal exposition (1986; 1990) of sovereign boundary percolation is that: (1) sovereignty creates restrictions and is a sieve which the central governments, *inter alia*, use in determining movement in and out of the territory as well as conduct and interaction within and outside its territory; and (2) that SNGs use diverse forms and formulas to gradually pass through (i.e. percolate) the sovereignty restrictions/sieve without pulling down the foundations of the state or making the national political authority less salient (Duchacek 1986; Canak 1987).

Furthermore, document analysis was used in phase 3 of the study as the authors relied on news reports that provided historical records and information about the phenomenon that could be analyzed. Although the fusion of the different methodology strands provided insights in terms of context and clarification, the understanding from Duchacek's exposition guided the search for, retrieval and analysis of news reports relevant to the phenomenon. At this point, the authors resorted to a two-stage process: retrieval and analysis. For retrieval, Google was used to locate evidence relating to the manifestation of the phenomenon in Nigeria from the websites of Nigerian news media organizations or wire services and other relevant entities (e.g. official websites of embassies and government agencies). Phrases like '... Nigerian State Governor travels to seek foreign investors/investments ...', '... State Government/Governor offers/woos foreign investors with (tax) incentives ...', '... Nigerian State Government signs MoU with ...', '... Nigerian State Government receives a loan from ...', '... Nigerian State Government collaborates with foreign ...', 'Ambassador pays a courtesy to State Governor ...', 'State Governor hosts Foreign Envoy/dignitary from ...' etc. were used as filters or search phrases. The origin of these phrases was the understanding and clarification provided by the mix of the research strands, and they were limited to Nigeria and her subnational governments. The reference period for the search was 1999 to 2019. This yielded 212 pieces of evidence chronicling the activities and interactions of Nigeria's 37 SNGs in the foreign relations sphere with direct or indirect FDI implications. At this point, document analysis commenced, and as can be seen in [Table 1](#) below, the evidence was analyzed, categorized and tallied. [Table 1](#) highlights the fact that within the reference period (i.e. 1999 to 2019), all of Nigeria's SNGs employed at least expression or means in percolating the inter-sovereign 'sieves' to express themselves in the foreign relations sphere.

Thus, the wider study and this paper utilized a multi-method research methodology. The use of multiple methods provided a means of triangulation to validate and verify the collected information (i.e. the historical data from the news pieces), infuse control into the data gathering associated with the investigative process, increase the reliability of the gathered data and provide assurance of authenticity. Furthermore, the use of news

Table 1. SNG foreign economic relations in Nigeria (1999-2019).

Geo-political zone/region (A)	SNGs in Nigeria (B)	Foreign Relations Expressions (FRE) Forms (C)										Regional Mean (E)
		Engagement in foreign trade promotion activities	MoUs with foreign entities and/or MNE	Introduced bespoke policy incentives to attract FDI	Foreign loans and/or aids	Established FDI focused MDA	Established FDI focused SoE	Receiving of foreign envoys/dignitaries	Other paradiplomatic activities	SNG FRE Score (D)		
North Central	Benue	1	1	1	1	0	0	1	1	0	5	4.57
	FCT	1	1	1	1	1	1	1	0	0	6	
	Kogi	1	1	1	1	0	0	5	1	0	5	
	Kwara	1	1	0	1	0	0	1	1	0	4	
North East	Nasarawa	1	1	0	1	0	0	0	1	0	4	4.67
	Niger	1	1	0	1	0	0	1	1	1	4	
	Plateau	1	0	0	1	0	1	1	1	0	4	
	Adamawa	1	1	0	1	0	0	1	1	1	4	
North West	Bauchi	1	1	1	1	1	1	1	1	1	7	5.71
	Borno	1	1	0	1	0	0	0	0	0	3	
	Gombe	1	1	0	1	0	0	1	1	0	4	
	Taraba	1	1	0	1	0	1	1	0	0	4	
	Yobe	1	1	1	1	0	0	1	1	0	5	
	Jigawa	1	1	1	1	1	0	1	1	0	6	
	Kaduna	1	1	1	1	1	0	1	1	1	6	
	Kano	1	1	1	1	1	0	1	1	0	6	
	Katsina	1	1	1	1	1	0	1	1	0	6	
	Kebbi	1	1	0	1	0	0	1	1	1	5	
South East	Sokoto	1	1	1	1	0	0	1	1	1	5	5.80
	Zamfara	1	1	0	1	0	0	1	1	0	4	
	Abia	1	1	1	1	0	1	1	1	1	7	
	Anambra	1	1	1	1	1	0	1	1	1	7	
Ebonyi	1	1	0	1	0	0	0	1	1	4	5.80	
Enugu	1	1	1	1	1	1	1	1	0	5		

(Continued)

Table 1. Continued.

Foreign Relations Expressions (FRE) Forms (C)												
Geo-political zone/region (A)	SNGs in Nigeria (B)	Engagement in foreign trade promotion activities	MoUs with foreign entities and/or MNE	Introduced bespoke policy incentives to attract FDI	Foreign loans and/or aids	Established FDI focused MDA	Established FDI focused SoE	Receiving of foreign envoys/dignitaries	Other paradiplomatic activities	SNG FRE Score (D)	Regional Mean (E)	
South	Imo	1	1	0	1	1	0	1	0	5		
South	Akwa Ibom	1	1	1	1	0	1	1	1	6	6.67	
	Bayelsa	1	1	1	1	1	1	1	1	5		
	Cross River	1	1	1	1	1	1	1	0	6		
	Delta	1	1	1	1	1	0	1	1	6		
	Edo	1	1	1	1	1	0	1	0	5		
	Rivers	1	1	1	1	0	0	1	0	5		
South West	Ekiti	1	1	1	1	1	1	1	1	5		
	Lagos	1	1	1	1	1	1	1	1	8	7.17	
	Ogun	1	1	1	1	0	1	1	0	6		
	Ondo	1	1	1	1	1	1	1	0	6		
	Osun	1	1	1	1	0	1	1	1	5		
	Oyo	1	1	1	1	1	1	1	0	7		
TOTAL (frequency of evidence)		37	36	25	37	17	14	34	12	212		
National Mean											5.23	

Source: Authors

reports has the advantage of being a non-invasive technique of gathering data to establish the existence of the phenomenon of SNG percolation of the sovereign sieves to express themselves in the foreign relations sphere at a low cost to the authors. Taking cognisance of the challenges highlighted by Earl, McCarthy, and Soule (2004), when using newspaper data such as 'selection bias' (i.e. which events get reported) and 'description bias' (i.e. accuracy of event portrayal), we do not attempt to theorize or draw inferences from the newspaper reports about why Nigeria's SNGs are playing these new roles in the mobilization of inward FDI or explain the reasons for the variations in scope and intensity across regions. Also, to address the problem of partial or missing information in media records of events involving Nigeria's SNGs, we imputed data from official government datasets.

3. Presenting the Evidence

In the introduction, it was argued that despite the design of Nigeria's sovereign boundary sieve to limit SNGs' unsupervised mobilization of inward FDI, these actors had used diverse forms and formulas to gain access to the international sphere or percolate sovereign boundaries. In this section, the focus is a presentation of the evidence of this phenomenon. According to Duchacek (1990, 14–15), SNGs percolate sovereign boundaries with the aid of any or a combination of the following:

1. Establishment of offices (i.e. presence) abroad
2. Undertaking of well-promoted and publicized trips abroad by heads of SNGs
3. Undertaking short-term professional scoping missions (involving heads of SNGs or designates)
4. Hosting of trade and investment shows featuring SNG's manufacturing and technological know-how
5. The establishment of foreign/special economic trade zones
6. Participation at international conferences, organizations or as part of the formal diplomatic representation of their central government to foreign governments

However, the above classification was not adopted wholesale but utilized as a stepping stone to categorizing evidence of expressions gathered while searching for and analyzing archived news reports. This gave rise to the eight categories discussed subsequently. The choice of eight categories is based on the contextualization and clarification achieved using the methodology above. It revealed that the activities constituting this phenomenon are diverse and broad in scope in terms of matters covered, volume of interaction and number of parties involved (Soldatos 1990, 35). This list is non-exhaustive

as there are other paradiplomatic expressions by Nigeria's SNGs which do not relate to FDI mobilization. The eighth category we introduce in this study – 'Other Paradiplomatic Activities' – is a pointer to the existence of evidence of activities which do not fit neatly into any of the six categories captured in Duchacek's framework. Also, there is no sequence for the presentation below of the categories, as the intention is to describe and highlight possible corollaries.

A. Engaging in Foreign Trade Promotion Activities

Engaging in foreign trade promotion activities relates to 2, 3 and 4 of Duchacek's formulation. But in the context of Nigeria, international trade relations and, by extension, engaging in related promotional activities is the sole preserve of the FG, pursuant to CFRN. However, since 1999, there have been reports of SNGs' involvement in foreign trade promotion activities. The hosting and attendance of international trade fairs in Nigeria or abroad are strategies adopted by SNGs to attract foreign investors (Duru 2012; Agba 2015). Such engagements allow the SNGs to promote their territories as viable foreign investment or tourism destinations.

The analysis of the evidence of the manifestation of the expressions revealed that this route is popular amongst Nigerian SNGs, as all 37 have been reported to have deployed one or more strategies that fit the above description. The diversity and prevalence of strategies employed, as well as the absence of a defined policy or operational guideline/framework to regiment SNGs interested in going this route, could be problematic for several reasons, amongst which is the fact that the absence of a policy or operational guideline/framework could birth duplication, deadweight loss or suboptimal use of resources and incoherence that can adversely affect the ease of doing business indicators and erode predictability in Nigeria's FDI mobilization regime.

To avoid some of the negative and undesired consequences highlighted above, the OECD in 2015, in a review of Nigeria's investment climate, recommended that (1) the FG assets its leadership role concerning the formulation of trade and investment policies for Nigeria and (2) the FG, in partnership with the SNGs should design a model of collaboration that would delineate the space between the tiers of government as well as serve as a guide to their institutions engaged in FDI mobilization activities to prevent overlap and ensure they complement each other (OECD 2015).

B. The signing of Memoranda of Understanding/Agreements with Foreign Entities and Multinational Enterprises

Although this category does not feature in Duchacek's formulation, the signing of memoranda of understanding/agreement (MoU/As) with foreign

entities – governments and multinational enterprises (MNEs) – is another popular expression as evidence of its use was found for all but one of the SNGs in Nigeria. Pertinent questions include determining their status, the nature of the obligations they raise and their distribution. Though providing answers to these questions is beyond the scope of this paper, suffice it to state that MoU/As are mere invitations to treat, which embodies the intention of the parties to enter into a contract subject to the execution of a legally binding agreement or the existence of extenuating circumstances such as (1) the actual terms used in the document, (2) inclusion of existing commitments in the document, and (3) the particular circumstances leading up to the drawing up of the document and surrounding the signing of the document.³ The latter includes the parties' intention and the status or position of the respective signatories/negotiators (i.e. whether ministerial level, CEO or head of government). Thus, where the MoU/A is between a Nigerian SNG and a foreign entity/agency or branch of a foreign government or a foreign MNE with ties to a foreign government, the MoU/A could be binding. In addition to creating potential obligations for the SNG concerned, a document with such calibre of persons as signatories carries significant political weight and can establish political commitment amongst the comity of nations. This makes it beyond important that a clear framework be put in place in Nigeria to guide the utilization of the route to foreign relations expression.

C. Introduction of Bespoke Incentives/Policy to attract FDI

The data gathered showed that 25 of the 37 SNGs have introduced one form of bespoke incentive and/or policy to attract FDI to their jurisdiction. This features in Duchacek's formulation as establishing special economic zones (SEZs). Essentially, SEZ establishment is a policy tool used to promote industrialization and economic transformation (Zeng 2021), hence the decision to treat it along with other provisions and instruments put in place to achieve industrialization and economic transformation.

Analysis of the gathered news pieces shows that some of the bespoke incentives/policies were issued and implemented within a regime put in place by the FG, while others relate to issues that need to be addressed by the FG. The establishment of SEZs by the governments of Lagos (Akinsanmi 2017) and Ogun (de Freitas 2019) under the framework of the *Nigeria Export Processing Zones Act*⁴ (NEPZA), which is an Act of the central government, which *inter alia*, established an agency responsible for the administering any export processing zone in Nigeria is an example of the former. Thus, in this case, the SNGs achieved sovereign boundary percolation using the framework of the NEPZA.

The Land Swap Initiative (LSI) of the FCT and the Shonga farm project of Kwara State are examples of the latter scenario referred to above as they are SNG-formulated land-based policies that the respective SNGs have used to attract FDIs. The LSI is an incentivised solution to the urban housing challenge of the FCT. Under it, investors (foreign and local) were to be awarded land in a district of the FCT in exchange for the provision of housing and other infrastructure in the earmarked district without any financial or technical contribution from the government of the FCT. After the development, the private developer-investors were to sell completed housing units or plots of land in the developed district to the public at a profit (Ibezim-Ohaeri 2013).

The Shonga farm project involved an agreement between the Kwara state government and 13 white Zimbabwean farmers. The SNG provided residential accommodation, farmland, and infrastructure and guaranteed a loan of USD250,000 to each farmer from their chosen bank. The government also assisted with entry visas, work and resident permits for each farmer, their families, and employees and pledged to assist the farmers in securing pioneer status, exemption from tax liabilities, duty-free concessions, and other financial advantages from the appropriate government MDA (Nnabuko and Uche 2015).

Although the SEZ and the SNG's land-based policies could threaten national sovereignty, the latter merits further assessment as they are predicated on land which is not within the remit of the FG pursuant to the Land Use Act, which vests SNGs with the liberty to use the land in their domain in any manner they deem fit. The downside is that such use has externalities within and beyond the boundaries of the SNG. For example, the Shonga farm project is effectively an incentive targeted exclusively at attracting foreign equity and disadvantaged indigenous capital.

D. Establishment of FDI-focused State-owned Enterprises

Establishing State-owned Enterprises (SoEs) focused on attracting FDI is another route of expression adopted by SNGs. However, it is not featured in Duchacek's formulation. SoEs are legal entities, partially or wholly owned by SNGs and used as a vehicle for partaking in commercial activities. As of 2018, on a global scale, SoEs accounted for 20 percent of investments, 5 percent of employment and up to 40 percent of global GDP (IFC 2018). SoEs are also a favoured vehicle of choice for Chinese outward investment (Dobson 2017). This trend is particularly important considering the growing presence of Chinese investment in Africa. Several Chinese investors in Nigeria are channelled through SoEs, creating avenues for interactions between Nigerian SNGs and foreign SoEs. For example, the popular Lekki Free Trade Zone project in Lagos involves Chinese FDI routed through a consortium including a 15% holding by the China Civil Engineering Construction

Corporation Ltd (CCECC), an SoE. Lagos state government's involvement in the Lekki Free Trade Zone project also includes an SoE – Ibile Holdings, the investment company of Lagos State. Ibile Holdings has a 40% stake in Lekki Worldwide Investments Ltd, the private consortium representing the indigenous interest in the Lekki Free Trade Zone project.

Foreign SoEs interacting with SNGs is captured within Duchacek's conceptualization of the bi-directional sovereign boundary percolation by SNGs, i.e. a scenario when subnational governments become targets for trans-sovereign contacts, i.e. 'from without in'. However, this expression seems unpopular with SNGs in Nigeria, as only 14 of the 37 adopted its use in the period under review, with the oldest example being Odu'a Investment Company Limited, which was incorporated in July 1976 to take over the business interest of the defunct Western State from which all the SNGs in the Southwest geo-political zone of Nigeria was created (Odu'a Investment Company Limited 2020).

There are several issues with potential negative consequences that could be associated with the establishment and use of SoEs for FDI mobilization by Nigerian SNGs. First is the issue of state patronage (i.e. a situation where state machinery is mobilized to favour SoEs to the disadvantage of privately owned companies), which is bound to catalyse negative consequences. For example, there is the danger of competitive neutrality between SoEs, and privately owned companies being eroded. This worsens when SoEs are set up as monopolies or lack profit-making objectives. Second, there is the issue of inefficiency occasioned by government interference, inadequate/improper manpower and political interference in the resourcing of the SoEs. This situation is exacerbated by the existence of multiple principals, often in the form of supervisory Ministries and Committees of the legislature, who possess different objectives and perceptions of the objectives of the SoE (Ugorgi 1995).

The increase in the number of SoEs in Nigeria is a potential flashpoint that needs more attention from the FG. Hence, a national policy that puts in place a regime characterized by uniformity and drives competition in the national economy irrespective of players (i.e. SoEs or privately-owned companies), as well as the legislation of a code of corporate governance that is binding on SoEs is a viable option for the regulation of SoEs (OECD 2015).

E. Establishment of FDI-focused State Agencies or Executive Institutions

Another route of expression adopted by Nigerian SNGs is the establishment of specialized Ministries, Departments and Agencies (MDAs) of government and other entities that report to the executive arm of the SNG. This is not featured in Duchacek's formulation, but in the context of Nigeria, the mandate of the MDAs and entities extends from trade and investment-related activities to economic policy formulation. For example, the

mandate of the Kaduna State Investment Promotion Agency (KADIPA) includes the development and implementation of a comprehensive strategy and action plans to attract and facilitate new investments in the state (KADIPA 2021), while that of the Imo State Ministry of Foreign and International Affairs includes the attraction of FDIs to the state and the nurturing as well as cultivation of robust bilateral and diplomatic relations with members of the international community (Imo State Ministry of Foreign and International Affairs 2020).

The establishment of specialized MDAs by Nigeria's SNGs is reminiscent of the state of affairs under the 1960/1963 Constitution of Nigeria, pursuant to which the governors of the regions could appoint persons to act in a capacity that is similar to that of an ambassador to the United Kingdom (Omiunu and Aniye 2018). More so, these entities discharge functions like or beyond that of the NIPC, which is the agency of the FG with primary responsibility for facilitating the ingress of FDI into Nigeria.

F. Accessing Foreign Aid and Loans

Sourcing loans and aid is another SNG sovereign boundary percolating formula which does not feature in Duchacek's formulation. The investigation revealed that since 1999, all the SNGs have sought and/or received foreign aid and loans to execute infrastructure projects in their respective jurisdictions. This expression is a vestige of the first republic era where SNGs (then regions) could take short-term foreign loans of 12 months or less on their assets as well as technical assistance (i.e. aid) without permission of the FG (Omiunu and Aniye 2018). The mobilization of foreign aid (i.e. concessionary capital from capital-exporting nations) motivated by diverse considerations (e.g. the economic interests of the donor, which) manifests in the conditionalities (Ako, Aniye, and Omiunu (2014)) is another option. They differ from loans as it is often in kind and does not always have a return-on-investment interest (not limited to financial) associated with them (Aniye 2012; Provost and Tran 2013; Provost 2014). Furthermore, there is no distinct regime for their grant and reception in Nigeria.

However, the ability of Nigerian SNGs to access foreign loans (i.e. external borrowing) under the current dispensation is not without regimentation by the FG. Notably, the *Fiscal Responsibility Act 2007 (FRA) inter alia* provides for the prudent management of Nigeria's resources and the long-term macro-economic stability of the national economy. Section 44 of the FRA stipulates the conditions for external borrowing by SNGs, of which the minimum is that the entity desirous of borrowing shall specify the purpose for which the loan is intended and present a cost-benefit analysis, detailing the socio-economic benefits of the purpose to which the sought loan is to be applied. Section 42 of the FRA also provides that the President of Nigeria, on advice from the

Minister of Finance subject to the approval of the National Assembly, can limit the consolidated foreign and domestic debt of the tiers of government and specify punishment for violators of the specified limits.

Regimentation of the borrowing regime for SNGs is further strengthened by the provisions of the *Debt Management Office (Establishment) Act 2003*. Pursuant to section 6(1)(c), the FG, through the Debt Management Office (DMO), has the responsibility of preparing and implementing a plan for the efficient management of Nigeria's foreign and domestic debt obligations. Section 21 provides that a foreign loan shall be obtained by the tiers of government and their agencies after acquiring a guarantee issued by the FG (through the Minister of Finance). In contrast, sections 6 (1) (d) and (e) vests the DMO with the responsibility of verifying and servicing all SNG foreign loans guaranteed by the FG. The provisions effectively create an oversight mechanism and framework managed by the FG (through the Minister of Finance, the Fiscal Responsibility Commission and DMO), which SNGs must comply with in sourcing foreign loans.

G. Receiving foreign envoys and dignitaries

This expression encompasses high-profile and well-publicized visits by foreign envoys and dignitaries to Heads of SNGs. This category is the opposite of Duchacek's second category (i.e. undertaking well-promoted and publicized trips abroad by heads of SNGs) as the heads of the SNGs receive the foreign envoys or dignitaries within their jurisdiction. Essentially, this form of sovereign boundary percolation provides opportunities for bilateral talks or meetings, trans-sovereign interactions and reactions to external opportunities (Duchacek 1990). The evidence gathered reveals that it was favoured by 34 SNGs in the relevant period. Examples of interactions in this category include visits by trade delegations, ambassadors, international organizations, and foreign SoEs. Prominent examples include the receiving in 2011 and 2018 of the British Prime Ministers by the Governor of Lagos State.

Tavares (2016, 26) argues that in addition to being ceremonial, the primary focus of the SNGs when hosting foreign dignitaries is optics, image building and public relations. The visit of David Cameron in 2011 highlights the foregoing. Governor Babatunde Fashola, sharing the stage with the then President of Nigeria during the visit of the British PM, highlights the growing reputation and influence of Lagos State as a global player. In addition, the associated publicity can potentially translate to the SNG's objectives to attract FDI. These visits are also strategically important to Governors who, in some cases, leverage the publicity given to these interactions to demonstrate to their constituency that they are making efforts to source the needed capital to meet pressing economic development imperatives. Interactions with Chinese Ambassadors were frequent during the period under

review, with 18 visits by Chinese Ambassadors to Nigerian Governors between 2015-2017. For each of these visits, it was reported that discussions focused on investment opportunities available within the respective SNGs. This indicates the utility of these interactions for China in fostering strategic collaborations with Nigeria's SNGs.

H. Other Paradiplomatic Activities

This expression encompasses other foreign relations-related activities by SNGs that do not fit into the scope of the preceding categories. Although diverse, the common denominator is the foreign element associated with the activities and the fact that they have the potential to contribute to the perpetrating SNG's ability to attract FDI. A classic example was the commencement of Mandarin teaching and learning in Lagos State schools during Governor Babatunde Fashola's tenure. Although this activity does not come within the scope of the other seven categories, it has indirect implications for FDI mobilization (Melitz 2008; Fidrmuc 2016). This is because increased understanding and usage of Mandarin within the jurisdiction could strategically strengthen bilateral relations between China and Lagos State. Another relevant manifestation of this expression is sending 30 artisans to China to train in the act of shoemaking by Abia State in 2018. Although this action was primarily intended to improve the quality of shoes made in the state and boost its shoe-making industry, it was an offshoot of bilateral interactions with China by the SNG.

Also, between 2013 and 2014, the government of Bayelsa State inaugurated international offices of the Bayelsa Development and Investment Corporation (BDIC) in New York, London, Dubai, and Johannesburg to promote the state's trade and investment potentials. This is one of such activities that fit Duchacek's categorization, i.e. the establishment of permanent offices in foreign capitals. However, it was an outlier in the Nigerian case study, as evidence of this was found only in Bayelsa. There is also no evidence that the BDIC foreign offices are still operational; hence, they are classed under 'other paradiplomatic activities.' Interestingly, this paradiplomatic expression was a prominent feature during the first republic when the federating units at that time operated offices in London, which were later scrapped after the military took control of power in 1966 (Omiunu and Aniye 2018).

A further example, not within the period to which the study relates – is the receipt of a letter of credence from the Equatorial Guinea Consular-General to Nigeria by the Governor of Cross Rivers State (Wodu, 2021). This is contrary to the norms of foreign relations irrespective of whose behest it was embarked upon. This is because pursuant to the provisions of Article 13 of the *Vienna Convention on Diplomatic Relations and Optional Protocols; the Consular-*

General is obligated to present his letter of credentials to the central government of Nigeria as receiving state through the Ministry of Foreign Affairs and not the Governor of an SNG.

4. Synthesis

Table 1 below summarizes the data gathered online and advances the above description of categories identified. For ease of analysis, the information was coded and tallied in binary. *1* and *0* indicate, respectively, the presence or absence of evidence of utilizing a particular expression amidst the gathered evidence of manifestation. The coding and tallying facilitated the computation of the degree of adoption of the expressions (i.e. the contents of *column C*) by each SNGs. It also gave rise to the SNG foreign relations expression score (i.e. the SNG FRE score in *column D*). Secondly, it provided the basis for a regional comparative analysis of the adoption or use of each sovereign sieve percolation form or formula. This outcome was captured as a regional mean in *column E*. In addition, the national mean (arrived at by dividing the sum of the regional means by the number of regions i.e. six) was computed.

Table 1 also brings to the fore the occurrence of sovereign boundary percolation by Nigerian SNG and outliers in the circumstances. Regarding frequency, the data revealed that engaging in foreign trade promotion activities, as well as the pursuit and/or receipt of foreign loans, have been favoured by all 37 SNGs in Nigeria during the reference period. However, accessing foreign loans merits more than a cursory reference. This is because an outcome of SNGs' inability to meet the loan obligation is sovereign debt (Aniyie 2021; Ndikumana and Boyce 2011) which, at the end of 2019, was 16 percent of Nigeria's total sovereign debt of USD 27,676 billion and attributable to all 37 SNGs (National Bureau of Statistics 2020).

Also, there is evidence that 36 SNGs signed MoUs, agreements or pacts with at least one foreign entity and/or MNE. In this case, the outlier was Plateau State, as no evidence of such a signing was found in the timeframe under review. Furthermore, the data points to the fact that 25 SNGs introduced bespoke policy incentives to attract FDI, 17 SNGs established FDI-focused MDAs, and 14 SNGs established FDI-focused SoEs. Although the determination of the reason that underpins the preferences highlighted above is not the objective of this paper, it is argued that the cost associated with each of the expressions is a factor that could have impacted the choice made by the SNGs. For example, establishing an FDI-focused MDA or SoE would entail more capital outlay than hosting a foreign envoy by the head of an SNG or attending a trade summit abroad.

Furthermore, based on the data, FCT (in the North Central region), Bayelsa (in the South-South region), Ekiti and Lagos (both in the South-West region)

were identified as highfliers as they utilized all the forms in expressing themselves or engaging in foreign economic relations in the period under review. This puts their SNG FRE score above their regional average and the national mean. Other highfliers are the South-West and South-South regions, which possess the first and second highest regional mean. Also, the regional mean of the North Central, Northeast and Northwest regions is below the national mean. Hence, it is surmised that the adoption and utilization level of routes of expression is lower in Northern Nigeria than in Southern Nigeria. The determination of the reason for this trend is beyond the scope of this research, but suffice it to say that this may not be divorceable from the influence of the prevalent religion in the region (Ozkan 2021) and the perennial crisis that has engulfed that region for a greater part of the period relevant to the research.

In addition to the above, the expressions are characterized by a few traits which are relevant to our understanding of the paradiplomacy phenomenon in Nigeria. First, the paradiplomatic expressions by Nigeria's SNGs are nuanced, functional, targeted and verging on experimental (Keating 2013). This is because the objective underpinning their use is usually specific and often the prerogative or a function of the drive of the SNG's leadership to meet needs that are jurisdiction specific. According to Nganje (2014), it is developmental paradiplomacy where the focus is the economic development of the jurisdiction. However, the evidence provides premises for the conclusion that their use is also sporadic, low intensity, and specific in focus or 'single-themed paradiplomacy' (Tavares 2016), as well as experimental in nature. Hence, these expressions are scrapped or deprioritised when there is a change in leadership of the SNG.

Second, the forms and formulas utilized by the SNGs in expressing themselves on the international scene have yet to be constitutionally challenged by the FG to date. This may be because there has been no direct conflict with the foreign policy of the FG. The use of MoUs, classed as non-binding instruments in international law, may also explain why the SNGs have avoided potential conflicts with the central government (Tavares 2016, 82; Setzer 2013, 181). There could also be a tacit acceptance of these emerging practices by SNGs, with the FG seeing these expressions as beneficial and preferring to deal with any fall-out on an ad hoc basis (Omiunu 2018). It is, however, evident from the paucity of policy direction from the FG regarding the phenomenon of sovereign boundary percolation in the area of FDI mobilization that there still needs to be more acknowledgement of the current reality in Nigeria. This is surprising considering the evidence of these activities since the return to democratic rule in 1999.

Given the non-formal acknowledgement of this trend, Nigeria's SNGs are currently operating under the radar like 'sovereignty-free' actors, not constrained by the trappings of statehood (Hocking 1996, 40). The downside

to SNGs operating under the radar is their ability to escape accountability for their actions. The probability of this occurring in Nigeria is growing, given the current trend described above. We predict that if this trend goes unchecked, the use of these international strategies by Nigeria's SNGs will increase and spread to other dimensions of Nigeria's foreign policy interactions.

Third, sovereign boundary percolation by Nigeria's SNGs slowly but incrementally has the potential to create confusion for investors about who the 'gatekeepers' are in Nigeria for FDI purposes. Given the evidence considered in this paper, SNGs, if properly coordinated, can play this 'gatekeeper' role considering their 'special characteristics' (i.e. comparative advantage) to influence the inward FDI inflows into Nigeria (Hocking 1996). However, the design of the institutional framework for inward FDI mobilization under the CFRN 1999 and the NIPCA was not intended to give Nigeria's SNGs such a gatekeeper role. This scenario creates a complex patchwork of interactions between Nigeria and international investors. If this trend continues unabated, it will create uncertainty and duplication of processes, further complicating Nigeria's ease of doing business indicators (Omiunu 2018).

5. Conclusion

Based on the evidence curated and analyzed above, it is evident that since 1999, Nigeria's SNGs have re-emerged in the foreign relations sphere. They are active participants as they percolate Nigeria's sovereign sieve to mobilize inward FDI. This creates a situation that was not anticipated by the drafters of the CFRN 1999 and was not addressed within the existing institutional framework. Hence, the conclusion is that although the phenomenon may be sporadic, low intensity and focused on a specific sector or subject area – inward mobilization of FDI – it points to these actors' progressive percolation of Nigeria's sovereign boundary. The diversity of routes used by Nigeria's SNGs to mobilize inward FDI and their growing prevalence point to not only the porosity of the extant intergovernmental frameworks that govern FDI mobilization and foreign economic relations in Nigeria but also their inefficiency.

Furthermore, acknowledging the increasing presence of SNGs as actors in the foreign policy realm is a significant first step to making sense of the phenomenon. Acknowledging the current realities is also imperative because it will enable both levels of government to work out a system that mitigates the fallouts that could arise from SNGs engaging in paradiplomatic activities (Kuznetsov 2014; Aldecoa and Keating 2013; Kincaid 1990). For example, there is a need for a clear division of labour and delineation of powers among implementing agencies at FG and SNG levels. This would enhance efficiency and prevent the FG from being reactive while still retaining its full authority in matters of foreign economic ties. It also provides an imperative for closer cooperation between the FG and SNGs in Nigeria to

effectively manage the complications arising from the new dynamics of international relations. A coordinated strategy is required that will aid in avoiding or mitigating undesirable and negative consequences of the SNG percolation into the foreign economic relations space (Duchacek 1990). This is essential if the benefits associated with Nigeria's reform efforts in the FDI sector are to be harnessed. This strategy would combat inter-jurisdictional competition and foster peer learning among SNGs. Furthermore, coordination would facilitate the attainment of economies of scale and avoid the duplication of activities or contradictions in investment laws and policies in the tiers of government.

Notes

1. In this paper, the FCT is considered an SNG, making Nigeria a country with 37 SNGs, contrary to popular opinion. This is based on a plethora of the decisions of superior courts in Nigeria (e.g., *Obi v INEC* (Unreported: Petition No.: CA/PEPC/03/2023); *FRN Bakari v Ogundipe* (2021) 5 NWLR (Pt. 1768) 1 at 38; *Baba-Panya v President* (2018) 15 NWLR (Pt. 1643) 423; *Ibori v Ogboru* (2009) 6 NWLR (Pt. 920) 102 at 138) to the effect that pursuant to the provisions of the sections 134, 297, 299 and 301 of the CFRN, the FCT has no special status in the Federation and as a result should not be considered or treated superior or inferior to any State in the Federation. Furthermore, in 2015, the fiscal autonomy of the FCT was acknowledged with the establishment of an Internal Revenue Service vested with the power to administer and collect the same taxes as the revenue service of the other 36 SNGs in accordance with the *Taxes and Levies (Approved List of Collection) Act*.
2. The study commenced in 2010, with Omiunu's PhD conducted at the University of Liverpool (2010-2014). Between June – July of 2012, Omiunu interviewed a total of 7 key informant interviews, including 4 respondents from the Federal Ministry of Trade and Investment in Nigeria, 1 respondent from the Lagos State Ministry of Trade and 1 respondent from the State Ministry of Trade in Edo State. In the post-doctoral phase of the project, Omiunu and Aniyie conducted a further interview with 1 key informant interview from the NIPC in July 2017.
3. See *BPS Construction & Engineering Co. Ltd v Federal Capital Development Authority* (2017) All FWLR (Pt. 878) 405 and *Martine Delimitation and Territorial Questions between Qatar and Bahrain, Jurisdiction and Admissibility Judgement*. 1994. (ICJ, 1 July). Accessed April 20, 2019. <https://www.icj-cij.org/public/files/case-related/87/087-19940701-JUD-01-00-EN.pdf>.
4. Cap. N107 LFN 2004

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Appendix

See the link to Dataset on SNG engagement in Nigeria's FDI Sector: HYPERLINK "https://drive.google.com/drive/folders/1uTrA3ys2gkmG8NKPJOMuFM0b-_y2651x" "https://drive.google.com/drive/folders/1uTrA3ys2gkmG8NKPJOMuFM0b-_y2651x".