



## Crisis in the Niger Delta: How Failures of Transparency and Accountability are Destroying the Region



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### Introduction

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The socially devastating and economically disruptive crisis in Nigeria's Niger Delta raises fundamental concerns about how Western multinationals behave towards their host country's people, environment and government. This paper is not intended as a comprehensive survey of the Niger Delta's history and contemporary politics, subjects about which others are far better qualified to address. Rather, it is an attempt to use my own series of visits to the Delta and related research to give an overview of what people think has gone wrong and what they suggest could be done to improve the situation. I have concentrated on issues of transparency and accountability rather than on other questions that are equally important but beyond the scope of this work.

As a series of annexes, I include examples of particular issues that illustrate wider concerns about what is happening in the region.

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## Preamble

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The western Niger Delta town of Odioma is in a setting of almost unreal picturesqueness. When I visited with colleagues in March 2005, we moored on a sandy beach that flanked a wide waterway leading into the open ocean. From there, it was a short walk to the village, where the majority of houses had been burned to the ground by a fire so intense that it had melted bottles of Coca-Cola and Star Beer.

Villagers said their home had been razed by the army, which blamed them for an attack in February on a boat from the nearby community of Obioku in which twelve people died. The killings followed a visit by a survey vessel chartered by Royal Dutch/Shell, which was operating in an area whose ownership is disputed by the two communities. Both communities are grindingly poor and both want access to some of the material goods that big oil can bring. One of the few intact structures in Odioma was a large generator donated by Shell that stood on a barge moored on a jetty at the far end of the village.

In Odioma, we talked to Chief Daniel Orumieghabari. He was a little constrained by the presence of soldiers occupying his village and an unidentified plain clothes official – probably an intelligence officer – who insisted in sitting in on our interview. The chief started to sing what he said was a Bing Crosby song, although I couldn't find it when I looked on the internet. The important things were the two lines of words he chose:

*There was something that was bound to happen and it happened somehow,  
And now that something happened, it doesn't matter now.*

I was struck by the terrible fatalism that those words suggested. They seemed to me to reveal much about how life is for many people in the Delta. Awful things happen, they might make the news briefly and then life goes on. Justice is rarely achieved, disputes fester and the destructive web of relationships between government, the oil multinationals, the security forces, militias and communities continues to tighten and suffocate. Most of this goes unreported, events happening to unnoticed people in remote places.

Yet, of course, the great paradox of the Delta is that it is rich. In few, if any, other places in the world are oil companies producing so much oil next to so many poor people, and in few other places are the perceived failures of the industry and government to pass on benefits to their host communities so great. This paper aims to examine some of the reasons why this is so and to look at how they are being addressed – or not. The government and the oil companies say they are taking important steps to improve the transparency of what they do, but in fundamental ways both groups remain much less accountable than many people say they should be.

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## Poverty amid plenty

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The Niger Delta comprises a network of swamps and creeks covering some 112,000 square kilometres, depending on how you count it, or almost the size of England. According to Royal Dutch/Shell estimates, it is home to about 12m people. Oil multinationals, in their onshore and offshore operations, pump between 2m and 2.5m barrels of oil a day, making Nigeria one of the world's top ten oil exporters. About half of the oil goes to the US, where it accounts for about 10 per cent of total crude imports. The multinationals – Shell, ExxonMobil, ChevronTexaco, Total and Eni – operate in joint ventures that are majority-owned by the Nigerian government.

The region is poor, although reliable statistics are hard to come by. The World Bank estimates that Nigerians' average income is about \$1 a day and it says a fifth of children die before their fifth birthdays. One of the main problems in the Delta is the lack of infrastructure and the remoteness of villages from clinics, schools, shops and other essential services: residents of the community of Soku told me that they had to pay 500 naira (about £2) to go by speed boat to Abonnema, the nearest large town with good road links, or else face hours in a canoe.

The Delta's people are, in general, extremely hostile to both oil companies and the government. They feel they have received little or nothing in return for the more than \$300bn the government has earned from oil production over the last 30 years or so. Many complain of pollution by oil spills and the huge orange flares that burn off waste gas. Companies and politicians are commonly criticized for failing to develop infrastructure or provide local people with jobs.

The problems have turned the Delta into an increasingly uncomfortable place for oil companies to do business. Community protests frequently stop multinational production, while ethnic militias – often with bases in communities – have become increasingly active. In March 2003, a conflict involving the security forces and members of the Ijaw and Itsekiri ethnic groups led to a ten-day shut-down of more than a third of the country's oil production.

The violence has worsened as weapons have flowed into the Delta and militias and community members have become more deeply involved in taking oil from pipelines to sell on the black market – a practice commonly known as 'illegal bunkering' (see Annex 1). A confidential Shell-commissioned report, written by a group of consultants known as WAC Global Services, said in December 2003 that it would be 'surprising' if the company was able to continue onshore production in the Delta after 2008 without breaking its business principles.

A 2004 report for the UK's Department for International Development found that the western Niger Delta oil city of Warri was the major focal point of weapons imports in Nigeria. 'It is evident that new and second-hand foreign weapons enter the country through the Niger Delta ports and their availability is a function of competition between ethnic militias for access to illegal oil-bunkering,' the report said. 'This

would not be possible without the complicity of some senior government personnel for whom this is evidently profitable.' In January, two navy rear-admirals were expelled from the force after being found guilty at a court martial of involvement in the 2003 disappearance of an impounded tanker carrying stolen crude oil.

As a friend put it, the problem in the Delta is partly poverty but partly the marginal richness that comes with the arrival of oil and attracts people to the places where crude is found. The complexity of the problem, the interrelationships between the various parties involved and the cynicism this has inspired were summed up by one Western diplomat in a statement that tells something of the Delta, and also of foreign attitudes to a conflict that it sometimes suits outsiders to present as intractable. 'Nobody is clean,' this person said. 'Everybody is on the make and on the take.'

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## No condition is permanent

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One only has to see a tokunboh – or second-hand – car being fixed on a Nigerian roadside to realize that even tricky, apparently irredeemable, problems can be solved. Or, to put it another way and adapt a well-loved Nigerian aphorism, no condition need be permanent. I want to try to suggest some straightforward and remediable ways in which the Delta conflict is the product of human self-interest rather than of some atavistic, visceral rivalry of the type that some outsiders lazily and insultingly describe as the sources of conflict in African countries. In doing so, I want to focus on three groups who, I believe, have the most wide-ranging influence and therefore the greatest moral obligation to do better: the Nigerian government, the oil companies and the international community. These parties are not the only ones who are criticized, but they have much more ability to effect change than most in a region in which the vast majority of people are politically powerless.

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## Oil-barrel politics

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Visiting the Delta before and after the April 2003 national elections, I have been struck by how many people say one of the main causes of conflict is the lack of credibility of supposedly elected leaders who came to power by ballot-rigging and intimidation (see Annex 2). On the eve of polling in Bayelsa state, Governor D.S.P. Alamieyeseigha was openly using government property to campaign. On the gates of Government House in Yenagoa, the state capital, a banner proclaimed 'DSP: your knowledge is our strength'.

Up the road in Sagbama, burnt-out cars surrounded one of the governor's lodges, which was still festooned in Christmas decorations but had been gutted by fire. Officials told me this was the product of a little local difficulty between ruling party supporters and their opponents. In elections the previous week for the House of Representatives seat of Brass/Nembe, the

131,335 valid ballots cast in a crushing victory for the governor's People's Democratic Party exceeded the 129,535 registered electors.

Opposition supporters had claimed the Sagbama lodge was being used as a headquarters to rig the polls. On the ground outside the lodge, another journalist and I saw an official document used for tallying spoiled and rejected ballot papers. A saturated ballot paper lay in the back of a white Toyota pick-up, its windscreen caved in as if hit by a heavy weapon. There seemed no plausible reason why these election materials should have been found there.

Governor Alamieyeseigha is a controversial figure who has been heavily criticized by opponents over the way he has run the state. He spent time during his first term completing a doctorate in strategic management from the University of Northern Washington, according to Freston Akpor, then chief press secretary to the state government. The only University of Northern Washington revealed by an internet search is a Hawaii-based institution that offers distance learning courses and 'focuses on preparing graduates for a career in business administration'.

Mr Akpor said the governor often travelled the state's network of creeks in a publicly-funded 16-capacity Sunseeker yacht. The spokesman added that the vessel was too big to sail on some of the smaller waterways.

Mr Akpor denied Mr Alamieyeseigha had done anything wrong in the way he ruled the state or behaved during the elections. The spokesman did, however, give a frank account of the governor's huge resource advantage in political campaigning. 'If you count [50] billboards, the governor has maybe 45 and the other parties have maybe five,' he said. 'In almost every community you go to, you have a piece of the governor's campaign machinery – either posters, billboards or a campaign office.'

Official data published at the time of the elections in the Niger Delta suggested that President Olusegun Obasanjo took 96 per cent of the vote in Bayelsa state. Elsewhere in the Niger Delta, he won 93 per cent in Rivers state, 94 per cent in Delta, and 98 per cent in Cross River. Those states alone – just four out of Nigeria's 36 – provided well over 4m of the president's votes, or a third of his victory margin over General Muhammadu Buhari, his nearest challenger. To get this information, I had to refer to my hand-written notes of the time: the poll results had been removed from the Independent National Electoral Commission website, for reasons officials could not explain to me when I called them.

European Union observers found that elections in Rivers, Delta and Cross River lacked credibility. They did not go to Bayelsa or Akwa Ibom, another oil-producing state. In the three states they visited, the EU observers said 'appropriate measures must be taken to provide voters with a truly democratic electoral process'. Apart from the annulling of the results in a handful of districts, no such action has been taken.

This fake democracy has insidious as well as obvious negative effects. One activist made the point that opposition was in some ways more effective under the military regime of General Sani Abacha than now,

because it was simpler to generate international condemnation for a dictatorship than for a civilian regime that is widely seen as failing in serious ways on issues such as human rights, corruption and improving living standards. While there have been important gains under civilian rule in areas such as freedom of speech and much more marginal improvements on a limited number of corruption issues, some Nigerians argue that the country's governing structures are more conducive than ever to graft and abuses of power. As centralized military control has relaxed, so politicians at the state and local levels have more power to run their territories autonomously and unaccountably.

One point that is perhaps not as widely appreciated as it should be is the economic power of the governors of oil-producing states, which receive an enhanced share of national oil revenues under a supreme court ruling. The federal authorities keep roughly half the revenues for themselves and distribute the rest to state and local governments.

The official figures for the March 2005 distribution, the most recent available, give a sense of how well the oil-producing states do relative to others. The distribution includes VAT, but the revenues are dominated by oil. Rivers received N8.6bn (almost £35m), Bayelsa received N9.3bn and Delta N6.3bn. By contrast, Lagos state, the most populous in the country, received just N2.5bn. Under a draft deal agreed by a national constitutional conference in July 2005, the share of revenue the oil-producing states are allowed to keep from the oil they produce would rise from 13 per cent to 17 per cent. Representatives of oil states, who had demanded a 50 per cent share, walked out of the conference in protest at the result.

This enrichment of Niger Delta governments has been exacerbated by the way in which benefits from the oil price rises over the past year accrue in large part to the authorities. Shell figures illustrate how the multinationals have focused on protecting their income at low oil prices rather than taking advantage of windfalls when the price is high. The calculations from the Shell-operated joint venture, which is 55 per cent owned by the state Nigerian National Petroleum Corporation (NNPC), 30 per cent by Shell, 10 per cent by Total and 5 per cent by Eni, take into account the sharing of production in proportion to equity stakes, royalty payments and taxes on company profits. Shell says the authorities take 51 per cent of the revenue from the joint venture at \$10 a barrel, 74 per cent at \$20 a barrel, 80 per cent at \$30 a barrel and 88 per cent at \$50 a barrel. The industry's share falls from 9 per cent at \$10 a barrel to 4 per cent at \$50 a barrel. The remainder of the revenue per barrel – that is, the money remaining once the government and industry shares have been taken out – is counted as production costs. Deep offshore fields, on which Nigeria is likely to rely increasingly in the future, are more expensive to exploit and use a different set of financial structures.

Of the other multinationals, ExxonMobil said more than 93 per cent of revenues from its joint ventures accrue to the government, once all payments and taxes are taken into account, although it gave no further details. Other companies declined to provide details of their revenue-sharing agreements with the

government. The finance ministry declined to comment.

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## A question of responsibility

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This is the political and financial atmosphere in which the oil multinationals have decided they are prepared to operate. The companies argue they work separately from the process of governing the country. It is quite common to hear multinationals criticizing the government for failing to execute the kind of water, power, health, education and road projects that Delta people demand from the oil companies.

Yet, in fundamental ways, many people in the Delta see this as a false dichotomy. All the onshore joint ventures run by the oil multinationals are majority-owned by the government. The two parties – official and private – are bound together, often in ways that lack accountability and transparency.

One example is the relationship between oil companies and the government security forces. The role of the Supernumerary Police, who guard multinational installations, is instructive in understanding why oil companies and governments have become one and the same in many people's minds. According to the oil companies, these police are employed by the Nigerian state but are allocated to work for the company in jobs such as driving, under an existing law that provides for such an arrangement. Shell says such officers do not carry guns.

The officers are generally described by the evocative – and unintentionally suggestive – acronym of 'Spy' police (a truncation of 'Supernumerary Police'). When I visited Shell's Port Harcourt office complex last year, there was visual evidence of the special relationship and loyalty that the company has tried to build in its designated officers. On the door of one building, a sticker said 'Proud to be a SPY-policeman'. 'Be practical, be obedient, be loyal ... be courteous, be efficient,' ran the message, which was printed alongside the company's distinctive logo.

There is evidence that officers, too, feel an attachment to the companies they work for. Fifteen employees of ExxonMobil's Spy police force have sued the company in the southeastern city of Uyo to win benefits such as pensions, arguing that they should be considered employees. ExxonMobil has insisted that the police are employed by the Nigerian state.

It is clear that, in some respects, the officers do much better out of working for oil companies than they would from being normal police officers. According to Shell officials in Port Harcourt, the company provides transport, housing and medical care and pays the officers' monthly salaries directly to them. Shell says it used to pay the salaries via the national police structure, but stopped doing this because of delays that were occurring in making payments. 'We didn't want to have a demotivated police force,' said a company official.

Oil companies and their agents make other payments to security force members, such as modest food and overnight allowances, according to a security



consultant to the oil industry. He also claimed that if an oil company representative approached an armed forces garrison commander to ask for extra security, the officer would expect payment for his services. 'If I want 100 navy personnel to guard a dockyard, then I have to pay for it,' the consultant said. 'Then there might be a payment that needs to be made as a kind of deal-maker. That's how it works. Any company that thinks it's going to come to Nigeria and operate effectively without paying for those services is surely mistaken.'

Leaving aside the huge questions about corruption this statement implies, the relationship raises all sorts of issues about the way the oil companies work with security forces that have a popular reputation for brutality and impunity. The army has carried out massacres that have killed many hundreds of people since the return of civilian rule, including in 1999 in the Odi community in Bayelsa state. According to official figures, the national police killed more than 3,000 armed robbery 'suspects' in 2003 as part of a crackdown known as 'Operation Fire for Fire'.

One activist characterizes the opaque and ambiguous relations between the oil industry and the security forces as an attempt by the multinationals to ensure strong protection of their facilities while retaining the ability to remain separate from any human rights abuses. 'When there is a problem they will distance themselves,' he says. 'They will say: 'that's a police matter'. So on the question of trying to punish somebody, they will stand aloof.'

Shell says any police officer guarding its facilities receives a briefing on behaviour and conduct. The company 'reports errant police officers to the top hierarchy and, indeed, asks for their removal'. Asked if any officers had been disciplined this way, Shell said that two policewomen had recently been removed from the Port Harcourt Industrial Area. This seems a small number compared with the number of Spy police working in the Delta, but the judgment is impossible to make because Shell officials in Port Harcourt say information on the total number of Spy police the company employs is confidential.

Responding to the observations detailed above, a Shell official said Spy officers often risked their lives. Some had been killed by robbers who were trying to steal pipes and other equipment from company installations. The official said these kinds of security arrangements were inevitable in a country that did not have the resources to fund enough police to protect sites of economic importance. He added that the police were 'not as brutal as people think'.

Shell also said it did not make payments to police or army officers in exchange for allocations of personnel, but that it did cover the cost of accommodation, transport and daily allowances for security force members assigned to company sites.

I cannot report much of what the other companies think, because hardly any of them answered questions I first sent them in February on this and other issues. Some promised replies but never gave them. A Total official gave me the initial response that many people in France were on holiday when I posed the questions. A British public relations company working on behalf

of Eni called in April to apologize for the delay and promise a response, but I heard nothing further.

ExxonMobil finally replied in April: on the issue of Spy police and their status, the company said somewhat enigmatically that it respected the rule of law and was sensitive to the needs of its employees, contractors and their families. It declined to respond to a question about the lawsuit brought against it by the Spy police in Uyo.

In my experience and that of other journalists, the companies' attitude reflects a wider pattern of non-disclosure and piecemeal and partial disclosure in the industry in Nigeria. Only Shell publishes an annual report, known as People and Environment, which provides some information on issues such as payments made by the company to government, pollution incidents involving the company's operations, and the number and nature of security problems such as hostage-taking.

The data are limited and sometimes disputed by communities, but at least there is something out there around which to crystallize a debate. I am not aware of any similar, standard disclosures made by any other multinational oil company in Nigeria. The reason I cannot state this definitively is that none of them answered my questions on this issue either, except Exxon, which pointed me towards its in-house quarterly employee magazines.

This opacity extends beyond the oil companies themselves into the vast hinterland of deals that surround the industry in areas from building contracts to oil trading. At a community level, companies are paying large sums: Shell's community spending alone amounted to a total of almost \$100m in 2002 and 2003.

Chris Finlayson, Shell's chief executive officer for exploration and production in Africa, admitted it was very difficult to know who were the ultimate beneficial owners of some companies that received Shell contracts, because shareholder registers did not always reveal these people's identities. Another Shell official said there were huge numbers of contracts, in areas ranging from building to grass cutting, making vetting very difficult. 'We know the information that is published,' Mr Finlayson said. 'Do we go in doing detective work? No, we don't.'

The financial dealings between multinationals, government officials and community members are a controversial subject in the oil industry. A probe in 2004 by the US Senate permanent sub-committee on investigations discovered a network of highly embarrassing relationships between US oil companies operating in Equatorial Guinea and members of President Obiang Nguema Mbasogo's ruling clan. Companies entered into business joint ventures with companies partly or wholly controlled by the president, his officials or their relatives. Multinationals also made payments that benefited officials and their family members in areas such as land lease agreements and school fees.

In Nigeria, many oil companies offer annual scholarships. Each year, Shell gives 2,600 secondary school scholarships of N50,000 (about £200) each and 800 university scholarships of N75,000 each, according

to the company. This means that each year more than 13,000 young people are studying under Shell's secondary school scholarships scheme and more than 2,500 under the company's university scheme.

These kinds of schemes raise important questions about whether companies use scholarships as a means of pacifying opposition or winning favours from community leaders. For example, according to company records, in 2000–01 Texaco funded Bello Oboko, a highly controversial Ijaw ethnic militant and critic of the oil industry, to do a one-year MSc course in environmental science at the American University in Washington. The confidential internal report prepared for Shell in 2003 said that 'scholarships and employment opportunities are often presumed divided among people that have connections with [Shell] staff'.

One consultant working for an oil company on development issues said local chiefs in crude-producing areas were given money for scholarships for their children. He said the company had paperwork to suggest the leaders were actually spending the money on scholarships, although he admitted: 'We don't know about it for sure.'

Shell was the only company to give a detailed response to questions about how it gives out scholarships. It said it did not distribute scholarships as perks to staff, adding that it regularly held events to explain to oil-producing communities and the public how the awards system worked. The scholarships were advertised in newspapers and were awarded on the basis of written tests administered by recognized Nigerian examination authorities. Shortlisted candidates' names were published in newspapers and the awards were made 'purely on academic merit'.

At a government level, campaigners say there is little or no disclosure of who benefits ultimately from many official contracts to buy crude and sell it for export. Given that Nigeria reckons it earned about \$25bn from oil sales last year, the potential for graft can be imagined.

Other statistics offer similar shafts of light into the scale of problems stemming from a culture of corruption and non-disclosure. A building consortium led by a subsidiary of Halliburton of the US is being investigated in Nigeria, the US and France over allegations that it agreed to pay more than \$170m in bribes to secure contracts to build the huge Nigeria liquefied natural gas (LNG) plant (see Annex 3). One person I spoke to about this expressed wry surprise that the sum was so low: given that the contracts could be worth \$5bn or more, the alleged amount would represent a cut of well under five per cent of the contract price.

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## A Western problem

Cases like these remind us both why the Delta preoccupies Western countries economically and why they have little commercial interest in acting strongly against alleged and proved corruption in which their companies are implicated. That rich nations are taking more notice of what is going on in the Delta is not in doubt: ambassadors from Britain, France, Italy and the

Netherlands – in other words, the countries of origin of the European oil multinationals operating in Nigeria – visited the region in 2004 to meet companies, politicians, non-governmental organizations and others. In December, Britain announced a programme to shut or downgrade 30 embassies and consulates around the world to save money and release funds for other priorities, including an extra diplomat based in Nigeria to cover energy issues. The UK Foreign Office said in February that the plan had been amended slightly: the post would now be London-based, providing an 'energy expert for west Africa' to complement similar new positions for Asia and the Middle East. Unpromisingly for those hoping for an imaginative response to the Delta's problems, the Foreign Office description of the post is soaked in the wonderfully obfuscatory language of consultant-speak: London says the job will provide a 'joined up approach to energy better reflecting our strategic priorities launched 14 months ago'.

The US has been offering increasing assistance to the Nigerian military, despite atrocities by the armed forces. Washington has donated Second World War coastal patrol boats to the Nigerian navy, ostensibly for use in stopping oil theft. I asked a US official at the time of the delivery of the first two ships more than two years ago whether Washington was concerned these boats could be used to carry out human rights abuses; she told me she had wondered that herself. When I posed the same query to the US embassy in Nigeria in February, I received no reply.

If these concerns do exist, they are being well hidden in public. In 2004, the US gave Nigerian troops military training in and around the eastern Delta port of Calabar. At the January 2005 African Union summit in Abuja, Chris Mullin, Britain's then Africa minister, said London would 'look favourably' on any request by Nigeria for help with military training or technical support in the Delta.

Rich nations have shown little enthusiasm for pressing the Nigerian government to introduce political reforms and combat the human rights and electoral abuses that so many of the country's people complain about. Asked about the criticisms by many Nigerians of the system of civilian rule as currently constituted, Hilary Benn, Britain's international development minister, said in 2004 that the 'merit of a democracy' was that people had the power to change their governments if they didn't like them. Challenged that this simply was not true in many parts of the country such as Rivers state, he suggested what happened there was not necessarily typical. He claimed 'other states were different'.

Another British official who covers west Africa was much more critical of London's reluctance to challenge Mr Obasanjo's government over election fraud and other abuses of power. 'We have said nothing to him', this person said, 'about the way he throws democratic principles away on a daily basis.'

The report published in March 2005 by the 17-member international Commission for Africa set up by UK Prime Minister Tony Blair alludes to the role that rich countries must play in improving the behaviour of

companies in industries such as oil and mining. The document recommends support for existing EU and United Nations initiatives on transparency and corruption, and adds: 'Developed country governments, company shareholders and consumers should put pressure on companies to be more transparent in their activities in developing countries, and to adhere to international codes and standards of behaviour.'

As one international human rights activist has observed, the language seems disappointingly moderate compared with, say, ChevronTexaco's self-criticism about the way it has run its development projects in Nigeria (see Annex 5). In a political environment where corrupt vested interests still control much of what goes on, outside countries have a privileged position in being able to insulate themselves from the bribery and intimidation. Their responsibility is all the greater when it is their companies that are involved in problems on the ground.

As one activist puts it, in remarks aimed at Shell but applicable to the other oil multinationals in Nigeria: 'What Shell need is what the government needs, which is major external pressure to crack down on these things. Then they can react to that. Shell will respond. But if they start it themselves, they probably won't survive it.'

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## Where does the money go?

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The Nigerian government has acknowledged some failings in its approach to the Niger Delta although, as with the oil companies, many people argue the *mea culpa* goes nowhere near far enough. At the time of the October peace deal between the government and Alhaji Mujahid Dokubo-Asari, an Ijaw militia leader, President Obasanjo condemned 'undue militancy' in the Delta, although he admitted the region's people had legitimate grievances and he criticized unnamed local officials for failing to bring development. He said: 'The obvious assessment so far is that not much impact has been made on the lives and living standards of most ordinary people of the Niger Delta.'

At a federal level, the Nigerian government has just begun a series of reforms that it claims will improve the financial transparency of transactions involving the country's oil money. It has also just relaunched its Niger Delta Development Commission, a body that is jointly funded by the authorities and the oil companies but has been heavily criticized as ineffective and corrupt. The NDDC was created by Mr Obasanjo after the failure of a series of predecessors. It has the potential to spend a lot of money: ExxonMobil, which produces between a quarter and a third of the country's oil, says the joint venture it operates contributes an average of \$30m a year to the commission.

Critics of the NDDC's 15-year strategy claim that, for all the desirability of its goals, some of it is unrealistic in a region where corruption is endemic and many areas have little or no contact with government. One target is to reduce mortality among children under five by two-thirds and to cut maternal mortality

by three-quarters, although the document gives no baseline figures in either case. Another policy is to set up science parks, such as those in Western countries, Singapore and South Africa, as part of a plan to create an 'attractive investment environment for hi-tech multinationals'.

It is too early to say whether the NDDC will be successful in any of its more modest – but fundamentally important – aims, such as developing internet access to allow market information to be sent to farmers, fishermen and traders. Yet there are already worrying signs, most notably the lack of obligation for oil state governments to part-fund the commission. There had been some political pressure to change this, but as at 14 July the NDDC's website gave no indication that the policy had changed. This exemption is widely seen as severely damaging the commission's credibility.

At a federal level, the finance ministry received applause for its progressive decision in 2003 to publish details of how oil revenues are allocated to federal, state and local governments. Yet the figures on the ministry's website were not updated for nine months after June 2004. When I asked Ngozi Okonjo-Iweala, the finance minister, about this in April, she expressed anger at the lack of disclosure, describing it as 'nonsense'. She called in an official, who told her that an information technology consultant employed by the ministry had refused to hand over the passwords needed to alter information on the website.

As of 14 July, the site had been partially updated, but figures for nine of the last 12 months were still not available. No data at all were available for the second half of 2004, when the international oil price began touching record highs.

One activist thought that publication of revenue-sharing details was in any case insufficient if there was no means to force state governments to explain and justify what they are doing. Given this lack of accountability, the disclosure process could be seen as a cynical attempt by the federal government to divert attention from itself to the state government. The ultimate effect could be that any public anger at corruption would be directed not against the authorities but against more accessible targets, such as oil company operations in the swamps.

'I am not saying [publication] is a bad thing on its own,' the activist said. 'But it has to be complemented by some other things. If you are saying to people, "you are paying this much to the state government", there has to be some accountability.'

The government's decision in March to appoint Hart Group, a British consultancy, to do a long-awaited audit of the state Nigerian National Petroleum Corporation and the oil multinationals also needs to be welcomed with some caution. This is part of a programme based on the British-backed Extractive Industries Transparency Initiative, which aims to increase disclosures of the financial relationships between oil and mining companies and the governments of the countries in which they operate. The Nigerian initiative has taken some time to organize; some participants attribute this to resource shortages and the fact that the programme is rightly

aimed at including a wide range of people from areas such as civil society and the trade unions, some of whom have needed time to familiarize themselves with the oil industry. Oil companies, including Shell, are members of the working group.

But the longer the delay to the project, which was announced in 2003, the greater will be the suspicion that the government is stalling to protect itself. One oil executive puts it bluntly: 'We have heard all kinds of stories about things disappearing – but if you can't see the books it's irresponsible to make those statements.'

It is these structural issues that will ultimately decide whether Nigerians and outsiders take the government's anti-corruption campaign seriously. The prosecutions begun recently against high-profile individuals such as Tafa Balogun, the former police chief, and Adolphus Wabara, the former Senate president, are welcome but hardly sufficient, particularly as they appear to many Nigerians to be highly selective. London and Abuja both acknowledge that other senior Nigerian officials are under investigation for money-laundering overseas, but no names are mentioned apart from Joshua Dariye, the pariah governor of Plateau state. Domestically, many cases have withered away into obscurity; these include the prosecution of the Bayelsa governor, which was recommended in 2003 by the national anti-corruption commission set up by the president. Two multinational executives told me that oil companies had been asked for bribes by parliamentarians in exchange for favourable treatment.

For now, the oil industry in the Niger Delta still lacks the fundamental accountability that would allow the behaviour of the multinationals, government officials and other parties to the conflict to be properly scrutinized. Until these relationships are brought much more into the open, it is hard to see how the old, acknowledged patterns of corruption will be changed – or, even if they do change, whether people will believe they have done. Any company or official complaints about commercial confidentiality should be set against the considerable public interest of knowing which officials at state and local level and which people in communities are receiving money, and from whom.

If things still fail to improve, the pressure for violent solutions is likely to increase in the absence of obvious peaceful ways of achieving change. Rich countries have in the past supported sanctions on west African blood diamonds and blood timber, but forgoing a sparkling ring or finely-polished teak table hardly demands the same kind of sacrifice as boycotting the oil that helps satisfy the West's energy lust. If levels of conflict were the sole determinant of international policy, then much stronger action would already have been taken: the confidential report completed for Shell in 2003 estimated that about 1,000 people a year die in violence in the Delta, putting the region on a par with Chechnya and Colombia in terms of numbers of deaths.

In a letter to Shell in March 2005, Odioma community leaders said the army assault on them was the 'direct result' of Shell's exploration and production in the area. Giving some background as to why Shell

had continued to operate in the area, Chris Finlayson, Shell's chief executive officer for exploration and production in Africa, told me the company often worked in places where there were land disputes but had found that they tended not to have the deadly outcome seen in Odioma.

As long as that gap in perspective between the oil industry and its hosts remains, the Delta is not going to become a better and fairer place to live and is more likely to become even worse. As I think about the burned houses of Odioma, I am reminded of what one activist told me as the armed resistance of Alhaji Asari, the Ijaw militia leader, with his promises of an uprising called 'Operation Locust Feast', came to a climax in 2004: 'One day we are all going to roast in this gas and oil. Because there are people poised to set fire to this thing: there is an insurgency here, there is a revolution.'

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## Recommendations

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Many fundamental issues in the Delta urgently need addressing but are beyond the scope of this work. These include land reform, pollution from oil spills and gas flaring, and the influx of arms to the region. Without progress in these areas and others, many people see little hope for improvement in this Delta.

This report – necessarily a brief overview of the situation – will concentrate instead on recommending quickly achievable changes that could bring short-term benefits as well as contributing to meeting some of the long-term aims. All my suggestions relate to the improvement of transparency and accountability among the three most influential institutions in the Delta – government, the multinational oil companies and the international community.

### *The oil companies*

- One way of making oil companies more accountable would be to establish that memoranda of understanding to provide benefits for communities are formalized as contracts, enforceable by law. Penalties for failing to honour the promises should be agreed beforehand and should form part of the contract. Such contracts would define clearly the oil industry's ongoing responsibilities for maintenance and running costs. As well as protecting the interests of people in oil-producing communities, this would show that the oil industry wants to act responsibly. It would also make companies think twice about offering projects such as clinics or schools that sound superficially impressive but are never maintained because no one pays the running and repair costs.

Bill Knight, a long-time Delta activist, says a model for this kind of relationship could be the Bayelsa state community of Akassa, which is widely acknowledged as pioneering. There the community has formed the Akassa Development Foundation,



which is registered with the Corporate Affairs Commission in Abuja, the national capital. The foundation has a constitution, trustees, members, committees, a bank account, an accounting system and external auditors. It can sue and be sued. In short, it is subject to the kind of scrutiny and accountability that almost all deals between oil companies and communities currently lack.

- All oil companies should, at minimum, publish a document similar to Shell's *People and Environment* report. In addition, all oil companies, including NNPC, should disclose clearly the following basic information that it is in the public's interest to know. If companies' contracts with government present legal obstacles to disclosing some of this information, then the two parties should agree to remove these.

1. How much the companies pay each year to the government through various means, including production-sharing and petroleum profits tax. All mechanisms by which money is transferred from oil companies to the authorities should be clearly explained.

2. Benefits provided to communities, the cost of these and the contractors appointed to do the work.

3. Details of individuals who have received academic scholarships from the companies, how much money they have been given and what they are supposed to use it for.

4. Any cash payments made by companies or their contractors to community members and the justifications for these payments.

5. Any ransom payments made by companies or their contractors to secure the release of hostages.

6. Any joint ventures entered into with local companies, including details of the beneficial owners on the Nigerian side.

### ***The international community***

- The UK and Nigerian authorities should use their increasingly close collaboration to prioritize the pursuit of suspected cases of corruption and money-laundering involving government officials from oil-producing states. The way investigators from the two countries have worked together in the case of alleged money-laundering against Joshua Dariye, Plateau state governor, has shown what can be achieved with a will on both sides. Unless action is taken against officials in the country's richest states, many Nigerians simply will not believe that the federal government and Western countries are serious about tackling corruption and money-laundering.

- There should be a moratorium on all Western military aid to the Nigerian armed forces in the Delta until the worst human rights abuses – such as the Odi massacre – are investigated, the reports published and those responsible punished.

- Western countries should clearly acknowledge the gross fraud and human rights abuses that took place during the last elections in the Delta. Rich countries should direct aid towards independent bodies, such as credible non-governmental organizations, that propose reasonable projects to help improve the conduct of the 2007 national elections. Many people in west Africa point to the example of the 2000 election of Senegal, where it is widely thought that some ballot fraud was circumvented because polling stations phoned their preliminary results into district vote collation centres. These verbal results could then be checked with the written tally once it arrived at the centre, meaning that any tampering done *en route* would be obvious.

- The deeper problems seen in some parts of the Delta – such as armed thugs stealing ballot boxes and results sheets, or results being fixed at voting centres – should be documented by domestic and foreign observers and then criticized publicly in the strongest possible terms.

- Delta officials who are credibly implicated in corruption or human rights abuses should be prevented from entering the US, UK and other countries that have significant commercial interests in the Nigerian oil industry.

- Western countries should provide funding to credible NGOs that commit themselves to scrutinizing the finances of state governments and raising concerns about corruption. This would require rich nations to provide training in areas such as financial analysis and also to exert diplomatic pressure against any state officials implicated in the harassment of NGOs that were seen as critical. Funding is in theory available through programmes such as the UK Department for International Development's 'drivers of change' initiative, although an official admitted that the department's decision to offer support to civil society organizations had not led to much action yet.

### ***The federal government and the National Assembly***

- The federal government should address the fundamental concerns about the conduct of the 2003 elections in the Niger Delta. President Obasanjo has publicly criticized the ballot fraud in the governorship election of the eastern state of Anambra. He should do the same in Rivers and

should appoint independent investigators to look into the reports of ballot fraud across the oil-producing states.

- An act of parliament should be passed compelling state governments to publish widely and make available on the internet details of how they spent the money allocated to them from the federal government. A further act should be passed compelling the multinational oil companies and NNPC to publish the information outlined above.

- The constitutional provision conferring immunity of prosecution on senior officials, including the president and the governors, should be abolished.

- The 1977 Land Use act, which gives government ownership of all underground minerals and oil, should be reviewed and revised if necessary to take account of Delta community demands for greater resource control. One option would be to amend the current law so that the enhanced share of revenues that go to oil-producing states do not go to state governments but to special funds that would be highly transparent and would allocate money to development programmes.

- The government should hold a full public inquiry into the issue of oil theft and who is profiting from it. The inquiry should have extensive powers to compel disclosure of information and should be headed by a respected individual from outside the world of Delta politics. Those identified as culpable should be prosecuted. The international community should offer to provide funding for the inquiry.

- If the finance ministry's claims of greater transparency are to be credible, it must keep updating the information on its website in a timely fashion.

- Preliminary information from the audits of the state oil company and the private multinationals should be released as soon as possible, to demonstrate the good faith of all parties involved in the process.

- The Niger Delta Development Commission should concentrate on small, community-based developments rather than unlikely plans to make the Delta into an attractive base for non-oil multinationals.

### ***State and local governments***

- State governments should start to pay contributions to the Niger Delta Development Commission. The body will simply not be credible if they make no commitment to it.

- State governments should prepare detailed accounts, at least once a year, showing how they have spent the oil money allocated to them. This should be made available on the internet.

- Local governments and community ruling structures should be more involved in developing and implementing the government's national economic development strategy (NEEDS) and its state economic development strategy (SEEDS). This would help ensure that the existing plans do not fall into the same trap as the oil companies, by funding projects that are irrelevant or harmful to communities' needs. This approach would require funding, perhaps from international organizations and governments, for the training of people at local level in accounting and other skills. In other words, the new approach could be similar to that suggested for the relationship between the oil companies and communities.

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## ANNEX 1: NIGERIA'S DISAPPEARING OIL

The practice of removing petroleum products from oil pipelines and well-heads, without authorization from either oil companies or the government, has become one of the most serious contributors to Delta conflict. Commonly known in Nigeria as 'illegal bunkering', it is widely thought to involve large-scale smuggling operations that use road tankers, barges and large ships offshore.

Militants such as Alhaji Mujahid Dokubo-Asari, the leader of an Ijaw militia known as the Niger Delta People's Volunteer Force, have argued that local people who take oil from pipelines should not be considered thieves, as the resource belongs to them. He proposes ignoring the constitutional provision under which the government owns all oil resources – a law passed when President Olusegun Obasanjo was a military dictator in the late 1970s – and replacing it by direct resource control by the Delta's people. His view has attracted much support in the Delta, even if many people inside and outside government are highly sceptical of Mr Asari's claims that he takes oil only for his own group's needs or to give to local people free or at a subsidized cost.

Von Kemedi, a respected Ijaw activist, summed up the sense of dilemma that many people from the Delta feel about the issue of taking oil from pipelines. On the one hand, he thinks that 'when people say it's resource control it can be legitimate, even if the government doesn't like it.' On the other, he acknowledges that the large-scale, uncontrolled removal of oil could exacerbate the Delta's problems: 'Yes, some of our people are making money. But it's dangerous in terms of destroying our own society.'

On a 45-minute Shell helicopter overflight of the area round Port Harcourt last year, I saw a number of vessels that the company said were used in bunkering. Some were hidden but, in one creek, thirteen vessels identified by a company official as oil thieves operating quite openly. The waterway was so polluted with a trail of oil that the iridescence could be clearly seen from the helicopter.

The estimates of how much oil is taken from pipelines in this way vary widely, raising the suspicion that either many people are writing without knowledge or that there is an attempt at a corporate or official level to cover up the extent of the problem. For example, a confidential report completed for Shell in 2003 by WAC Global Services, a group of conflict management specialists, concluded that between 275,000 and 685,000 barrels were taken on average each day, generating between \$1.5bn and \$4bn annually for the thieves. Dr Edmund Daukoru, special presidential adviser on oil and gas issues, estimated last year that 300,000 barrels were taken each day.

Jay Pryor, managing director of Chevron, the country's third-largest producer, says: 'I have run companies that have had less production than is being bunkered in this country.'

Yet Shell's official figures put the volumes mostly in the range of 40,000–100,000 barrels per day (bpd), while ChevronTexaco says it loses less than 5,000 bpd. Both ExxonMobil and Total declined to comment, although Total is a fairly small producer (about 225,000 bpd), while ExxonMobil's holdings are offshore and therefore far less vulnerable to thieves. One person who has worked closely with Shell over the past few years says internal company documents suggest the actual figures are much higher than the published numbers. Asked whether this was true, the company said it could 'only comment on figures that we ourselves disclose'.

Even if theft accounts for 'just' 50,000 bpd, that would amount about \$3m of lost revenues each day at current crude prices. In other words, every two months Nigeria would lose oil about equal to the UK Department for International Development's proposed expanded annual aid budget of 100m pounds. The annual theft figure would be more than \$1bn, or about the same as Nigeria will save annually in Paris Club debt repayments under a debt relief deal announced in June.

Bronwen Manby, a British human rights activist who has spent a lot of time in the Delta, felt that the government and oil companies could in the past have been quite happy to tolerate a limited amount of oil theft if they felt it helped keep militias or communities quiet. Multinationals' production was limited by quota anyway, so they would have been able to increase flow rates slightly to compensate for any loss to theft. The financial loss to the companies and the government would occur years in the future, when the reserves ran out slightly earlier than expected. In other words, the potential upside would be immediate, while the downside would be deferred until long after the politicians and oil executives had moved on. If the authorities and companies had ever used this logic, they would have begun to question it seriously as violence in the Delta increased, Ms Manby added.

The confidential report prepared in December 2003 for Shell explored a 'homeostasis' scenario, in which between 8 and 10 per cent of production was stolen. This would represent 'a level low enough not to attract military intervention while still providing acceptable revenue flows to government and the oil producing corporations'. The report describes this outcome as 'plausible', but says companies could not continue to absorb the escalating costs associated with community demands or meet the standards of public accountability and transparency increasingly demanded by international bodies and shareholders.

Shell dismisses the argument that oil companies are prepared to countenance some oil theft.

One interesting feature of Shell's official figures is that they show an increase in losses during the run-up to the April 2003 national elections. During the 18 months to the end of June 2004, the two single biggest daily losses were in February 2003 (85,000 barrels) and March 2003 (90,000 barrels). This appears to provide at least some circumstantial support for the widespread belief among Delta activists that the proceeds of large-scale oil theft are used to fund the provision of bribes and arms to militias at election times, further undermining the legitimacy of the political process.

The first substantial acknowledgment of official complicity in large-scale oil theft came in January, when two rear-admirals were sacked after a court martial found them guilty of involvement in the disappearance in 2003 of an impounded tanker that had been shipping stolen oil from the Delta. In 2003, I had asked Brigadier-General Elias Zamani, commander of a peacekeeping force set up in the Delta that year, whether the theft was being carried out by local people, the armed forces, government officials or foreigners. He replied simply: 'All.'

Oil company executives also hint at the possibility of official involvement, although they are either unable or unwilling to make any direct or specific accusations. According to Chevron's Mr Pryor, bunkering is highly organized and well-resourced logistically. He added: 'If they know they are getting it from the same point every time, surely we can chase them down?' But, when asked if he thought bunkering was done with official complicity, he became more cautious. 'That one's a hard one,' he said. 'I can't say.'



**ANNEX 2: HOW THE APRIL 2003 ELECTION WAS STOLEN IN RIVERS STATE**

On election day in and around Port Harcourt, the oil industry's principal base and the capital of Rivers state, I did not see a single vote cast legitimately all day. I saw public voting, intimidation and stuffing of ballot boxes by ruling party agents and heard accounts of ballot boxes being stolen by armed thugs. In Ogoniland, I watched as returning officers leafed through a sheaf of results sheets in which a series of papers recorded a 100 per cent turn-out and 100 per cent vote for President Obasanjo. At a road junction outside Port Harcourt, I saw voters marking their ballot papers in the open – the ballot box filled up rapidly under the gaze of two men who identified themselves as ruling party agents, one of whom was actually putting votes into the box himself. By 12.45 – more than two hours before the scheduled close of voting – the station was deserted and the voting materials had gone.

People expressed anger in various parts of the town that polling stations had failed to open. A group of young men in central Port Harcourt tried to persuade me that a large street protest complaining about the non-distribution of ballot boxes was being staged by people who were mentally disturbed. Against a barrage of catcalls by the crowd, the youths – who were identified by onlookers as supporters of President Obasanjo's ruling People's Democratic Party – drove off at high speed to continue their bizarre and insulting campaign elsewhere.

Over three years, I have been told by a wide range of people that the Rivers government bears a heavy responsibility for the condition of the state. Business people, local communities, non-governmental organizations and journalists say the administration has a reputation for corruption and political harassment. In a controversial case, Marshall Harry, chief Niger Delta organizer for the opposition All Nigeria People's Party at the last election, was killed at his house in Abuja shortly before the April 2003 elections. Many Nigerians mock the official explanation that Mr Harry was the victim of an armed robbery.

Magnus Abe, the Rivers information commissioner, denied that the government and its supporters were repressive. He rebutted the widely-made allegation that the authorities are involved in arming militias to help rig the elections. He said God had put Governor Odili in power and would 'see him through' the criticism. Mr Abe said the governor had no need to intimidate his opponents through violence. 'As a governor, he can tell the police to lock someone up for 24 hours,' he said. 'He doesn't need guns to fight them. It's totally unnecessary.'

Asked later to clarify what he meant by his reference to the governor's powers to detain people, Mr Abe said: 'He has the power constitutionally. But there is no state that has been more tolerant of opposition than the Rivers state government. Those [critical] newspapers put together are more dangerous than our opposition combined.'

### ANNEX 3: THE Ogoni DISPUTE

Shell's activities last year in the Ogoni region, where oil production has been shut down since 1993, have crystallized a range of concerns about the role of multinationals and their agents in community conflicts.

Community members were angry about Shell's approach to pipeline cleaning in the area and about payments made to a controversial local chief by Casella, a UK contractor employed by Shell to clean up a large oil spill.

The Ogoni troubles became the most internationally high-profile Niger Delta conflict after the 1995 execution of Ken Saro-Wiwa and eight other environmental activists by the then military government.

Shell said it wanted to do essential maintenance in Ogoni on the trans-Niger pipeline, which carries the company's 200,000 bpd Nigerian land production for export. It stationed members of Nigeria's paramilitary mobile police – whose public notoriety is such that they are nicknamed 'kill and go' – to guard its facilities against tampering it had observed.

Supporters of the Movement for the Survival of the Ogoni people, the leading campaigning group in the region and long-time critics of Shell, accused the police of attacking community members. Mosop supporters also said they had been assaulted by thugs working for Chief Fabian Gberesu, the then traditional ruler of the K-Dere community, who had been sympathetic to Shell. Ledum Mitee, Mosop president, said Casella had made 'inappropriate' payments to Mr Gberesu that were provoking conflict between him and community members.

Jerry Ellison, technical manager of Casella's Nigerian subsidiary, admitted the company had paid N450,000 for a car as part of a series of gifts to Chief Fabian and a wider local development programme in areas such as education and health. Casella gave the chief a further N100,000 while bidding for community approval for the clean-up contract, although Mr Ellison said this was below the maximum N150,000 'homage payment' it made to local leaders and was much less than other contractors paid. The company gave N100,000 to refurbish toilets at the chief's palace that Mr Ellison said now had 'the deepest septic tanks in the world'.

Mr Ellison said Chief Fabian once asked for a helicopter but 'not in such a way as we took him seriously'. He said Casella's payments should be seen as a business deal or public relations rather than as bribes. 'You ain't going to talk to anybody if you don't pay homage,' he said. 'If you want to stay in business, you have got to pay.'

The clean-up of the spill was delayed for a number of months after Shell asked Casella to pull out of Ogoni to avoid further trouble. Shell admitted the episode had damaged its reputation, but added it did not think Casella had done anything wrong. Indeed, Shell gave Casella another contract elsewhere to replace the Ogoni work.

The episode fed local resentment at Shell over a series of oil slicks at its well-heads in Ogoni. At one, a local woman stood barefoot in the oil and explained how the pollution had destroyed her fields, including a pineapple plantation. Women at another slick also said their crops had been ruined.

Ian Sparks, managing director of Casella Group, the UK parent company of Casella Nigeria, said Casella Nigeria was sold in November. He declined to discuss Casella's work in Nigeria further.

Shell said it did not approve any gifts by Casella to anyone in the community, adding that Casella's contract to clean up K-Dere had expired in December.

In theory, cases such as the controversy over Casella's actions should not arise under new rules introduced by Shell in January, which forbid direct payments to communities by either the companies or its contractors. The regulations can be over-ridden with the approval of a director from Shell's head office in The Hague, although the company says it cannot envisage circumstances under which this provision will be used.

Activists will be watching closely to see if this proves to be the case.

#### ANNEX 4: OLOIBIRI – WHERE IT ALL BEGAN

On a roadside in Bayelsa state, a rusty barbed wire fence surrounds a dilapidated oil well-head and a decaying signboard. 'Oloibiri: well number one,' it reads. 'Drilled June, 1956.' A few yards away, an imitation marble monument commemorates the March 2001 visit of President Olusegun Obasanjo to the well, the site of the country's first commercial oil production. The plinth announces the laying of the foundation stone of the Oloibiri Oil and Gas Research Institute, 'to the glory of God and service to the Niger Delta people of Nigeria'.

The only problem is that no-one in the local area seems to know anything about the institute. Shell, which operated the now-defunct Oloibiri well, declines to comment, although officials say privately it is a matter for the environment ministry. A ministry official, who asked not to be named, said the institute never existed. When the president visited, he was annoyed to be asked to announce the establishment of a project for which no funds were available, the official said.

The story, in Nigeria's oldest oil-producing community, highlights the huge gap between what the industry's arrival promised local people and what it has delivered. Two communities, Oloibiri and Ogbia, dispute the ownership of the land on which the Oloibiri well is located. What both agree on is that they have received few benefits from the oil production that began in the area almost half a century ago.

In Ogbia, Kingsley Tarinyo, a political adviser to the local government chairman, starts a guided tour of the community at the town hall, which is an empty shell with a rusting metal roof. He shows a rubbish-filled well that the village uses for its water supply: the piped water system does not work, because there is no electricity to power the pumps. The town has had no network electricity for 15 years, he says.

Mr Tarinyo wears a T-shirt campaigning for the return to power of Ibrahim Babangida, a military dictator whose 1985–93 regime was notoriously corrupt and who annulled the results of elections that were supposed to take the country back to civilian rule. The allure of such apparently unattractive leaders is increased by the sense of disenfranchisement that the community still feels after six years of civilian rule. As James Oborisi, one of the area's traditional rulers, puts it: 'I want to talk about the neglect of the federal government, in collaboration with Shell.'

In the town of Oloibiri, the cream paint of a deserted and padlocked school has peeled away to reveal grey walls and a rotting roof. A plaque on the wall says that the six-classroom block was built and donated by Shell in 1992. 'They just built it,' shrugs Sunday Nyingife, a local man, 'but up to now, there is nothing going on. Since then, no lessons, ever, no teachers employed.'

Two empty tins of Titus sardines are trodden into the path through this fishing community, which says its waters have been polluted by oil production. The toilet consists of holes directly above the river, and the metal taps sprinkled around the community do not work. 'No water,' says Mr Nyingife. 'Abandoned projects.'

Shell said it was able to supply only limited information about its relationship with Oloibiri. The company questioned whether it was true that the school had never functioned.

Whatever the truth in this particular case, many villages in oil-producing areas echo the same complaint: companies have failed to execute projects they promised in memoranda of understanding, or infrastructure has been built but is useless because it has decayed or because staff or equipment were never provided. Typically no costs are mentioned in the memoranda, nor are any plans attached. Often there is no mention of ownership or management of staff or equipment.

Frequently companies promise to address symptoms of problems rather than causes. One respected activist points to the example of a multinational building a hospital in response to community complaints of ill-health, when people are getting sick because their water supply is polluted with human waste. A far more useful project would be to give the community access to safe drinking water.

The activist characterizes the present system as one of expedient and sometimes corrupt relationships between companies and a few self-appointed representatives of communities, some of whom may benefit financially from contracts issued to do the work paid for by the multinational. The activist says that memoranda of understanding are often signed with a 'flourish of publicity' by the oil company, government representatives and a few local people who have no legal basis for representing the community or committing it to anything.

Chris Finlayson, Shell's chief executive officer of exploration and production in Africa, has acknowledged that the company has experienced 'significant' problems with corruption in its community relations programmes.

The Oloibiri community still has what it says is the original January 1956 agreement between Shell and the local community that gave the company the right to the use of 2.138 acres land for five years at a rental of one pound per acre per year. If it looks a small sum, the company officials seem to agree: in a reference to the 'valuable consideration of one pound an acre', the words 'valuable consideration' have been crossed out by hand and replaced simply by the word 'compensation'.

Shell said it could provide no information about the land lease document, and that many of the records of its early involvement in Nigeria were lost or destroyed during the country's civil war in 1967–70.

For local people, the story of the country's first oil well has become part of a wider Delta history that is little recorded but is still remembered angrily and used as a political motivation today.

'We want the owners of Shell, the chairman of the board of Shell, to come to Oloibiri, to see what's here,' says Chief Osobere Inengite, Oloibiri town's traditional leader. 'Oloibiri is supposed to be compared with Texas.'



## ANNEX 5: CHEVRON'S MEA CULPA

In May 2005, a number of Nigerian newspapers published allegations that many Delta communities found ChevronTexaco's policies inadequate, expensive and divisive. The system of designating some communities as 'host communities' to the oil industry meant other villages felt 'alienated and underprivileged'. This inadvertently led to or added to conflicts between communities; a culture of rumour, blame and dependency thrived.

The critique is not new but the twist is that all these observations came from Chevron itself, in a published advertisement. The company said that at least \$500m of its property had been destroyed in the 2003 crisis between the Ijaw and Itsekiri ethnic groups in the western Delta that led to the temporary shut-down of more than a third of the country's oil production. The company added that the figure took no account of the cost to Chevron of business activities put on hold since the crisis.

'For the most part, the Niger Delta is ... an environment characterized by an unhealthy, unsustainable relationship, prone to conflict and division,' Chevron said. 'In fact, violent incessant inter- and intra-ethnic conflicts have left many of the development projects funded by the company destroyed, not to count the many lives and private property lost.'

The tone and content of these observations are strikingly similar to those in the confidential report prepared in December 2003 by WAC Global Services, a group of consultants working for Shell. Equally, many of Chevron's suggested self-improvements are similar to the 13 'big rules' on community relations put in place by Shell at the start of 2005.

Chevron proposes:

- Forming regional development councils to fund projects by area rather than on a community-by-community basis.
- Widening communication beyond a few chosen villagers, who may or may not be representative, to include other interest groups such as NGOs and the Niger Delta Development Commission.
- Paying greater attention to initiatives that offer local people the chance to earn money, rather than to social development projects such as schools that quickly fall into disrepair.

Many of the problem areas – and potential solutions – were identified by activists many years ago. It is perhaps revealing that it has taken so long for the industry to make these changes – and that the companies themselves, rather than government or the international community, now seem to be leading the process.

## ANNEX 6: THE EXPLOSIVENESS OF ALLEGED CORRUPTION

A three-country bribery probe into an international building consortium, including a Halliburton subsidiary, has provided a rare insight into the scale, institutionalization and resistance to investigation that characterize much alleged corruption in Nigeria.

Investigators in France, Nigeria and the US are examining whether the consortium – which also includes companies from France, Italy and Japan – agreed to pay more than \$170m of bribes to win construction work worth many billions of dollars on a giant natural gas liquefaction project in the Niger Delta.

The breadth of interests vested in the case gives an idea both of the sophistication of much of Nigeria's alleged grand corruption and why domestic authorities and outsiders may be reluctant to challenge it. The probe is the only one of a number of investigations into Halliburton worldwide relating to a period when Dick Cheney, the US vice-president, headed the company. It draws in several multinational oil companies and it covers a long period of contemporary Nigerian history including several military and civilian governments: many of those in power during that time either still hold office or exercise political influence in other ways. Part of the insurance cover for the project was provided by international governmental export credit agencies, including Britain's Export Credit Guarantees Department project – its first involvement in Nigeria for more than 15 years.

In all cases, the attraction of the project – and the reason why it is so important for it to go smoothly – is the huge emerging market for liquefied natural gas (LNG) in both Europe and the US. As one British government official put it: 'The economics just look absolutely amazing.'

The case concerns payments allegedly made between 1995 and 2003 by TSKJ, a building consortium comprising Technip of France, Italy's Snamprogetti, JGC of Japan and KBR, a Halliburton subsidiary. The consortium has built or is building six production units for NLNG, a company that exports liquefied natural gas. NLNG, which is owned by the Nigerian government, Royal Dutch/Shell, Total and Agip, is one of Africa's biggest industrial projects, with total investment of \$12bn.

A French magistrate, Reynaud Van Ruymbeke, is investigating allegations that the building consortium channelled money to Nigerian officials and expatriate managers through a Gibraltar-registered company called Tri-Star Investments. Tri-Star is controlled by Jeffrey Tesler, a London-based lawyer with long-standing links to Nigeria's political elite. Contracts signed by the building companies promise Tri-Star a total of \$171.5m in exchange for services such as promoting the consortium, advising on contractors and helping maintain good relations with the client, government authorities and business representatives. According to the contracts, Tri-Star commits not to make payments to government officials. Mr Tesler has consistently declined to comment on his role in the affair.

Halliburton has already had to make some embarrassing disclosures about the case. In June 2004, it fired William Chaudan, a consultant, and Jack Stanley, a former KBR chairman. Mr Stanley allegedly received 'improper personal benefits', Halliburton said. Mr Stanley and Mr Chaudan have both declined to comment.

In September, Halliburton admitted it had found documents showing that members of the consortium had discussed paying bribes to Nigerian officials. It added that it was investigating further to see if any bribes had actually been paid.

On the Nigerian side, the depth of involvement of officials in the project is clear from documents that have leaked from the French investigation. In testimony to the judge, Mr Tesler claims to have been to Nigeria only once – in 1983 or 1985 – but says he has worked 'on a daily basis' with the country since 1977. He 'brought advice to Nigerians at all levels,' spoke to them on the phone and met them in London, where he is partner in a law firm based in Tottenham, north London. 'It's very rare that I spend a day without seeing [a Nigerian],' he said. 'London is their second home.'

The TSKJ consortium met Nigeria's heads of state every two or three years between 1995 and 2003, Mr Tesler told the judge. The group twice met Gen.Sani Abacha, once with his military successor Gen. Abdulsalami Abubakar and once with Olusegun Obasanjo, the current civilian president.

In the same testimony, Mr Tesler claims that he made two payments totalling \$75,000 in 1997 and 1998 to M.D. Yussuf, one-time chairman of the NLNG project, a former police chief and a candidate at the last presidential election (his party, the Movement for Democracy and Justice, stood as a radical alternative to Nigeria's corrupt political elite). Mr Tesler said Mr Yussuf helped him organize meetings between the building consortium and Gen. Abacha in 1995 and 1996. Mr Tesler does not elaborate on what the payments were for, nor does he mention Mr Yussuf's involvement with NLNG.

Mr Yussuf has admitted that he had received money from Mr Tesler, although he said these were private loans rather than bribes. The payments had nothing to do with the natural gas project, he told a Nigerian parliamentary committee set up to investigate the case.

In a later interview, Mr Yussuf expanded a little on his relationship with Mr Tesler. He explained that he periodically borrowed hard currency from Mr Tesler to buy items such as air tickets in Britain and the US, paying the loans back later in Nigerian naira. He confirmed he had received the two payments and arranged the two meetings described by Mr Tesler, although he said he did not think he was chairman of NLNG at the time he received the money.

In fact, NLNG company records from Nigeria's Corporate Affairs Commission show that Mr Yussuf was still listed as chairman on 31 December 1997 – ten months after the first payment.

Similarly, Mr Yussuf claimed he was unaware of Mr Tesler's links with the gas liquefaction project until after he stepped down as chairman. Yet this hardly seems consistent with Mr Yussuf's own acknowledgement that the meetings Mr Tesler asked him to arrange were between Gen. Abacha and two members of the consortium building the gas plant.

In the later interview, Mr Yussuf expressed concern that the allegations might make some people think he had taken \$75,000 in order to award a \$3bn contract to the building consortium. The allegation suggested he was 'cheap', he observed wryly. 'I didn't like that,' he said. 'Nigerians would kill me.'

The ongoing controversy has not prevented TSKJ receiving substantial new work on the gas plant. In July last year, NLNG awarded the consortium a further \$1.6bn contract to expand the project, despite the investigations in the Nigerian parliament and elsewhere. NLNG even wrote to the head of the parliamentary probe to warn that interrupting the investment decision process on the expansion contract would delay the project by two or three years and could cost the consortium \$1.25bn.

NLNG says an internal investigation has concluded that it did nothing improper in relation to any of the contract awards to TSKJ.

The multinational oil companies have shown an equal lack of inclination to pursue the case. Shell has said it is taking no further action because it has been legally advised that it has no obligation to do so. Total, Agip and NNPC declined to respond to questions about the issue.

The British government's Export Credits Guarantees Department has also done little to investigate the bribery allegations, according to internal documents released to the Financial Times under Britain's Freedom of Information act. The department did little more than ask Halliburton whether the allegations were true, according to the papers.

Yet the documents released by the British government, which have been heavily censored, raise fresh questions about some important issues. As recorded by ECGD memos, some of Halliburton's responses were misleading or omitted crucial details. The documents also raise questions about whether MW Kellogg Ltd, Halliburton's UK subsidiary, was entirely candid in an application for more than \$200m in insurance funded by British taxpayers to cover the company's work on the gas project.

Halliburton is adamant that it did not withhold information from ECGD and says all its statements have been 'true and correct'.

No UK authority has announced a probe into the case, despite the fact that foreign countries on three continents have seen fit to investigate allegations involving a British national, a British government department and – in MW Kellogg – a British-based company. The ECGD says it is not an investigatory body able to look into the matter more deeply.

The passive response by the British government to allegations that a project it supported was won with the aid of bribes is seen by activists as undercutting its claim to head the international fight against corruption. A report issued in March by the Commission for Africa, a body set up and chaired by Tony Blair, the British prime minister, criticized the 'poor record' of export credits agencies in 'using their unique position to encourage better governance. ... [They] tend to function in highly non-transparent ways.'

Given what has already been admitted publicly, it seems remarkable that this case is not being pursued more vigorously internationally. To recap, a leading multinational company has admitted that a consortium of which it was a member discussed paying – and perhaps paid – bribes to Nigerian officials. It has publicly repudiated a very senior former member of his staff and said that he was personally involved in corruption. In Nigeria, a former chairman of the company that awarded the contracts to the consortium admits he took money from the alleged orchestrator of the bribes.

Nor has there been any greater mood for disclosure in Nigeria. One government official who has worked on the case suggested that publication of the full results of the domestic probe would destabilize the nation, because of the number of powerful people who were implicated. 'We don't want this country to explode,' he said. 'That's why we keep our findings to ourselves.'

Against this background, it is hardly surprising that the case is not discussed. It is in no one's interests to talk about it. Increasingly, the response to the revelations is proving even more revealing than the disclosures themselves.

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