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Executive Summary and Recommendations

# Nigeria's Criminal Crude: International Options to Combat the Export of Stolen Oil

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Nigerian crude oil is being stolen on an industrial scale. Some of what is stolen is exported. Proceeds are laundered through world financial centres and used to buy assets in and outside Nigeria. In Nigeria, politicians, military officers, militants, oil industry personnel, oil traders and communities profit, as do organized criminal groups. The trade also supports other transnational organized crime in the Gulf of Guinea.

This report explores the international dimensions of Nigerian crude oil theft. It also tackles the thorny question of what the international community could – and should – do about it.

## Background

Nigeria offers a strong enabling environment for the large-scale theft of crude oil. Corruption and fraud are rampant in the country's oil sector. A dynamic, overcrowded political economy drives competition for looted resources. Poor governance has encouraged violent opportunism around oil and opened doors for organized crime. Because Nigeria is the world's 13th largest oil producer – exports often topped two million barrels per day in 2012 – high rents are up for grabs.

The basic story of how Nigeria's crude goes missing has been told for years. To steal oil, thieves tap into pipelines and other infrastructure in the Niger Delta. They then pump the oil onto waiting barges and boats. Some of it is refined locally while larger vessels carry the rest abroad. There are also allegations that oil vanishes from at least some of the country's roughly two dozen export terminals.

This narrative, while mostly correct, is oversimplified. Lines between legal and illegal supplies of Nigerian oil can be blurry. The government's system for selling its own oil attracts many shadowy middlemen, creating a confusing, high-risk marketplace. Nigeria's oil industry is also one of the world's least transparent in terms of hydrocarbon flows, sales and associated revenues. Industry-watchers and policy-makers often think they know more about oil theft than they actually do.

The specifics of who steals oil are elusive, even in Nigeria. A typical large-scale theft network has facilitators, operations and security people, local and foreign transport, buyers and sellers, and a range of opportunists. Top Nigerian officials cut their teeth in the oil theft business during military rule. Over time, evidence surfaced that corrupt members of the security forces were actively involved. The country's return to democracy in 1999 then gave some civilian officials and political 'godfathers' more access to stolen oil.

## Should foreign governments engage?

At present oil theft is a species of organized crime that is almost totally off the international community's radar. Officials outside Nigeria are aware that the problem exists, and occasionally show some interest at high policy levels. But Nigeria's trade and diplomatic partners have taken no real action, and no stakeholder group inside the country has a record of sustained and serious engagement with the issue. The resulting lack of good intelligence means international actors cannot fully assess whether Nigerian oil theft harms their interests. Governments need to know more about Nigerian oil theft and their options for engaging before they pledge major resources to confront the problem.

Outside governments probably would have to join forces to curb the export of stolen Nigerian oil significantly. Nigeria could not stop the trade single-handed, and there is limited value in other countries going it alone. However, an intelligent multi-state campaign could, in theory, close off markets and financial centres, and raise the costs of stealing.

Some arguments for outside intervention are more compelling than others. Stolen Nigerian oil and the money from it pollute markets and financial institutions overseas, creating reputational, political and legal hazards. It could also compromise parts of the legitimate oil business. On the other hand, oil theft has not been a big security risk for Nigeria or West Africa, although it has helped destabilize the Niger Delta and could do so again. And the idea that the international community should label stolen Nigerian crude 'blood oil', as is done with regard to the trade in blood diamonds or conflict minerals, is not borne out by fact or law.

Some think the scale of the trade is too big not to act, yet it is not entirely clear how much of the oil Nigeria produces is stolen or exported. Without better knowledge of how oil theft works, governments hoping to help solve the problem could find themselves out of their depth. Poor programming would be likely to waste taxpayer money, provoke diplomatic tension, misread the local political environment and legitimize rogue actors.

Assuming a foreign government did decide to act, with whom should its officials engage? The Nigerian government tends to crack down on oil theft only when it reaches hard-to-manage levels. Past administrations relied on ad hoc shows of military force and political settlements – a path that President Goodluck Jonathan may largely follow. Oil theft affects the five international oil companies that produce most of Nigeria's crude to different degrees. Some actors question the sincerity of the companies' public stances on theft, especially where it does not cost them much. No other industry stakeholders – from oil traders and militants to activists and host communities – seem to have the right mix of influence and will for change.

## Recommendations

This report recommends the following four first steps for building a cross-border campaign against Nigerian oil theft.

- Nigeria and its prospective partners should prioritize the gathering, analysis and sharing of intelligence.
- Nigeria should consider taking other steps to build the confidence of partners.

- Other states should begin cleaning up parts of the trade they know are being conducted within their borders.
- Nigeria should articulate its own multi-point, multi-partner strategy for addressing oil theft.

### Intelligence-gathering priorities

Future intelligence work on Nigerian oil theft should focus on the following four topics.

#### ***Volumes of oil stolen***

Estimates of how much oil Nigeria loses to thieves vary widely. Fundamentally different pictures of the trade emerge depending on which figures one accepts. The best available data suggest that an average of 100,000 barrels per day vanished from facilities on land, in swamps and in shallow water in the first quarter of 2013. This number does not include what may happen at export points. It also assumes the integrity of some industry data. Factors that confuse the issue include poor measurement practices; confusion over how much oil is stolen as opposed to being spilled, and exported as opposed to being refined locally; conflicting claims about the export terminals; and mixed evidence that theft is spiking. To firm up estimates, investigators should focus on:

- The number and operational capacities of active export bunkering rings;
- The nature and size of any so-called 'white collar' oil theft;
- Transit, anchoring and fuelling patterns of ships suspected of stealing oil in Nigerian waters;
- A survey of small to mid-sized tankers regularly anchored offshore the Niger Delta; and
- Mapping of the main illegal bunkering hotspots.

#### ***Movements of stolen oil***

Crude oil can move in complex ways once it leaves Nigerian waters. Buyers load multiple parcels of crude onto single ships, or transfer oil between ships. Others blend different grades of oil and place large quantities in storage. None of these moves are suspect *per se*, but thieves can use them to launder stolen oil into the licit market. Sources interviewed during the research for this report tentatively pointed to the United States, several West African countries, Brazil, China, Singapore, Thailand, Indonesia and the Balkans as possible destinations. Results from a 10-year comparison of Nigerian oil export figures with import data from 20 countries could partly support these claims. Going forward, intelligence personnel should seek to understand:

- The possible roles of commodities traders in oil theft;
- The main nationalities involved, particularly at higher levels of the business;
- Case studies of suspect refining companies;
- Blending and storage practices for Nigerian oil; and
- Any links between oil theft and fuel oil trading.

#### ***The money trail***

The big Nigerian oil theft networks use foreign banks and other channels to store and launder their earnings. Thieves have many ways to disguise the funds they move around the world. These include bulk cash smuggling, delayed deposits, heavy use of middlemen, shell companies and tax havens, bribery of bank officials, cycling cash through legitimate businesses and cash purchases of luxury goods. Interviewees named various East, West, and Southern African countries, Dubai,

Indonesia, India, Singapore, the United States, the United Kingdom and Switzerland as possible money-laundering hotspots. It seems much of the money ends up in Nigeria; some avoids the financial system altogether. Investigators in this area could focus on:

- How oil thieves pay for large capital expenses, ships above all;
- The use of bulk cash smuggling to conceal oil theft proceeds;
- Nigerian banks used to launder proceeds;
- Profiles of the facilitators used by suspected oil thieves use to move their money; and
- Data on who charters, insures and issues letters of credit linked to ships carrying stolen oil.

### ***Security risks***

Historically, oil theft has been a symptom as well as a cause of violent conflict in parts of the Niger Delta. It could destabilize the area again, especially if law-enforcement agencies go after the wrong people, if rival theft networks start turf wars or politicians use stolen oil to finance election bids. In the longer term, Nigerian oil theft could harm broader strategic interests in the Gulf of Guinea by strengthening other types of organized crime that are known to destabilize governments. The biggest concerns are terrorism, drug-trafficking and piracy. To better understand the risks, intelligence officers could investigate:

- The roles Niger Delta militants play in oil theft, particularly since the 2009 declaration of amnesty for them;
- Current tensions and rivalries between oil theft networks;
- The nature and strength of northern Nigerian interests in oil theft;
- Links between oil theft, drug-trafficking and terrorism; and
- The possible use of oil theft as a campaign finance mechanism.

## Engagement options for foreign governments

Governments wishing to tackle the international trade in stolen oil have three main options for engagement. Each option contains several possible interventions, some of which are more recommendable than others. This report assesses their relative strengths and weaknesses only to the extent that is possible outside the bounds of a detailed multi-partner strategy or action plan.

### ***Control physical movements of oil***

Foreign officials cannot do much to control Nigerian oil flows, especially those happening beyond their territorial boundaries. The three areas of intervention below have long been discussed.

#### *Genetic fingerprinting of oil*

Fingerprinting of crude oil is not a viable tool for preventing oil theft. The existing technology has serious limitations. It is also not clear how governments could use fingerprinting as a law-enforcement tool to hold oil thieves accountable.

#### *Sanctions*

No country should seriously consider banning Nigerian oil imports to stop oil theft. Doing so would create a fundamental mismatch of ends and means. Freezing oil thieves' assets, placing them on do-not-trade lists, blocking banks from lending or processing payments for them, or denying visas could be more helpful, if used alongside other measures.

#### *Maritime security reform*

Foreign aid to agencies that police the Gulf of Guinea could theoretically help corner oil thieves. But programmes would need to target true law-enforcement challenges and get buy-in from the Nigerian navy and presidency. Aid to multi-stakeholder bodies offers limited value on oil theft, as does training the navy and giving it new hardware. Tracking ships by satellite, another much-discussed option, is only as worthwhile as whatever law-enforcement work it supports. Arresting ships and persons caught moving stolen oil internationally would also face big, though not insurmountable, legal hurdles.

#### ***Regulate oil sales***

Nigeria has broad powers to sell its oil as it wishes. No government should tamper with the fundamentals of world oil markets to treat an isolated sickness like oil theft. At least two relatively non-intrusive options exist, however.

#### *Supply-chain due diligence initiatives*

There is good reason to think that at least some refiners could be purchasing stolen crude without knowing, as due diligence practices vary with size, capacity, nationality, budget and location. A multi-stakeholder scheme that forces refiners and shippers to vet the oil they buy from Nigeria could help sanitize markets. But such a programme could become costly and mired in red tape if it were not well designed, or if other measures did not complement it.

#### *Litigation against buyers and sellers of stolen oil*

Foreign governments could hit oil thieves with a range of domestic criminal and civil penalties. Prosecutors might also be able to charge them with piracy, pillage and other violations of the laws of armed conflict. Nigerians could try dragging oil thieves to foreign courts for violations of Nigerian law, as some have recently done with the oil companies. Officials would need to follow a few best practices for prosecuting organized criminals if the cases are to generate more than headlines.

#### ***Follow the money***

Following the money trail is a key step towards controlling oil theft. Profits drive the business, and lax law enforcement allows funds to move freely around sub-Saharan Africa and beyond. The most promising initiatives here are as follows.

#### *Money-laundering cases and asset forfeitures*

Convicting oil thieves of laundering money and seizing their assets should be a part of almost any cross-border strategy. Building strong cases would not be easy, and ideally Nigerian anti-corruption police would help other governments trace the money. But Nigerian paralysis should not excuse other jurisdictions from acting in cases where they have good financial intelligence.

#### *Bribery prosecutions*

Anti-bribery laws could offer outsiders another tool for catching oil thieves. Further analysis would be needed to see whether oil theft could meet all the requirements of bribery statutes.

#### *Support for transparency initiatives*

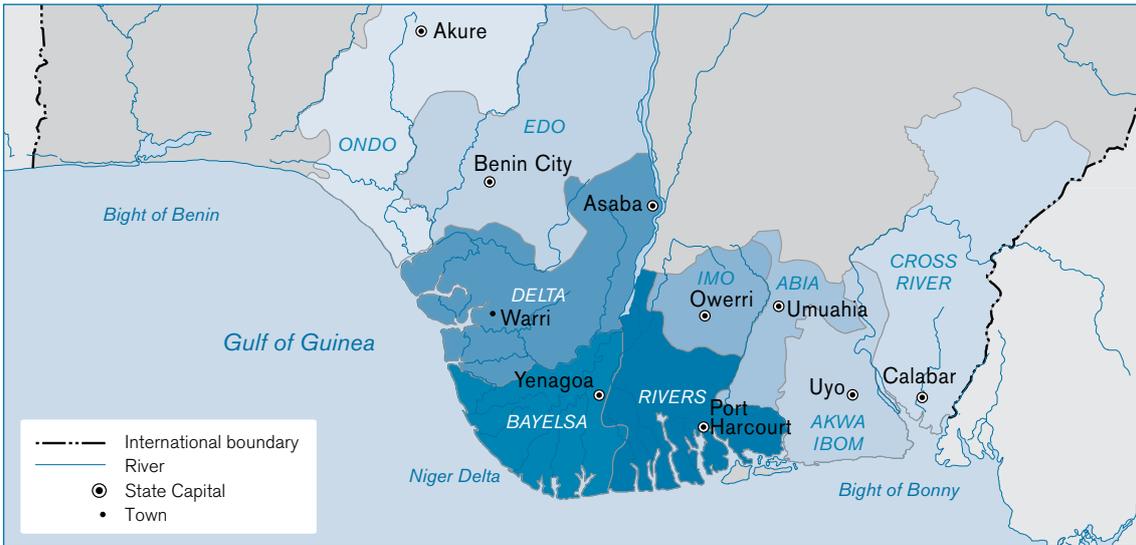
Donor support for the Extractive Industries Transparency Initiative or other pro-transparency lobbies cannot do much to address oil theft. The types of information such programmes provide would not help most outsiders track stolen oil, and civil society might also find engaging too risky.

New financial-sector regulations – for example, to force disclosure of beneficial ownership, or place limits on use of shell companies – could have more value.

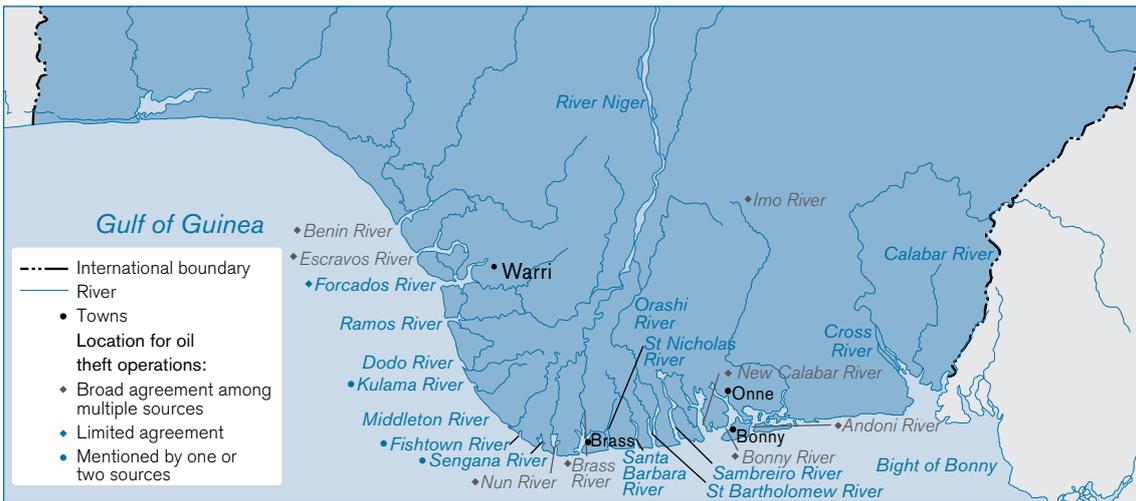
There are no easy fixes for Nigeria's crude oil theft problem. But there are options to help reduce the problem, which could, if managed well, have positive effects for tackling and reducing other forms of transnational organized crime. It is hoped that this report will inform more nuanced views of the problem – and act as a spur to some meaningful action.

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### States of the Niger Delta



### Rivers of the Niger Delta



### Oil installations in the Niger Delta

