

# Oil spills in the Niger Delta in Nigeria

Spill from Shell's Trans Niger pipeline in Goi

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Milieudefensie, its Nigerian sister organisation Environmental Rights Action and four Nigerian fishermen and farmers are holding Shell headquarters in the Netherlands liable for the massive damage that oil spills cause in villages in the Niger Delta of Nigeria – because a Dutch company with a 27 billion dollar annual profit cannot walk away from the consequences of its activities.

## Oil and the Niger Delta

The Niger Delta is situated in the South-east of Nigeria and is a huge fertile wetland. Subsistence farming and fishing are the mainstay of the people. Inhabited by more than 3,000 long-settled communities, the present population figure of the Niger Delta is estimated to be 27 million.<sup>1</sup> Of the people residing in the Niger Delta region, 75 per cent rely on natural endowments for a living. But air, water, soil and forest resources have been devastated by the exploitation of oil and gas resources. Particular problems result from gas flares and oil spills. Local people suffer harm to their health, productivity,

incomes and welfare.<sup>2</sup>

For decades, oil has been the main export product of Nigeria, number eight of the world's oil producing countries. Oil revenues have not brought about prosperity for Nigerians, on the contrary. According to the World Bank, the portion of the population living in poverty grew from 28 percent in 1980 to 66 percent by 2000. Sectors of the non-oil economy have almost disappeared.<sup>3</sup>

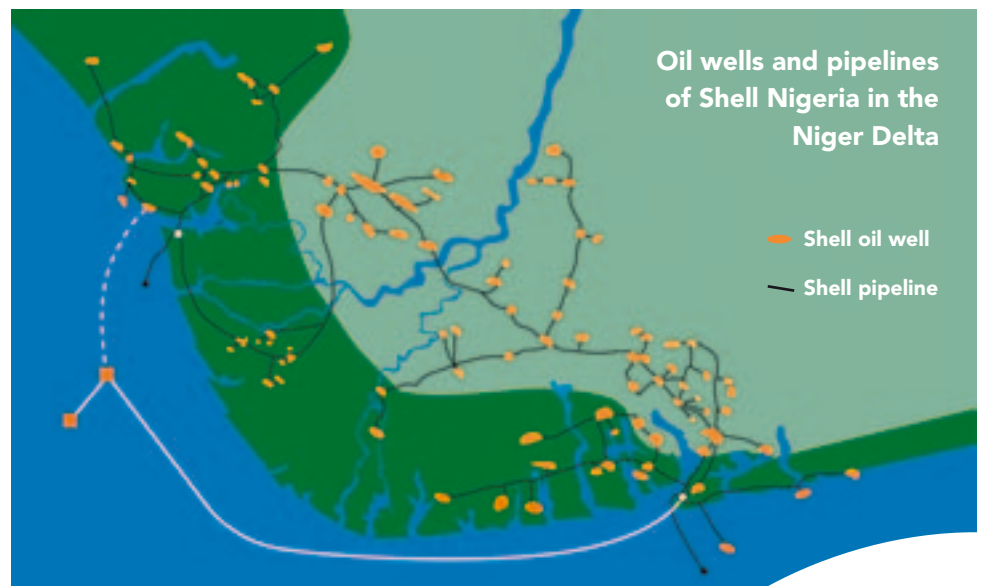
## Oil spills

For decades now, oil spills have devastated the environment of the fertile Niger Delta. According to available statistics, in the last 30 years more than 400,000 tons of oil have spilled into the creeks and soils of southern Nigeria. Some 70 per cent of the oil has not been recovered.<sup>4</sup> The vast majority of the spills are a consequence of

aging facilities and human errors. In January 2008, the Nigerian National Oil Spill Detection and Response Agency (NOS-DRA) declared it had so far located more than 1,150 oil spill sites abandoned by various oil companies within the Niger Delta.<sup>5</sup> The Niger Delta still looks green from above. On the surface the damage is big: fish have died; some agricultural lands have become infertile; drinking water has become polluted.

## Shell and oil spills

For decades, Royal Dutch Shell has been the biggest foreign investor in Nigeria, operating a joint venture that accounts for about 40 per cent of Nigerian oil production. Shell operates an intensive network of oil pipelines in the Niger Delta. In the period 1997-2006, according to its own annual





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Fisherman in Goi, Nigeria

reports, Shell Nigeria experienced about 250 oil spills each year.<sup>6</sup> In the early 1990s, when the amount of oil spills was about the same level, Shell Nigeria claimed some 75 per cent of their oil spills resulted from corrosion in older pipelines and other equipment and human failure. About 25 per cent were the result of sabotage.<sup>7</sup> Today, Shell Nigeria claims some 60 per cent are the consequence of sabotage.<sup>8</sup>

### Ageing facilities

Shell admits it still has a lot of ageing oil facilities in Nigeria. Interviewed for the Shell Sustainability Report 2006, the managing director of SPDC Basil Omiyi stated: "We do (...) have a substantial backlog of asset integrity work to reduce spills and flaring."<sup>9</sup> "Asset integrity work is a term for the condition of oil-installations (trunklines, wellheads, flowlines, flowstations, terminals), among others the condition to prevent oil spills."

At the beginning of 2004 Shell admitted to Christian Aid that the company's transparency on the "overall picture" of the age and condition of its pipelines in Nigeria with respect to industry standards was incomplete.<sup>10</sup> In 2008, this "overall picture" still isn't publicly available. In October 2007, Professor Richard Steiner (University of Alaska) requested for a copy of "Shell Nigeria's / SPDC's Asset Integrity Review" conducted in 2004 and any subsequent update on the review. In December 2007, Olav Ljosne, Shell's Regional Director Communications Africa, replied: "The Asset Integrity Reviews are internal Shell operating documents designed to provide information on the state of our assets and

improvements that are necessary – and are regarded as strictly confidential and business sensitive."<sup>11</sup>

### Nigerian law on oil spills

Nigerian law concerning oil spills is fairly clear. The Nigerian Federal Environmental Protection Agency Act of 1988 orders that following an oil spill oil companies should "begin immediate clean-up operations following the best available clean-up practice and removal methods."<sup>12</sup>

The Oil Pipeline Act of 1990 states that oil companies should pay compensation to any person suffering damage as a consequence of any breakage of or leakage from the pipeline or an ancillary installation (except when the spill is the result of the malicious act of a third person).<sup>13</sup>

The Nigerian Petroleum Act of 1969 states that oil and gas production shall conform with good oilfield practice, according to American standards.<sup>14</sup>

### Shell in Nigerian Court

While Nigerian law concerning oil spills is fairly clear, the practise of oil companies on the ground has seldom been tested in court. Approximately 500 oil spill-related cases have been filed against Shell Nigeria in Nigerian courts.<sup>15</sup> Many of these cases have been pending for years, there have been few definite judgments. Prince Chima Williams, barrister and Head Legal Resources of Environmental Rights Action (Friends of the Earth Nigeria) reports: "In Nigeria getting justice from multinational corporations by communities is a Herculean task. Because of cost implications,

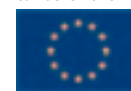
such as for lawyers and for environmental surveys to gather evidence, communities often can't afford to keep a case going. On the other hand, corporations capitalise on every opportunity to delay definite judgments with the aim of wearing out the community litigants and rendering them vulnerable. In the process most of the litigants die off, abandon their cases, receive peanuts from corporations and in some cases fight themselves."

Ken Wiwa, son of the Ogoni leader Ken Saro-Wiwa who was executed november 1995, fighting for environmental justice, states: "The court system in Nigeria is notoriously slow and inefficient, that is until the rich and powerful need a judgment."<sup>16</sup>

### Notes

- 1 Shell Nigeria, Annual Report 2006.
- 2 United Nations Development Programme, "Niger Delta human development report", 2006.
- 3 World Bank, report "Implementation of the Management Response to the Extractive Industries Review", December 2006.
- 4 United Nations Development Programme, "Niger Delta human development report", 2006.
- 5 Newspaper This Day, article 'NOSDRA Detects 1,150 Oil Spill Sites', 25 January 2008.
- 6 Shell Nigeria, annual reports 1997-2006.
- 7 Shell Petroleum Development Company of Nigeria (SPDC), brochure 'Nigeria brief, the Ogoni Issue', January 1995.
- 8 Calculated from figures in the annual reports of Shell Nigeria for the period 2001 – 2005.
- 9 Interview with Basil Omiyi (managing director SPDC) in "The Shell Sustainability Report 2006", page 33.
- 10 Christian Aid report, "Behind the mask, The real face of corporate social responsibility", January 2004, page 30.
- 11 Email from Olav Ljosne, Regional Director Communications Africa of Shell Exploration & Production Africa Ltd, to Professor Richard Steiner, University of Alaska, subject: FW: Request for information pursuant to IUCN-Shell partnership agreement, December 10, 2007.
- 12 As viewed on April 28, 2008: [http://faolex.fao.org/cgi-bin/faolex.exe?rec\\_id=014670&database=FAOLEX&search\\_type=link&table=result&lang=eng&format\\_name=@ERALL](http://faolex.fao.org/cgi-bin/faolex.exe?rec_id=014670&database=FAOLEX&search_type=link&table=result&lang=eng&format_name=@ERALL)
- 13 As viewed on April 28, 2008: <http://www.nigeria-law.org/Oil%20Pipelines%20Act.htm>
- 14 As viewed on April 28, 2008: <http://www.nigeria-law.org/Petroleum%20Act.htm>
- 15 Sources: Jędrzej George Frynas, "Legal Change in Africa: Evidence from Oil-Related Litigation in Nigeria", Journal of African Law, Vol. 43, No. 2. (1999), pp. 121-150; The Punch newspaper article "Oil spill: Communities seek N55.8tn from Shell", November 13, 2006.
- 16 Mare magazine article "Dirty Business" by Ken Wiwa, April/May 2006.

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