



Building a Post Petroleum Nigeria

Leave new oil in the soil



Environmental Rights Action
Friends of the Earth Nigeria

ENVIRONMENTAL RIGHTS ACTION/FRIENDS OF THE EARTH NIGERIA

Environmental Rights Action (ERA)/Friends of the Earth Nigeria is a Nigerian advocacy group dedicated to the non-violent defence of the human ecosystem in terms of human rights. It was founded in January 1993. ERA/FoEN is the Nigerian chapter of Friends of the Earth International (FoEI). ERA is also the coordinating NGO for the Oilwatch International as well as the host of the secretariat of the Africa Tobacco Control regional Initiative. ERA is also the coordinating NGO for the Nigerian Tobacco Control Alliance.

The organization's committed struggles for environmental human rights has won it recognition through awards such as the **Sophie Prize (1998)** for excellence and courage in the struggle for environmental justice and the **Bloomberg Award** for Tobacco control activism (2009)

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BUILDING A POST PETROLEUM NIGERIA

Leave new oil in the soil

A Proposal submitted by Environmental Rights Action Friends of the Earth Nigeria to the Federal Government of Nigeria through President Shehu Musa Yar'adua on the 25th day of November 2009 at the National Environmental Consultation, NEC 2009 organized by ERA/FoEN in Port Harcourt.

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BACKGROUND TO THE PROPOSAL

Nigeria occupies a unique place when it comes to oil and gas activities in Africa. First, it is the largest producer of crude oil, at about 2.3 million barrels per day when the oil fields are not riddled with violence. Secondly, the oil fields of Nigeria have come to become a metaphor for wanton environmental despoliation by an industry. We give most attention to the discourse on oil in Nigeria in this analysis because of the industry's activities here and because of the pains the communities living in the oil belt have suffered. A further reason is that it points at what may happen in other countries in the region if the slide to the bottom is not checked.

The story of oil has been the bane of the region where oil is extracted in Nigeria, the Niger Delta. When British companies needed palm oil in the pre-colonial era, the British secured a monopoly of the trade in palm oil through sacking Brass, a major trading community in the Niger Delta in 1895. The company that achieved that military cum mercantile feat was the Royal Niger Company. A hundred years later, Ken Saro-Wiwa and eight other Niger Delta leaders were extra judicially murdered in a bid to silence the people and ensure that oil corporations have a free reign over their activities in the region. Clearly, might have so far won in very unequal struggles for the appropriation of resources in the region: whether palm oil or crude oil.¹

The first exploration for oil in Nigeria began with the Nigerian Bitumen Company, a subsidiary of a German firm, prospecting for oil in the area north of Lagos between 1907 and 1914. Commercial exploitation commenced in 1958. In an analysis comparing the practices of Shell oil company in Nigeria with international standards to prevent and control pipeline oil spills, Professor Richard Steiner of the University of Alaska observes that "Throughout 50 years of oil production, this ecologically productive region has suffered extensive habitat degradation, forest clearing, toxic discharges, dredging and filling, and significant alteration by extensive road and pipeline construction from the petroleum industry. Of particular concern in the Niger Delta are the frequent and extensive oil spills that have occurred. Spills are under-reported, but independent estimates are that at least 115,000 barrels (15,000 tons) of oil are spilled into the Delta each year, making the Niger Delta one of the most oil-impacted ecosystems in the world."² In fact at present there are over 2000 identified oil spill locations that require attention.

Professor Steiner, a biologist, further noted that oil spills have a significant impact on the natural resources upon which many poor Niger Delta communities depend. Drinking water is polluted, fishing and farming are significantly impacted, and ecosystems are degraded.

Oil spills significantly affect the health and food security of rural people living near oil facilities. Additionally, oil spills and associated impacts of oil and gas operations have seriously impacted the biodiversity and environmental integrity of the Niger Delta.

Apart from these direct environmental impacts and although the industry regularly claims that most of their oil spills are caused by sabotage, it is believed that the rate of spills per length of pipeline in the Niger Delta is much higher than is the case in developed countries such as the US. The conclusion reached by Steiner is that “This, and other evidence, suggests that oil companies operating in the Niger Delta are not employing internationally recognized standards to prevent and control pipeline oil spills.”³

OBJECTIVES OF THE PROPOSAL

The key objectives of this proposal are as follows:

1. Refocus Nigeria on productive engagement rather than depending and being trapped by on product. This would include the revival of our agriculture and also the manufacturing sector
2. Reconnect Nigerians with the governance structures by encouraging direct contribution to the national coffers
3. Enthronement of accountability by government to the people and a bridging of the gap between public wealth and personal incomes of the people. In other words, the wealth of the Nation would equal the wealth of the people.
4. Creation of more jobs through economic diversification
5. Restoration of the despoiled Niger Delta environment and execution of needed development
6. Reengineering of the political environment of the entire nation and the enthronement of true fiscal federalism

THE PROPOSAL: LEAVE NEW OIL IN THE SOIL

Recent reports have shown that Nigeria is deriving only a fraction of what it ought to be receiving from the production of oil in the Niger Delta.

Speaking at the National Institute for Policy Studies – a respected institution for top policy makers in Nigeria – the governor of Delta State of Nigeria, Governor Emmanuel Uduaghan asserted that oil companies were involved in the illegal activities. He also said that the international community was complicit in the thefts since there was a ready market for the stolen crude.⁴

For Mr Dimeji Bankole, speaker of the Nigerian House of Representatives, about half of Nigeria's crude oil production is stolen. He summed up that if that estimate is correct, it means that Nigerian crude may run out sooner than expected.⁵

Other analysts believe that Nigeria is actually losing as much crude oil as it is selling officially through the connivance of security agencies that are meant to halt such practices. Through this the country is estimated to lose US\$1.6 billion to oil thieves annually. Reports allege that some top naval officers, serving and retired, have private pipelines that run from the Port Harcourt area to Eket and that these pipes serve as conduits through which they siphon crude oil, load onto vessels and ship to refineries in other shores including South Africa.⁶

We recall the case of the MT African Pride, a Nigerian oil tanker vessel that was caught near Shell's Forcados export terminal with 11,000 authorised barrels of crude oil in late 2003. It had on board 13 Russian crew members that were equally arrested by officers of the Nigerian Navy. By August 2004 it was suddenly found that the MT African Pride had slipped out unnoticed from custody. When it was tracked down it was found that its cargo of 11,000 barrels of crude oil had been transferred to another vessel while its hull was loaded with seawater.

NIGERIA CAN DOUBLE OIL INCOME WITHOUT NEW OIL

The race for new oil is an exciting business for players in the industry. The government also enjoys this game because of the bonuses received even before the first test wells are sunk. It also gives the impression of government actively seeking new oil so as to secure the nation's economic future.

As we have seen above, opening up new oil fields without first stopping oil theft is best compared to a man attempting to fill a porous basket with water.

Rather than seek issue new oil blocks, government should stop oil thefts and reveal our real production capacity.

.TARGETS and HOW TO MEET THEM

Nigeria plans to raise oil production to 5 million barrels per day by the year 2015. The frenetic search for new oil is aimed at reaching that level of production. We have already seen that we are already at a production level of about 4 million barrels per day, with the only snag being that 50% of this is unaccounted for. Nigeria is already bursting its OPEC quota unknowingly, we would say.

If we recover the stolen volumes and officially record 4 million barrels a day, we would still be short of 1 million barrels a day by 2015. Our proposal is that Nigerians can directly pay for the extra 1 million barrels per day from 2015 and that the national target of producing 5 million barrels a day by that year would be met without any additional barrel from a new field.

We recognise that there are many fields that have already been drilled and are corked and the crude is waiting to be tapped from them. These wells provide additional stock of oil that would help the nation reach beyond the 5 million barrels per day target.

HOW WOULD NIGERIANS PAY AND WHY?

The thing that is given and already known in this equation is the volume of oil in question: 1 million barrels per day. What is not known is what the price of crude oil will be by 2015.

Crude oil prices have been rather volatile and will continue to be so as the world comes to grips with peak oil and declining supplies. Declining supplies will ramp up prices and conflicts as nations struggle for the last barrels. There will also be a shift to dirtier fossil fuels such as bitumen and coal. Communities and their environment will be the worse for it if this happens. It is also very probable that the world will eventually begin a major move away from fossil fuel as a cheap energy source as the true price of oil becomes more evident. Coupled with the climate effects of fossil fuels, the world will eventually wean itself of crude.

When this happens, the price of oil will crash, but the cost of cleaning up the Niger Delta and other oil fields will not diminish. Indeed it will be more expensive and difficult to factor into national budgets since oil will not be a major revenue earner. So how much will Nigerians pay for the additional 1 million barrels that we propose should not be searched for or exploited?

Nigeria does not earn 100% of the income that accrues from a barrel of oil. Before the revenue is shared between the oil companies and the Nigerian state, the production cost⁷ of the oil is deducted.

And the oil field operators, the oil companies, determine that production cost. The production cost includes everything from the food the company workers eat, the cars in the company's car pool, the fines for gas flaring and whatever else they can think of. The production cost sharing formula in use today were negotiated 10-20 years ago when oil price realities were much different than today.

According to estimates by the Socio-Economic Rights and Accountability Project, the Nigerian government has failed to collect over \$34.7 billion "overdue revenue" from oil companies operating in the country between 2004 and 2008. The group said that, "the Administration of former president Olusegun Obasanjo between May 1999 and January 2007, failed to collect the over \$18 billion owing to negligence to propose relevant amendments to the Deep Offshore and Inland Basin Production Contracts Act of 1999 to the National Assembly."

It also added that "the persistent failure and lack of due diligence by the government to fully implement the provision of the Act, by proposing amendments to the Act, is a failure of responsibility, which has also contributed to a massive reduction in resources available to the government. This in turn has limited the ability of the government to access, harness and use the country's available resources for the full realizations of human rights of millions of Nigerians who continue to face absolute poverty. It is also contributing to underdevelopment and exacerbating inequality in the country."⁸

DPR and Politics of numbers: groping in the dark

The latest audit by the NEITI shows some rather alarming matters official dealings in the management of oil related revenue in Nigeria. The auditors stated among others:

1. Government should position itself to manage hydrocarbon development on a wider front than presently. DPR does not have a comprehensive database of those who hold OML and OPL in the sector with the consequence that complete information on all the stakeholders in the sector cannot be readily obtained. Furthermore, the inter relationship of physical and financial aspects is not being covered. In the short term this means that Government makes no direct correlation between physical production and the financial flows (taxation, equity crude) that are derived from production.
2. The industry has no consistent practice regarding the point at which production is measured for royalty purposes. The law is unclear. DPR has not promulgated a standard interpretation.

3. DPR has not rigorously verified royalty computations prepared by companies and the key related variables in computation volume and API seem to be interpreted and applied subjectively by the companies.

4. We could not confirm all Signature Bonus payments in the year 2005 reported to us by DPR and the companies. The management of signature bonus in 2005 was not transparent. The PTDF Act requires all Signature Bonus to be paid into the Petroleum Training Development Fund. The PTDF however refused to cooperate with the audit. We were therefore unable to obtain confirmations from PTDF that the Fund had received all bonuses that the companies and DPR reported. CBN did not provide any data on Signature bonus payments. CBN maintained the PTDF Reserve Account in Naira whereas the payments were made by the paying companies in USD bank drafts.

Consider what the NNPC says on its website with regard to the statistics they publish there:

"The publications in this section present information on the oil and gas industry. Its content reflects individual as well as general analysis and trend of activities that characterized the industry within the country. ... Although NNPC endeavours to ensure accuracy of information in these documents, it cannot guarantee 100 percent accuracy nor can it be held liable for errors that may occur. Users are to note that use of any information herein is purely at their discretion."⁹

An oil industry actor stated "there is always discrepancy of some sort between what NNPC declares and what DPR declares...NNPC figure is taken at the point of production while DPR take theirs at the terminal."

Without doubt, the oil industry is a huge leaking pipe.

LEAVING THE OIL IN THE SOIL – SUSTAINING REVENUE LEVELS

But, let us do some calculations here, supposing crude oil prices stabilize at \$60/barrel over the next several years. In that case 1 million barrels/day would mean daily revenue of \$60 million or an annual income of \$21.9 billion. Now, assuming our population to stand at 140 million, this means that if citizens would have to pay for a barrel each the amount due to each citizen would be \$156.4/year.

If we factor in production costs (including staff salaries, payment of the military, etc) and company profits, we can safely say that the amount that would get to each citizen would be much less than \$156.4/year.

We propose that **rather than exploit new oil fields** with the attendant pollutions, human rights abuses and malformed political system, we should keep the oil under the ground and require **that every Nigerian pays \$156/year as a crude oil solidarity fund** (for want of a better name). This will bring additional revenues to whatever the country makes from current oil fields, including the corked ones.

We recognize that not every Nigerian can afford to pay \$156/year into the national coffers. We can reasonably expect about 100 million Nigerians to enthusiastically make this payment if the benefits are carefully made public. Those who can pay multiples of the minimum amounts would take up the amount the remaining 40 million Nigerians could not pay. International aid agencies, philanthropists as well as other countries can be approached to symbolically buy some barrels and the entire budgeted income would be met.

Moreover, by 2015 there would be more Nigerians¹⁰ and the burden would thus be less. We also consider that the Naira would regain strength as corruption goes down and as governance becomes more transparent. If that happens, the Naira equivalent of the amount to be contributed by each Nigerian would further decrease. Note that these payments would not need to commence until 2015 and this will give us sufficient time to take caravans around the nation to explain the beauty of this economic move.

Some Nigerians are equally worried that even the cheap oil that we depend on may soon be set aside due to the real possibility that the world will move on to new alternative energy sources. If that happens and crude oil attracts less attention, what will be the consequence for the Nigerian economy?

While these are legitimate concerns, they also present us with a great opportunity to transform our environment and by extension our economy. And this is why we are making this proposal.

Cheap petrodollars drove us into believing that money was not a problem but how to spend it. They drove us into debt and debased our sense of nationhood. Cheap petrodollars turned Nigerian politics into a struggle for the control of the national purse and led to a massive regime of conversion of public funds and properties into private control. That has been the visible meaning of privatisation in our nation. Cheap petrodollars invited the jackboots into Dodan Barracks and into Aso Rock and rocked and overturned every sense of common good and collective ownership in our dear nation.

The drive to maintain the flow of foreign exchange into the national coffers made it impossible for the government to see that a safe environment is a basic requirement for citizens to be productive. African governments overlook the fact that in largely subsistence economic systems where the vast proportion of the citizens thrive outside of the formal economy, the first thing that must be secured for national health and productivity is an environment that supports the people's efforts in the areas of family farming and livelihoods. The grave inability to grasp this truth has allowed oil companies (national and transnational) to operate with

impunity in the oil fields and to pollute, destroy and dislocate the very basis of survival of the people in the Africa.

We have a clear proposal on how to turn the crises into a real opportunity for breaking from an ignoble system and moving on to a sustainable path. As they say, it will require sacrifice: especially that of jettisoning our firmly held prejudices.

GAS FLARES, CLIMATE CHANGE AND CDM

An estimated 168 billion cubic meters of natural gas is flared yearly worldwide and 13% of this is flared in Nigeria (at about 23 billion cubic meters per year). The many health impacts of gas flaring are well documented and include: leukaemia, bronchitis, asthma, cancers and other diseases.

This contributes to the severely reduced life expectancy in the Niger Delta.

In economic terms, Nigeria, for example, sends over \$2.5 billion worth of gas up in smoke annually, going by 2005 estimates. If we assume that this rate held good for the last 10 years, we are talking of \$25 billion wasted and if we extend it to the past 20-40 years that figure multiplies. For each additional year that the government refuses to act in this regard the amount wasted continues to rise, as does the log of the dead due to the poisonous nature of the gases.

At a time when the world is seeking ways to combat global warming we are busy cooking the skies through gas flaring. From pronouncements on climate change emanating from government agencies it is obvious that the government cannot plead ignorance of the massive contributions of gas flaring to global warming. There can be no excuse for this unhealthy and uneconomic act. It was not until the 1979 Associated Gas Reinjection Act that routine gas flaring was finally outlawed in Nigeria. Section 3 of the Act set 1984 as the deadline after which companies could only flare gas if they have field(s)-specific, lawfully issued, ministerial certificates.

There are over 100 flare sites still emitting a toxic mix of chemicals into the atmosphere in the Niger Delta. Through this obnoxious act the country has lost about \$72 billion in revenues for the period 1970-2006 or about \$2.5 billion annually.¹¹

The Nigerian Senate recently passed a Gas Flares Prohibition Bill allowing for the penalty for gas flaring being at the market price of gas being flared. While this is a good move, what is needed is an order for the immediate stoppage of gas flaring even if it means shutting down the offending oil wells.

Nigeria is currently seeking carbon credits through utilisation of portions of the gas being flared using the Clean Development Mechanism (CDM). Recall that gas flaring is an illegal activity. It is self evident that no one deserves compensation for stopping an illegal activity.



If Nigeria and the oil companies operating in Nigeria are serious about earning carbon credits the legitimate route would be to leave new oil in the soil because this is the foolproof way to effect carbon sequestration. But we do not support the tackling of climate change using market mechanisms. We would rather suggest the halting of the massive capital flight from Nigeria to boost the economy and offset whatever may be seen as 'loss' of projected revenue from crude.

CONCLUDING THOUGHTS

Decades of oil extraction in Nigeria have translated into billions of dollars that have spelt nothing but misery for the masses of the people. It is time for Nigeria to step back and review the situation into which she has been plunged. The preservation of our environment; the restoration of polluted streams and lands; the recovery of our dignity will only come about when we stand away from the pull of the barrel of crude oil and understand that the soil is more important to our people than oil.

Oil blocks licensing has become a bazaar in Nigeria. Huge signing fees are exchanged as though the players in the game were soccer or music stars. It is sad that these huge revenues are not adequately accounted for. The NEITI auditors recorded that they could not confirm all Signature Bonus payments in the year 2005 reported to us by DPR and the companies. The management of signature bonus in 2005 was not transparent. We need not add to this.

On all account, it is clear that the best foot forward for Nigeria is to leave all new oil in the soil. No more oil blocks.

9-POINT BENEFITS OF KEEPING THE OIL IN THE SOIL:

1. Carbon capture and storage thereby tackling climate change
2. No oil spills and gas flares from new oil fields
3. No destruction of communities or high sea environments
4. No socio-economic ills related to oil field activities
5. Citizens have a direct stake in how national revenues are spent. There would be greater accountability and transparency.
6. Halt to the corrupt nature seen in the oil blocks allocation exercises
7. No bunkering since the oil will be left in the ground
8. Safe and clean environment
9. Reduction and ultimately elimination of violent conflicts in the oil fields

A TIME FOR ACTION AND THE OUTSTANDING AMNESTY - AUDIT AND DETOXIFY THE LAND

The stoppage of gas flaring and putting a halt to new oil exploration/extraction will mark a major step towards detoxifying the Niger Delta and by extension the Nigeria environment. The other steps are two fold. First is the immediate auditing of all oil spills, drilling mud and cuttings discharges, produce water handling and other related polluting incidents in the entire Niger Delta. Second to this is the immediate commencement of thorough clean up of the environment to international standards such as those set by WHO for safe drinking water and air quality.

These steps will make it possible for the people to farm and fish with reasonable hope of achieving living incomes from such activities. Life expectancy would also increase beyond the current 41 years, as the environment would once more become people friendly.

Let Nigerians contribute to the national purse. Let's reconnect with our national economy. We cannot afford the luxury of having our citizens disconnect from and wallow on the fringes of our national economies. Our life and our future are in our hands. We believe that this is the path to the future for Nigeria.

End Notes

¹For more information on this see and , *Where Vultures Feast – Forty Years of Shell in Nigeria*, Benin City, Environmental Rights Action, 2001.

²Richard Steiner (November 2008). *Double Standards? – International Standards to Prevent and Control Pipeline Oil Spills Compared with Shell Practices in Nigeria*. (not yet published)

³Ibid

⁴ Jude Owuamanam. November 8, 2009. *Bunkering: Uduaghan Blames Oil Firms, Multinationals*. Lagos: The Punch. Page 5.

⁵Eric Ojo. November 12, 2009. *Bankole laments illegal oil bunkering in Nigeri Delta – challenges security agencies on leakages in public funds*. Lagos, *Businessday*, page 8.

⁶Chuks Ehirim, November 16-22, 2009. *How Naval Officers aid Bunkering*. Lagos: National Daily

⁷Bisi Ojediran, 9 August 2009. *Why Nation Earns Less From Oil*. Lagos: Thisday accessed at <http://allafrica.com/stories/200908090002.html> :

Under a PSC, the contractor, usually a foreign oil company, bears the entire cost and risk of exploration activities, and in the event of a commercial discovery recovers its costs fully from allocation of oil, referred to as 'cost oil'. Allowance is also made from production for royalties, after which the remainder of the production, called 'profit oil', is shared in agreed proportions between the company and the government.

⁸Ayodele Okulaja, October 19, 2009.

Group considers litigation over \$34.7 billion oil revenues. Lagos: NEXT accessed at <http://234next.com/csp/cms/sites/Next/Money/5471593-147/story.csp>

⁹Statistics at <http://www.nnpcgroup.com/performance/index.php>

¹⁰At a growth rate of 2.025%. See <https://www.cia.gov/library/publications/the-world-factbook/print/ni.html>

¹¹ERA Fact Sheet on Gas Flaring, December 2008

¹²New reports abound to show this. See for example, Obinna Ezeobi: **FG suspends oil bid rounds**, *The Punch* , Saturday, 23 Aug 2008 at <http://www.punchontheweb.com/Articl.aspx?theartic=Art200808231593070>

This pamphlet is the proposal submitted to the Federal Government of Nigeria at the National Environmental Consultation organized by the Environmental Rights Action/ Friends of the Earth Nigeria, which held Grand Montecito, Port Harcourt between 25 and 26 November 2009.

It brings to the fore ERA's contribution to the campaign for stoppage of the continual environmental degradation in The Niger Delta.

The Proposal is prepared by Nnimmo Bassey, Executive Director, Environmental Rights Action/ Friends of the Earth Nigeria and Chairperson Friends of the Earth International

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