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First Place

Mind the Gap: Royal Dutch Shell's Sustainability Agenda in Nigeria

Esther Hennchen and Josep Maria Lozano (ESADE Business School)

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Royal Dutch Shell[1] faced mounting criticism and legal challenges over the operations of its subsidy Shell Petroleum Development Company of Nigeria (SPDC) in the Niger Delta which questioned the legitimacy, credibility and eventually continuity of the company in the region (see **Exhibit 1**).

The 2011 United Nations Environment Program report criticized SPDC's inadequate oilfield infrastructure and clean up of oil spills. From the legal side, Shell faced in the same year parliamentary hearings by Dutch lawmakers over its operations in the Niger Delta, and a legal claim brought in the UK for two massive oil leaks in 2008/09 in the Bodo community as a result of equipment failure. Oil production levels and consequently corporate profits continued to be negatively affected due to sabotage of pipelines and continuing attacks on oil installations despite the 2009 Amnesty program. On top of this, the likely upcoming fiscal and legal reform (Petroleum Industry Bill or PIB) in Nigeria was expected to redefine investor relationships detrimental to the interests of foreign oil firms and in particular of Shell. Augmenting these risks was an unstable political structure since president Umaru Musa Yar'adua's death in May 2010 and a continuing public responsibility deficit since the commencement of the company's operations in the country.

It is likely that Shell questioned the future of its operations in the country as the company faced multiple crisis. The Guardian UK[2] revealed that when once faced with a similar decision over the Ogoni[3] issue in the mid 1990s, Shell decided that pulling out seemed to run against the company's economic interests and commitment to advance social and economic development in the country. At that time, Shell decided to adopt a sustainability agenda to protect their license to operate, which went beyond traditional philanthropy or corporate social responsibility (CSR) programs and placed the company in a quasi-governmental role. *"Shell's future dilemma lies in the balancing between these two types of organization"* – the ideal-type 'action' and 'political' organisations.[4] This time, if the company decided to stay, Shell would have to consider a redefinition of its CSR strategy with regard to its politicized role.

1 The authors present the facts on Royal Dutch Shell and Nigeria such as they are available from public sources and in-depth interviews with civil society actors and academics.

2 The article refers to documents that were part of the legal case against Shell in which the company was accused of having collaborated in the execution of the writer Ken Saro-Wiwa and eight other leaders of the Ogoni tribe of southern Nigeriahttp://www.guardian.co.uk/business/2010/nov/09/shell-pr-saro-wiwa-nigeria

3 For more information see: http://www.business-humanrights.org/Categories/Lawlawsuits/Lawsuitsregulatoryaction/LawsuitsSelectedcases/ShelllawsuitreNigeria

4 Tangen, K., Rudsar, K., & Bergesen, H. O. (2000). Confronting the ghost: Shell's human rights strategy. In H. O. Bergesen & A. Eide (Eds.), Human rights and the oil industry (pp. 185-198). Antwerpen, Groningen, Oxford Intersentia.

Nigeria: a complex operating environment

Five decades of oil extraction in the country resulted in failed development, poverty, corruption, environmental degradation, ethnic and gang violence, kidnappings, and the like. Nigeria had come to exemplify the resource curse (see **Exhibit 2)**.

Economic and social performance

In 2010, Nigeria was the continent's primary oil producer with total oil production slightly over 2.46 million bbl/d and crude oil production averaged close to 2.15 million bbl/d (see **Exhibit 3**). Planned upstream developments would increase Nigerian oil production in the medium term but the timing of these startups would depend heavily on the fiscal/regulatory terms of the proposed Petroleum Industry Bill (PIB). Foreign companies operating in joint ventures (JVs) or production sharing contracts (PSCs) with the Nigerian National Petroleum Corporation (NNPC) included ExxonMobil, Chevron, Total, Eni/Agip, Addax Petroleum, ConocoPhillips, Petrobras, StatoilHydro among others. Shell's crude oil production capacity was estimated to be between 1.2-1.3 million bbl/d.[5] In 2010, Nigeria exported approximately 2.2 million bbl/d of total oil and 1.8 million bbl/d of crude oil (see **Exhibit 4**).[6]

The oil industry was central to the Nigerian economic profile. In 2010, the oil sector provided less than 25% of GDP and accounted for approximately 95% of export earnings and 80% of government revenue.[7] Also Foreign Direct Investment (FDI) inflows were heavily focused on the oil industry.

Oil dependence had also its dark side. While this sector provided high government revenues, employment, contracts and income for individuals and Nigerian companies the petroleum 'monoculture' rendered the economy highly sensitive to external shocks.[8] For example, during the global financial crisis the decline in oil revenue turned the fiscal balance from a surplus of 3.7 percent of GDP in 2008 to a deficit of nine percent of GDP in 2009.[9] Also, few people benefited from the oil wealth. In 2007 Nigeria's Human Development Index (HDI) was as low as 0.511, which gave the country a rank of 158th out of 182 countries and renders unlikely to achieve any of the Millennium Development Goals (MDGs) by 2015. With regard to poverty, the United Nations Educational, Scientific and Cultural Organization reported in 2010 that even at peak production, 92% of the Nigerian population survived on less than $2 a day. In 2011, even more people lived in poverty than before oil was found.[10] Also, Nigeria

5 http://www.eia.gov/countries/cab.cfm?fips=NI

6 http://www.eia.gov/countries/country-data.cfm?fips=NI

7 Center for Global Development. Retrieved 08.07.2010, 2010, from http://www.cgdev.org/section/search?q=Nigeria

8 see Bienen, H., & Gelb, A. (1988). Nigeria: From Windfall Gains to Welfare Losses? In A. Gelb (Ed.), Oil Windfalls: Blessing or Curse? Oxford: Oxford University Press. and Moss, T. (2009). How the Economic Crisis Is Hurting Africa— And What to Do About It (Essay). Washington D.C.: Center for Global Development, p.5

9 http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/AFRICAEXT/NIGERIAEXTN/0,,menuPK:368906~pagePK:141132~piPK:141107~theSitePK:368896,00.html

10 Ikein, A. A., & Briggs-Anigboh, C. (1998). Oil and fiscal federalism in Nigeria. Ashgate: Brookfield.

suffered from a high adult illiteracy rate, poor quality of education and serious health challenges.

Governance

In Nigeria state revenues accrued from taxes or 'rents' on production rather than from productive activity. As a consequence, the government focused its efforts on controlling these resource rents and failed to set in place a robust tax system and with it to develop a system of formal accountabilities to secure domestic legitimacy. Instead the regime secured elite compliance and furnished instrumental benefits to politically strategic communities awarding public goods and services, employment opportunities, and lucrative government contracts among others. This patronage system was essentially established along ethnic and religious lines and thus marginalized and excluded mostly southern groups and non-Muslim northern minorities.[11]

The government dependence of oil broke the link between authority and territoriality leading to neo-patrimonial governance and corruption. Nigeria's anticorruption chief claimed, for instance, that 70 percent of the country's wealth was stolen or wasted in 2003.[12] Also Shell's former Senior Vice President Ann Pickard voiced her concern to US Ambassador Robin R. Sanders that "*corruption in the oil sector was worsening by the day* (U.S. Embassy Abuja, 2009). The pervasiveness of corruption in Nigeria is corroborated by independent corruption indexes. For example, Transparency International, an anti-corruption non-governmental organization, ranks Nigeria 134 (same as Zimbabwe and Bangladesh) out of 178 countries in its 2010 corruption perception index in 2010.[13] The country ranking of the Transparency International Index is further appreciated through the World Bank Anti-Corruption and Governance Index[14] (see **Exhibit 5**).

Government reform

The Nigerian government started in the last years to reform the public and private sector through the Corrupt Practices and other Related Offences Act 2000 and the incorporation of EITI into national law in 2007. The initiatives helped shape the quality of reforms and significantly increased understanding and transparency of the oil sector. Also, Nigeria has made efforts to increase revenue transparency and in March 2011 was judged to be compliant with the EITI. Yet, EITI also received criticism from an interviewee from the Revenue Watch institute for it did not actually drive reforms but instead piggy-backed on other existing initiatives. Also, a 2005 audit report released in 2009 highlighted

11 Khan, S. A. (1994). The political economy of oil. Oxford: Oxford University Press, p.8

12 Carbonnier, G., Brugger, F., & Krause, J. (2011). Global and Local Policy Responses to the Resource Trap. Global Governance, 17(2), 247-264

13 The 178th on the list being the most perceived corrupt country

14 The World Bank index is based on six broad measures of good governance: (1) voice and accountability, (2) political stability, (3) government effectiveness, (4) regulatory quality, (5) rule of law and (6) control of corruption (Kaufmann et al. 2008).

unprecedented financial discrepancies, mispaid taxes, and system inefficiencies.

In September 2007, the Oil and Gas Reform Implementation Committee (OGIC) also proposed the most comprehensive review of the legal framework for the oil and gas sector in Nigeria since the industry began commercial operations in the 1960s. This Petroleum Industry Bill (PIB) was designed to reform the entire hydrocarbon sector and provide for a greater share of oil revenues to the producing communities and expand the use of natural gas for domestic electricity generation. While parts of the Bill have recently been approved as stand alone laws (such as the Nigerian Content Development Bill or NCD in 2010), differing versions of the PIB were still debated, especially around more contentious points such as the renegotiation of contracts with international oil companies, the changes in tax and royalty structures and clauses to ensure that companies use or lose their assets.[15] The multinationals' primary point of dissent appears to be the new fiscal terms, which they describe as 'harsh enough to stall investments'. Led by Shell, the multinationals argue that "*Nigeria's oil and gas production has not only failed to grow, it has fallen every year since 2005*."[16] Also a leaked embassy cables revealed, "*the IOCs are quite concerned about the "very flawed" new petroleum sector energy bill*" and "*that Shell had more exposure to the loss of acreage than any other company*". [17]

Political role and power of MNC

The discovery of oil transformed the political economy and power relations in Nigeria. Professor William D. Graf of the University of Guelph explained that government's dependence on oil revenues implied that the "*production depends [...] on techniques, expertise, investments – and markets generated outside the territory controlled by the state*".[18] Thus, international capital – typically in the form of MNCs – dominated all aspects of exploration, production, and marketing. Also Bronwen Manby, senior program advisor with the Africa Governance Monitoring and Advocacy Project, found that the economic power of MNCs had been translated into political power to the extent that "*oil companies actively pressure the government regarding such things as tax laws.*"[19] For example the PIB seemed to grant more favorable terms to Shell and its rivals than originally imagined after much internal 'lobbying'. An activist from the NGO social action claims "*(...) and the officers, they would rather take their mother to court than confront Shell. With the bribes, they will give judgments in favor. So there is (...) The ordinary people. The voiceless people. (...) Shell is the big oil company, the company that has so much influence on the government (...).*" An academic researcher working at the Revenue Watch Institute in Abuja adds that they do so

15 see for a discussion of these issues http://www.energyglobal.com/sectors/processing/articles/The_Nigerian_Petroleum_Industry_Bill.aspx

16 http://allafrica.com/stories/201003300322.html

17 see U.S. Embassy Abuja. (2009). cable 09ABUJA259, C) NIGERIA: SHELL BRIEFS AMBASSADOR ON OIL GAS ISSUES.

18 Graf, W. D. (1988). The Nigerian State: Political Economy, State Class and Political System in the Post-Colonial Era. London: Heinemann, p.219

19 Manby, B. (1999). The Role and Responsibility of Oil Multinationals in Nigeria. Journal of International Affairs, 53(1), p. 283

by "*bribing parliament members and paying them trips to conferences to Ghana and the US*," in which the new regulatory framework governing investment (Petroleum Industry Bill) in Nigeria was discussed. They also directly infiltrate the government seconding people to relevant ministries who work in favor of Shell.

The political bearing that the oil industry enjoyed in Nigeria had also been observed by various actors. Ben Amunwa of the London-based oil watchdog Platform informed "*Shell claims to have nothing to do with Nigerian politics. (...) In reality, Shell works deep inside the system, and has long exploited political channels in Nigeria to its own advantage.*"[20] Also, recent Wikileaks revelations[21] about Shell in Nigeria demonstrated the tangled links between the oil firm and politicians. Ann Pickard, who was then Shell's vice president for sub-Saharan Africa, was quoted as telling U.S. diplomats that Shell had seconded people to all the relevant ministries and that Shell consequently had access to everything that was being done in those ministries (see **Exhibit 6**).

Conflict and Violence

Since 2005, Nigeria experienced increased pipeline vandalism, kidnappings and militant takeovers of oil facilities in the Niger Delta mainly by the Movement for the Emancipation of the Niger Delta (MEND). This group even threatened to resume attacks on oil facilities after the amnesty program in 2009 unless there was more progress with regard to a redistribution of oil wealth and greater local control of the sector.[22] Additional security concerns such as kidnappings of oil workers for ransom incidents of piracy, led some oil services firms to pull out of the country and oil workers unions to threaten strikes over security issues. As most of Shell's production is onshore, it had been hit hardest by the instability. Much of Shell's crude oil production capacity was shut-in until July 2011, when the company lifted force majeure on about 300,000 bbl/d of Bonny Light crude oil.[23] Yet, in August 2011 the company had to declare again 'force majeure' after several attacks on its pipelines[24] impacting oil production levels (**Exhibit 7**).

Professor Watts claimed that the dimensions of conflict were complex and interwoven. He explained that the insurgency across the Niger delta reflected a historical configuration of

20 The Guardian, Wikileaks cables: Shell's grip on Nigerian state revealed, David Smith in Lagos ,Wednesday 8 December 2010 21.34 GMT

http://www.guardian.co.uk/business/2010/dec/08/wikileaks-cables-shell-nigeria-spying

21 Recorded in a confidential memo from the US embassy in Abuja on 20 October 2009. The meeting took place between US ambassador Robin Renee Sanders and how Ann Pickard, then Shell's vice-president for sub-Saharan Africa

22 http://www.legaloil.com/NewsItem.asp?DocumentIDX=1282584936&Category=news

23 http://www.eia.gov/countries/cab.cfm?fips=NI

24 http://www.guardian.co.uk/environment/2011/aug/25/shell-oil-export-nigeria-pipeline-sabotage

inter-ethnic relations, "generational politics, a corrupt and violent petro-state, irresponsible and short sighted oil company practice, and the existence of a vast oil bunkering network."[25]

Environmental degradation

UNDP stated in its 2006 report that the main problems of oil extraction were canalization destroying freshwater ecological systems; oil spills occurring accidentally or through sabotage by local people; gas leaks and flares producing hydrocarbons that effect the water organisms, biodiversity and was being emitted into the atmosphere (causing acid rain and contributing to global warming); land subsidence, and erosion. Apart from more visible impacts, socio-economic conditions had been negatively affected as well.[26]

Oil spills

Between 2006 and 2010 the Nigerian National Oil Spill Detection and Response Agency (NOSDRA) reported that approximately 2,400 oil spills had occurred. The amount of oil spilled in Nigeria was estimated to be around 260,000 barrels per year for the past 50 years.[27]

Responsibilities with regard to oil spills and adequate remediation efforts were a point of constant dispute. On the one hand, Shell claimed to have reduced significantly its oil spills and attributed the majority of current oil spills to sabotage and theft.[28] On the other hand, all civil society organizations that were interviewed criticized Shell's corroded infrastructure and the failure to clean up subsequent oil spills. For example, Friends of the Earth and Amnesty International had filed an official complaint against Anglo-Dutch firm Shell for shirking responsibility for oil spills in Nigeria, wreaking havoc on the environment and thus breaching the Economic Cooperation and Development (OECD)'s guidelines for responsible business.[29] The Wall Street Journal reported that critics of Shell's record, both in parliament and among non-governmental organizations, were expected to use parliamentary hearings, scheduled for Jan. 26 in 2011 to quiz the company over its activities in Nigeria. Shell Netherlands President, Mr. Peter de Wit, replied during the hearing to the accusations that, "*Shell is doing a good job often under difficult circumstances*," and insisted the company applied "*global standards*" to its operations around the world.[30]

25 Watts, M., Okonta, I., & Von Kemedi, D. (2004). Economies of Violence: Petroleum, Politics and Community Conflict in the Niger Delta, Nigeria (Working Paper). Berkely: University of California, p.3

26 UNDP. (2006). Niger Delta Human Development Report. Abuja: United Nations Development Programme.

27 http://www.eia.gov/countries/cab.cfm?fips=NI

28 Royal Dutch Shell. (2010). Shell Sustainability Report. p18

29 http://online.wsj.com/article/SB10001424052748704111504576059931271425282.html

30 Nwachukwu, C. (2011). Oil spill: Shell modifies data to 70% from 98%. Vanguard.

In 2011, the company faced a credibility crisis due to a scientific investigation of the United Nations Environmental Program and a legal sanction against Shell. The UNEP report criticized SPDC's inadequate oilfield infrastructure and clean up of oil spills, which did not meet local regulatory requirements, SPDC's own procedures nor international best practices. Also in the first kind of this case, Shell faced in the same year in August a legal claim brought in the UK for two massive oil leaks in 2008/09 as a result of equipment failure.

Gas flaring

Many of Nigeria's oil fields lacked the infrastructure to produce and market associated natural gas. A study by Environmental Rights Action and the Climate Justice Program concludes that as a consequence "*more gas is flared in Nigeria than anywhere else in the world. (...) The flares have contributed more greenhouse gases than all of sub-Saharan Africa combined. And the flares contain a cocktail of toxins that affect the health and livelihood of local communities, exposing Niger Delta residents to an increased risk of premature deaths, child respiratory illnesses, asthma and cancer.*"[31]

The deadline to implement the policies and fine oil companies was repeatedly postponed by the government, with the most recent deadline being December 2012. Also the 2009 Gas Master Plan that promoted new gas-fired power plants to help reduce gas flaring and provide much-needed electricity generation showed limited progress.[32]

Royal Dutch Shell

The multinational corporation

Royal Dutch Shell was formed from the 1907 merger of the British-based Shell Transport Trading Company and the Netherlands-based Royal Dutch Petroleum Company into a single group. Both parent companies traced back their origins to the Far East in the 1890s seizing the opportunity for supplying kerosene from the newly developing Russian oilfields to markets in the Far East and China and the growing demand for oil for the automobile industry and oil-fuelled ships. In 2005, Royal Dutch Shell plc became the single parent company of the two former public parent companies. The company was headquartered in Den Hague (the Netherlands) and registered in England and Wales.

Shell was Europe's largest oil producer, the third most profitable company worldwide in terms of revenues in the petroleum refining industry[33] (**Exhibit 8**) and the third most profitable company worldwide (**Exhibit 9**). Also, it was the third largest Multinational

31 Environmental Rights Action, & Friends of the Earth Nigeria. (2005). Gas flaring in Nigeria: a human rights, environmental and economic monstrosity. Amsterdam: Environmental Rights Action/Friends of the Earth Nigeria, p. 0

32 http://www.eia.gov/countries/cab.cfm?fips=NI

33 and mining and crude-oil production are the most profitable industries in terms of return on revenues http://money.cnn.com/magazines/fortune/global500/2009/performers/industries/profits/index.html

Company (MNC) in the world measured against its foreign assets in 2007[34/35] Royal Dutch Shell employed over 101.000 people and operates in over 90 countries.[36]

Shell applied a single overall control framework (**Exhibit 10**) to all wholly owned Shell companies and to those ventures and other companies in which the company, directly or indirectly, had a controlling interest. The aim was to manage risk of failure to achieve business objectives.[37]

Shell companies in Nigeria

The company Shell discovered oil in the Niger Delta in 1956. Since Shell was a partly British company in a British colony, the company received the first oil concessions and was the first major oil company to commence oil production there in 1958. Nigeria continued to be a cornerstone of Shell's operations. In 2009 Shell Petroleum Development Company of Nigeria Ltd (SPDC) contributed around 9% to Shell's global oil and gas production.[38]

In Nigeria, there were four Shell companies.[39] SPDC was a wholly owned Shell company that operated oil and gas production on behalf of the partners of an unincorporated joint venture between the government-owned Nigerian National Petroleum Corporation (55%), Shell (30%), Elf Petroleum Nigeria Ltd (10%) and Agip (5%). SPDC was Nigeria's largest onshore producer. Investments in the joint venture proceeded in accordance with a 'cash call system'. Representatives of the venture partners would agree on a proposed investment plan and contributed funding in proportion to their respective equity stake. A consultant for Shell noted, however, that the Nigerian government was not always complying with their part and many planned investment projects such as ending gas flaring could not be accomplished. The second wholly-owned Shell company was Shell Nigeria Exploration and Production Company Ltd (SNEPCO) which developed since 1993 Nigeria's energy resources offshore. The company produced oil and gas in water depths up to 2,500 meters and established in Bonga Nigeria's first major deep-water project. Within the current divestment strategy, the company was divesting from some of its onshore holdings - the three oil blocks in the Niger Delta - Oil Mining Lease (OMLs) 4, 38 and 41[40] and planned to move most of its production offshore. The appeal of extracting petroleum offshore lay in its relative spatial isolation from community pressure and violent attacks on its oil installations. The wholly-owned Shell company Shell Nigeria Gas Ltd (SNG) was set up in 1998 and operated a gas transmission

34 UNCTAD. (2009). WIR 2009: Transnational Corporations, Agricultural Production and Development (No. UNCTAD/WIR/2009): United Nations Conference on Trade and Development.

35 see for more detailed information on Shell's financial performance: http://www.shell.com/home/content/src/investor_information/annual_reports/

36 http://money.cnn.com/magazines/fortune/global500/2009/snapshots/6388.html

37 Royal Dutch Shell. (2010). Annual Report.

38 Royal Dutch Shell. (2009a). Royal Dutch Shell PLC Sustainability Report 2009. London, p.22

39 http://www.shell.com/home/content/environment_society/society/nigeria/operations/

40 http://allafrica.com/stories/201002110245.html

and distribution pipeline network. And the fourth Shell company, the Nigeria Liquefied Natural Gas Company (NLNG), was set up in 1989 and ran one of the world's largest LNG plants. Shell held a 25.6% interest in NLNG, together with NNPC, Total LNG Nigeria Ltd and Eni.

The parent companies Royal Dutch and Shell Transport and Trading did not directly engage in operating activities, but acted as the financial and strategic centers of the company. Day-to-day oil operations were carried out by Shell operating companies, which were assisted by service companies based in the UK and the Netherlands in areas such as research and development.[41] Also CSR policies were cascaded from the headquarters to business units down the supply chain, but the business unit level decided on their reach and scope and use existing projects budgets for their funding.

The launch of Shell's sustainability agenda

Shell was a front-running company in the area of CSR and became in 1997 the first among the oil multinationals to declare publicly its support for the Universal Declaration of Human Rights. The World Business Council for Sustainable Development website[42] presented the case of Shell's community development projects in Nigeria as a positive case study of CSR. Also, SPDC was voted "Best Company in most Innovative CSR" in 2011 at the Nigeria CSR awards, known as The Social Enterprise Report and Awards (The SERAs).

The origins of the company's social performance agenda can be traced back to its experiences in Nigeria. The protests against Shell's poor environmental and human rights record in Nigeria and eventually the company's alleged implication in the hanging of Ken Saro-Wiwa in the mid 1990s **(Exhibit 11)** seriously threatened SPDC's social license to operate and thus its access to the country's oil reserves along with its long-term commercial interests.[43]

Shell executives soon realized that the company had grown out of touch with societal expectations. Mark Moody-Stuart, then Managing Director, stated in this situation "*we had to take a good look at ourselves and say 'Have we got it right*?'"[44] Secret documents (see **Exhibit 12**) even revealed that Shell considered leaving the country in the wake of Saro-Wiwa's death, but decided in favor of the scenario "*milking the cow*."[45]

As a reaction to these events the company started a comprehensive review of its attitude and activities. At the global level, Shell supported international human rights initiatives such as the Global Compact, the UN Special Representative on business and human rights John

41 Frynas, J. G. (2003). Royal Dutch/Shell. New Political Economy, 8(2), 275-285.p. 276

42 http://www.wbcsd.org/templates/TemplateWBCSD5/layout.asp?MenuID=1

43 Goyder, H., & Ladbury, S. (2002). Tri-Sector Partnerships for Managing Social Issues in the Extractive Sector: The Micro-Credit Scheme for Agricultural Development - SPDC Nigeria. London: Business Partners for Development.p.3

44 Guyon, J. (1997). Why is the world's most profitable company turning itself inside out? Fortune(August 4), 121-125.

45 http://www.guardian.co.uk/business/2010/nov/09/shell-pr-saro-wiwa-nigeria

Ruggie, and the Voluntary Principles on Security and Human Rights. With regard to the latter, Shell introduced a clause on these principles to all new and renewed security contracts and expected them all to contain it by 2012.[46] Shell's engagement in global partnerships to fight HIV/AIDS included UNAIDS scenarios development and the Global business coalition on HIV/AIDS. The company also signed the 2002 World Bank initiated the Global Gas Flaring Reduction Partnership (GGFR), joined the Environmental Defense's Partnership for Climate Action and committed themselves to reduce emissions to 1990 levels by 2010. Together with BP, they were the only companies listed in KLD Research and Analytics' Global Climate 100 Index, the first investor index comprised of companies focusing on solutions to global warming.[47] The company furthermore, provided throughout the year information to the Dow Jones Sustainability Indexes, FTSE4Good, and the Carbon Disclosure Project.

At the local level in Nigeria stakeholder engagement via dialogue and partnering was a cornerstone of Shell's strategy "of being a good neighbor". Community development projects were channeled indirectly through the Shell Foundation, an independent charity that focuses on poverty and environmental charities and directly through national programs. These included education and skills development, health and safety, the environment, and social cohesion. In the area of health, Shell's company-wide HIV/AIDS program provided medical treatment for employees affected by HIV/AIDS, as well as education and prevention programs for employees, their families and communities. At the local and global level Shell worked in partnerships to fight the HIV/AIDS epidemic.[48] Shell spent US$106 million on 'social investment' in 2004, although this still represents less than 0.6 per cent of its net income.[49] Shell's CSR initiatives relating to community development underwent significant change from ad hoc 'assistance' to development partnerships with government agencies and NGOs. This change was an attempt to enhance the legitimacy and efficacy of its CSR approach and to dispel communities' perceptions from the politicized role it adopted when stepping into a public responsibility vacuum and becoming "the only government they [the communities] know".[50]

At the corporate level, Shell's newly articulated core values - honesty, integrity and respect for people – provided the basis for a Statement of General Business Principles[51] adopted in 1997. The eight principles integrate economic, environmental and social considerations into business decision-making and depict five inseparable areas of responsibility to shareholders, customers, employees, business partners and society.[52] The Principles committed the

46 Royal Dutch Shell. (2009). Royal Dutch Shell PLC Sustainability Report 2009. London.

47 Utting, P., & Ives, K. (2006). The Politics of Corporate Social Responsibility and the Oil Industry. St. Antony's International Review, 2(1), 11-34. p. 19

48 http://www.shell.com/home/content/environment_society/society/

49 UNEP. (2011). Environmental assessment of Ogoniland. Nairobi: UN.

50 Chandler, G. (2000). The responsibilities of oil companies. In H. Goyer, H. O. Bergesen, A. Eide & P. Rudolfson (Eds.), Human rights and the oil industry. Antwerp: Intersentia, p.7-8

51 http://www.shell.com/home/content/aboutshell/who_we_are/our_values/sgbp/sgbp_30032008.html

52 see http://www.shell.com/home/content/environment_society/

company to an apolitical role and stated that Shell "*companies should endeavor always to act commercially, operating within existing national laws in a socially responsible manner and avoid involvement in politics*". [53] Shell also developed Human Rights Compliance Assessment (HRCA) tools, which provided a step-by-step approach to assess all potential risks to violate human rights[54] and offered training to employees on Shell's Business Principles and Code of conduct and for managers a special supplement to understand their responsibilities and take action to support human rights. In the area of biodiversity, Shell aimed at conserving ecosystems through partnerships and new technologies.[55] Shell also decided to go 'green' and founded in 1997 Shell International Renewables (SIR) with a focus on wind power, solar energy, and hydrogen.[56] With regard to transparency, the company was a supporter of the Extractive Industries Transparency Initiative (EITI), integrated a commitment to business integrity and transparency in its General Business Principles (since 1976) and Code of Conduct (since 2006) and reports in accordance with the Global Reporting Initiative (GRI) and in line with the International Petroleum Industry Environmental Conservation Association (IPIECA) guidelines.[57] The company also established both internal controls such as audit trails and statistical checks and external controls with the help of an external review committee[58] and well-established auditing firms[59] to ensure the credibility of the report.[60] Corporate governance structures were also revised. Due to the importance of Nigeria for Shell in terms of complexity of the local operating environment and the volume of oil production, a permanent Nigeria team was installed at the headquarters level.[61] Corporate responsibility governance structures were also put in place at the Board of Royal Dutch Shell plc. The Corporate and Social Responsibility Committee (CSRC) assesses Shell's policies and performance with respect to the Business Principles, Code of Conduct, Health, Safety, Security, the Environment (HSSE) and Social Performance (SP) standards and major issues of public concern on behalf of the Board of Royal Dutch Shell plc. (see **Exhibit 13**).[62]

53 http://www.shell.com/home/content/aboutshell/who_we_are/our_values/sgbp/sgbp_30032008.html

54 Jacoba Schouten, E. M. (2010). Embedding human rights within a multinational company: The case of the international energy company Royal Dutch Shell. Erasmus University of Rotterdam, Rotterdam.

55 Source: http://www.shell.com/home/content/environment_society/

56 Royal Dutch Shell. (2009). Sustainability Review: Royal Dutch Shell plc Sustainability Review 2009. The Hague: Royal Dutch Shell plc.

57 In 2009, GRI confirmed Shell's A+ reporting level. This included the Sustainability Report, the Royal Dutch Shell plc Annual Report and Form 20-F 2009, and www.shell.com

58 Aron Cramer (Chair), Rafael Benke, Ligia Noronha, David Runnalls, Rebecca Adamson, and Philippa Foster. See for more information: http://sustainabilityreport.shell.com/2009/ourperformance/externalreviewcommittee.html?cat=b

59 KPMG has been auditing Shell's environmental performance in Nigeria

60 see http://www.shell.com/home/content/src/investor_information/annual_reports/ for: Royal Dutch Shell. (2009). Royal Dutch Shell PLC Sustainability Report 2009. London.

61 Note, that no such team is installed for other countries at the group level.(See Jacoba Schouten, E.M. (2010) p. 223)

62 Royal Dutch Shell. (2009). Royal Dutch Shell PLC Sustainability Report 2009. London, p.6

Shell's future in Nigeria

"*The situation has not changed from what it were in the past. In fact, it is worse.*"[63] The statement from a human rights activist of the NGO social action reflects the frustration of most people in the Niger Delta. Today, even more people live in poverty than before oil was found and paradoxically, the rural and in the oil producing areas suffer most. Lately, civil society claims have been supported in the first case of this kind by a legal sanction against Shell in the UK and a scientific investigation of UNEP, which put increased international and local pressure on the continuity of Shell's operations in Nigeria.

History seemed to repeat itself. Again, the relevant question for the company was eventually should the company stay in Nigeria or pull out? If *Shell* decided to stay the company would have to address its public responsibilities more effectively than it did in the 1990s. Choosing the right strategy in responding to public service deficits and guarantee sustainable development requires more than a one-size-fits-all solution in such a complex environment such as Nigeria. Sir Mark Moody-Stuart very well described Shell's dilemma in the 1990's, which seemed to be repeated again: "*The biggest change [...] for an international corporation is this extension of responsibility [...] beyond just paying your taxes and beyond just relating effectively to communities around your factory fence.*"[64]

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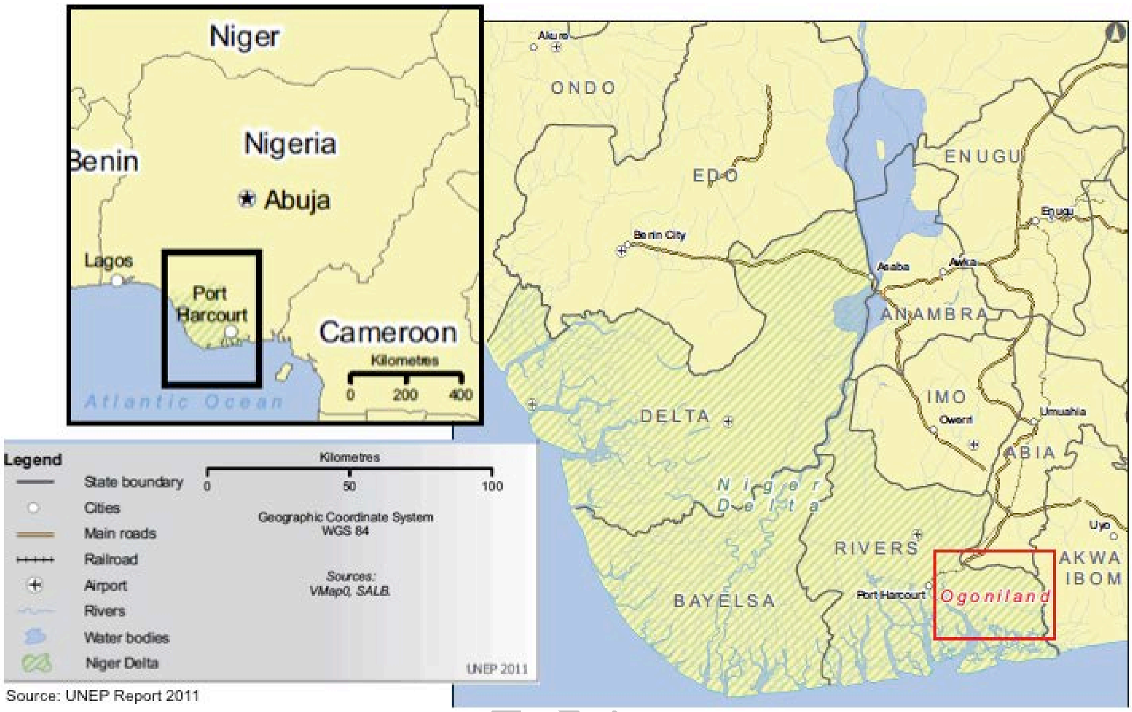
63 Interview with a human rights activist, National administrator of the Nigerian Solitary Forum of the Ogoni, member of the executive committee of the Movement Against Corruption in Nigeria, and coordinator or the programs for energy and mining in the NGO Social Action (www.saction.org).

64 Sir Mark Moody-Stuart, referenced from Bakan, op. cit. 23. (in Valente & Crane, 2010)

Exhibit 1. Map of Nigeria and Niger Delta



Source: UNEP Report 2011

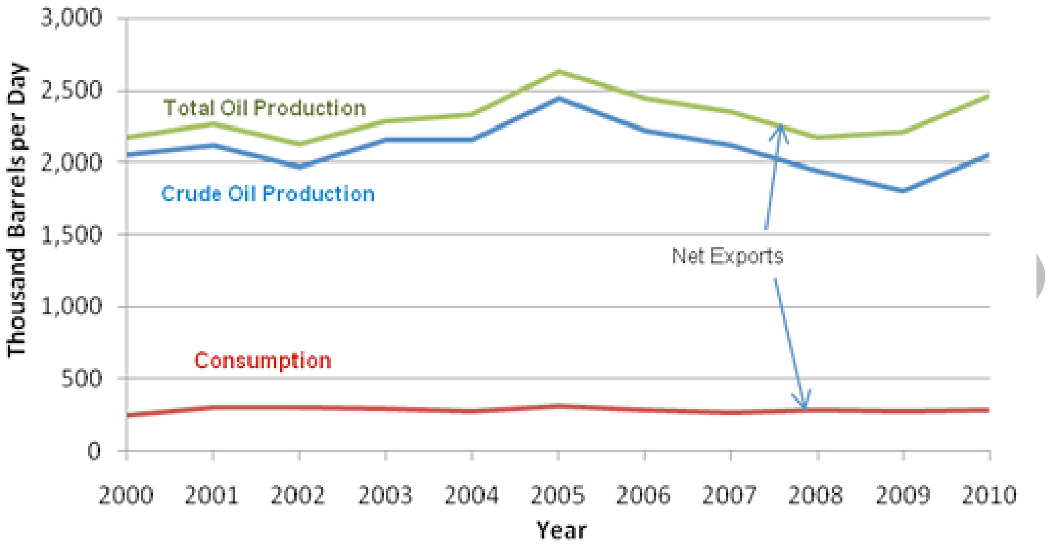
Exhibit 2. Dimensions of the resource curse: Nigeria in comparison with other African countries

	Economic performance	Governance	Conflicts	Environment	Total
Nigeria	▲▲▲	▲▲▲	▲▲▲	▲▲▲	12
Angola	▲▲	▲▲▲	▲▲	▲▲	9
Sudan	▲	▲▲	▲▲	▲	6
Equatorial Guinea	▲	▲▲▲	▲	▲▲	7
Congo B.	▲▲▲	▲▲▲	▲▲	▲▲	10
Gabon	▲▲	▲▲▲	▲	▲▲	8
Chad	▲▲	▲▲	▲▲	▲	7
Cameroon	▲	▲▲	▲▲	▲	6
Mauritania	▲	▲	▲	▲▲	5
DRC	▲	▲	▲	▲	4
Ivory Coast	▲	▲▲	▲	▲	5
South Africa	▲	▲	▲	▲	4

▲▲▲ = Oil has major role in problems or negative results in the domain.
▲▲ = Oil has an intermediate role in the problems or mediocre results in the domain.
▲ = Lack of a major negative role of oil in the given domain.
NB: Where oil does not play a major negative role, other extraction activities (mineral resources) can still be implicated in the "resource curse." Here we consider only the role of oil.

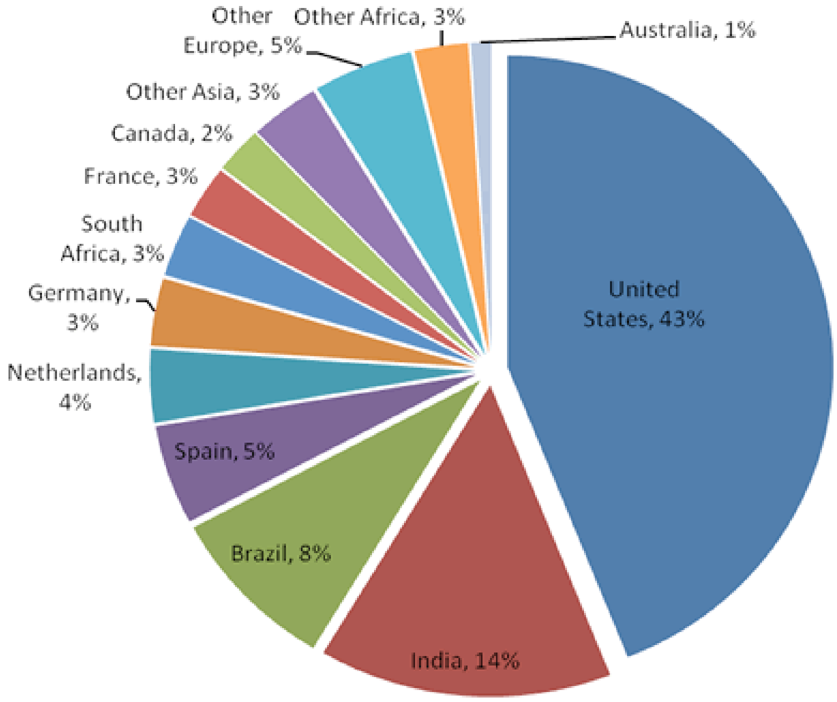
Source: Magrin, G., & Van Vliet, G. (2009). The use of oil revenues in Africa. In J. Lesbourne (Ed.), *Governance of oil in Africa: unfinished business* (pp. 103-164). Paris: Institut français des relations internationales (IFRI), p.119

Exhibit 3. Nigeria's Oil Production and Consumption (2000-2010)



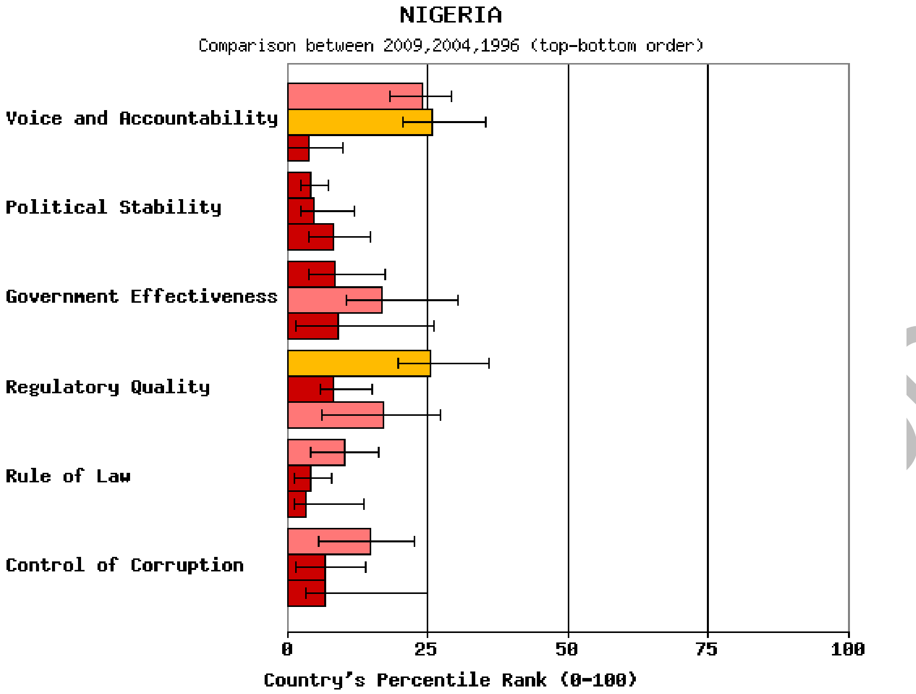
Source: EIA, International Energy Annual , Short Term Energy Outlook August 2011

Exhibit 4. Nigerian Crude Oil Exports by Destination (2010)



Source: Sources: Global Trade Atlas, APEX (Lloyd's), FACTS Global Energy, EIA

Exhibit 5. World Bank Anti-Corruption and Governance Index



Source: Kaufmann D., A. Kraay, and M. Mastruzzi (2010), The Worldwide Governance Indicators: Methodology and Analytical Issues
Note: The governance indicators presented here aggregate the views on the quality of governance provided by a large number of enterprise, citizen and expert survey respondents in industrial and developing countries. These data are gathered from a number of survey institutes, think tanks, non-governmental organizations, and international organizations. The WGI do not reflect the official views of the World Bank, its Executive Directors, or the countries they represent. The WGI are not used by the World Bank Group to allocate resources.

Exhibit 6. US embassy cable 09Abuja1907, C) Shell Md Discusses The Status Of The Proposed Petroleum

Reference ID	Created	Released	Classification	Origin
09ABUJA1907	2009-10-20 06:06	2010-12-08 21:09	CONFIDENTIAL//NOFORN	Embassy Abuja

VZCZCXRO4227 PP RUEHPA DE RUEHUJA #1907/01 2930617 ZNY CCCCC ZZH P 200617Z OCT 09 FM AMEMBASSY ABUJA TO RUEHC/SECSTATE WASHDC PRIORITY 7262 INFO RUEHOS/AMCONSUL LAGOS PRIORITY 2129 RUEHSA/AMCONSUL JOHANNESBURG 0101 RUEHZK/ECOWAS COLLECTIVE RHEBAAA/DEPT OF ENERGY WASHDC RUCPDOC/DEPT OF COMMERCE WASHDC RUEATRS/DEPT OF TREASURY WASHDC

Tuesday, 20 October 2009, 06:17 C O N F I D E N T I A L SECTION 01 OF 04 ABUJA 001907 NOFORN SIPDIS DEPT PASS USAID/AFR/SD FOR CURTIS, ATWOOD AND SCHLAGENHAUF DEPT PASS TO USTDA-PAUL MARIN, EXIM-JRICHTER DEPT PASS TO OPIC FOR BARBARA GIBIAN AND STEVEN SMITH DEPT PASS USTR FOR AGAMA JOHANNESBURG FOR NAGY USDOE FOR GEORGE PERSON TREASURY FOR TONY IERONIMO, ADAM BARCAN, SOLOMAN AND RITTERHOFF EO 12958 DECL: 02/04/2029 TAGS EPET, ENRG, EINV, ECON, ETRD, PGOV, NI SUBJECT: (C) SHELL MD DISCUSSES THE STATUS OF THE PROPOSED PETROLEUM INDUSTRY BILL Classified By: Deputy Chief of Mission Dundas McCullough for reasons 1.4. (b & d). Ref: Abuja 1836

------- SUMMARY ------- ¶1. (C) Shell EVP for Shell Companies in Africa met with the Ambassador on October 13 to discuss the status of the proposed Petroleum Industry Bill. She said the GON wanted the National Assembly to pass the bill by November 17 and that the international oil companies would have to move quickly if the House passed the bill in the coming weeks. She said there was “total alignment” among the IOCs and with the Nigerian oil companies. She said it would be helpful if the Embassy would continue to deliver low-level messages of concern and call on the Speaker of the House to see where he stood on the bill. She expected the situation in the Niger Delta to be “quiet” until the end of the year but would get “out-of-hand” when the election cycle starts up at the end of the year. Shell’s views of the PIB track closely with ExxonMobil’s views as reported in reftel. END SUMMARY.

------------------------ CURRENT STATUS OF THE PIB ------------------------ ¶2. (C) Shell EVP for Shell Companies in Africa Ann Pickard met with the Ambassador at the Embassy on October 13. The DCM and Economic Counselor joined the Ambassador, and XXXXXXXXXXXX accompanied Pickard. The Ambassador asked Pickard for her views about the status of the Petroleum Industry Bill (PIB). Pickard said the GON wanted the National Assembly to pass the bill by November 17 in order for the GON to be able to announce it at the upcoming CWC Gulf of Guinea Conference in London November 17-19. She said that if the House passes the PIB in the coming weeks, “we need to move quickly” to obtain any necessary changes before it becomes law. Fortunately, she added, “We are working with the House and the House appears to want to work with us.” She continued that if the Senate passes the PIB, “We aren’t worried.” Unfortunately, she explained, “We think the Senate will pass a bad bill” but it won’t really matter. She added that she would be at the Nigerian House and Senate later that day and would let the Embassy know if there were any unexpected developments.

¶3. (C) The Ambassador asked if Shell had had engagements with the GON outside the National Assembly, such as with the Ministry of Finance and the Central Bank of Nigeria. Pickard said, “We are meeting with them at all levels.” She noted that an IMF team headed by Charles McPherson was in Abuja to look at the PIB and that Shell would be meeting with them as well. In contrast, she said, “We are worried about the World Bank’s political agenda and it is not clear what their agenda is.” She said the World Bank was working on how to make the IJVs “bankable” so that they would be able to go to international and domestic banks for financing. -----------------------------

GAS FLARING AND CLIMATE CHANGE ------------------------------ ¶4. (C) Pickard said the PIB requires an end to gas flaring by 2010. She said the industry won’t be able to do that due to the lack of investment and security. Shell is ahead of the other IOCs and could be ready by 2011. Shell would have to spend $4 billion to do this, but the GON would also have to fund its part and that is a risk. Shell would shut in oil production in fields where it is uneconomic to end gas flaring, and it would let others have the gas for free where it is economic to do so.

¶5. (C) Pickard continued that NNPC General Managing Director Dr. Mohammed Barkindo was interested in doing something on climate change in preparation for the climate change summit in Copenhagen December 6-18. Barkindo was spread pretty thin so Shell will ask him how they can help him prepare for the summit. She added that Shell had recently told the oil producing countries that coal will squeeze out oil as a result of the CO2 footprint issue if the oil producing ABUJA 00001907 002 OF 004 countries and IOCs do not do more to address the issue.

----------------- POTENTIAL BENEFITS ----------------- ¶6. (C) Pickard summarized the PIB’s potential benefits. The creation of fully integrated and independently functioning international joint ventures (IJVs) would solve the oil and gas industry’s longstanding funding problems if the proposed IJVs are done right. The Nigerian National Petroleum Company (NNPC) was previously forced to reduce its ownership of some existing joint ventures to 49 percent to make them profitable enough to obtain financing. The proposed division of responsibilities between the NNPC and the Directorate of Petroleum Resources also would be good. The IOCs currently do not know if the NNPC is their partner or regulator.

--------------------------- COHESION WITHIN THE INDUSTRY --------------------------- ¶7. (C) The Ambassador asked if the industry was united in its approach to the PIB. Pickard replied that there was “total alignment with the international oil companies at every level.” She acknowledged that Shell had more exposure to the loss of acreage than any other company. “We could lose 80 percent of our acreage,” she said. The problem comes from the fact that the PIB will redefine how a company can hold on to its exploration and production blocks, limiting what can be kept to two kilometers around each well. “Everyone offshore loses a lot,” she continued. “We will have to bring satellites on fast or we will lose the blocks.” However, the problem with that is that the companies have to be able to pass things through to the blocks quickly and it takes years to get a rig in due to delays in the Nigerian approval process. (NOTE: Pickard told Econoff in Lagos that Shell “sent away” three platforms in late September. END NOTE.) -----------------------------------

ALIGNMENT WITH NIGERIAN OIL COMPANIES ----------------------------------- ¶8. (C) The Ambassador asked about the IOCs’ alignment with the Nigerian oil companies. Pickard replied that “the Nigerian companies are with us” because they will be taxed at the same rate in the current version of the PIB. The IOCs are starting to see what the Nigerian companies want to do.

------------- THE USG’S ROLE ------------- ¶9. (C) The Ambassador asked what the Embassy could do to help with the Joint House Committee on Petroleum Upstream and Downstream and Justice that is working on the PIB. Pickard said she hoped the current level of dialogue between the GON and the IOCs continues. Unfortunately, “We have not been able to meet with President Yar’Adua for nine months,” she said. “They have him protected.” She said it would be helpful if the Embassy would continue to deliver low-level messages of concern. In particular, she thought it would be helpful for the Embassy to call on Speaker of the House Dimeji Bankoke to see where he stood on the bill. Beyond that, she would like to keep the Embassy in reserve and use it as a “silver bullet” if the PIB passes the House. The Ambassador noted that the U.S., U.K., Dutch and French Embassies had already made a joint call on NNPC General Managing Director Dr. Mohammed Barkindo.

------------------------------------- CHINA’S INTEREST IN NIGERIA’S OIL BLOCKS -------- ------------------------------- ¶10. (C) Pickard mentioned China’s recently reported interest in Nigeria’s oil blocks. She said Shell had received a copy of the letter that Special Advisor to the President on Petroleum Matters Dr. Emmanuel Egbogah had sent to the Chinese which said that their offer for oil exploration blocks was not good enough. Minister of State for Petroleum Resources Odein Ajumogobia had denied that the letter ABUJA 00001907 003 OF 004 had been sent, but later conceded that the GON was only “benchmarking” to see what the IOCs should pay for shallow-water licenses. Pickard said Shell had good sources to show that their data had been sent to both China and Russia. She said the GON had forgotten that Shell had seconded people to all the relevant ministries and that Shell consequently had access to everything that was being done in those ministries.

--- -- CHANGING RESPONSIBILITIES WITHIN THE GON'S TEAM --- -- ¶11. (C) Pickard observed that there might be changes with how the GON management of the petroleum sector is organized. Minister of Petroleum Resources Rilwanu Lukman may be given the responsibility for implementing the PIB, while Minister of State for Petroleum Resources Ajumogobia may get the Directorate of Petroleum Resources and ongoing business. The problem with these changes is that the GON could still get "unempowered people" who are not able to address the issues. The question is whether Ajumogobia would be able to step up. (NOTE: Press reports on October 17 reported that Lukman will be given overall responsibility for the formulation of policy, and oversee the implementation of the PIB, the Integrated Joint Venture negotiation and rollout, the fiscal terms transition and implementation, the new organization implementation, and stakeholder management. We will also supervise the NNPC and its subsidiaries, the Organization of Petroleum Exporting Countries, the African Petroleum Producers Association, and the University of Petroleum. Ajumogobia will be in charge of the Gas Master Plan Transition Implementation, the Gas Exporting Countries Forum, the Nigerian Liquefied Natural Gas, the alternative fuels, and the Petroleum Equalization Fund. He will also oversee the Directorate of Petroleum Resources, the Petroleum Training Institute and the Pricing Regulatory Agency. END NOTE.)

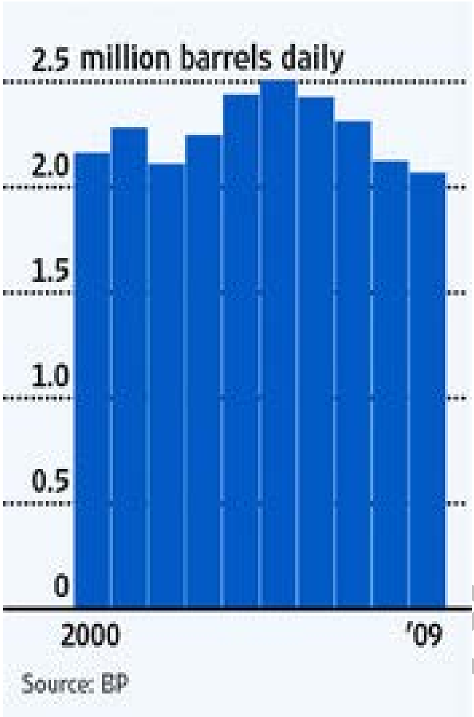
------------------------- SHELL'S CURRENT PRODUCTION ------------------------- ¶12. (C) The Ambassador asked about the level of Shell's current operations. Pickard said Shell was producing 663,000 barrels per day as of October 13, including the Bonga field. Approximately 80,000 barrels per day had been brought back from the Forcados field on the previous day. Some 900,000 barrels per day of capacity was still shut in. Of that, Shell could bring back 600,000 barrels per day, while the remaining 300,000 barrels per day is "too unreachable."

------------------------- AMNESTY IN THE NIGER DELTA ------------------------- ¶13. (C) The Ambassador asked Pickard what she thought about the future of the GON's amnesty offer to militants in the Niger Delta. She responded that Shell expected the situation in the Niger Delta to be "quiet" until the end of the year. It will then get "out-of-hand" when the election cycle starts up in December, January and February. She expressed particular concern about Bayelsa State, home to Shell's 500,000 barrel-per-day capacity Bonny field. Pickard also noted that Shell saw Israeli security experts in Bayelsa, but not in the Delta, and that there had been "a big drop in kidnapping" as a result.

------------- Looking Ahead ------------- ¶14. (C) XXXXXXXXXXXX ------- COMMENT ABUJA 00001907 004 OF 004 ------- ¶15. (C) Shell's views of the PIB and the alignment among the IOCs and with the Nigerian oil companies track closely with the views of ExxonMobil, as reported in reftel. The main difference is that Shell tends to minimize the different tax concerns and financial vulnerabilities of the individual IOCs. Shell is much more vulnerable than the other IOCs because its operations are concentrated in less favorable JV concessions that are located in the violence-prone Niger Delta. ExxonMobil and Chevron's operations are concentrated in more favorable production sharing contracts (PSC) in the relatively violence-free offshore areas. In the event that the PIB retains negative terms

or violence returns to the Delta, Shell can be expected to hurt the most and cry the loudest.
¶16. (U) Embassy Abuja coordinated this telegram with ConGen Lagos. SANDERS

Exhibit 7. Oil production in Nigeria 2000-2009



Source: Wall Street Journal (2010)

Exhibit 8. Three most profitable companies worldwide in the petroleum refining industry

Rank 2009	Company	Global 500 rank	Revenues ($ millions)
1	Royal Dutch Shell	1	458,361.0
2	Exxon Mobil	2	442,851.0
3	BP	4	367,053.0

Source: Global Fortune 500; From the July 20, 2009 issue

Note: Figures prepared in accordance with International Accounting Standards.

Excise taxes have been deducted. Company is incorporated in Britain. Executive offices are in the Netherlands.

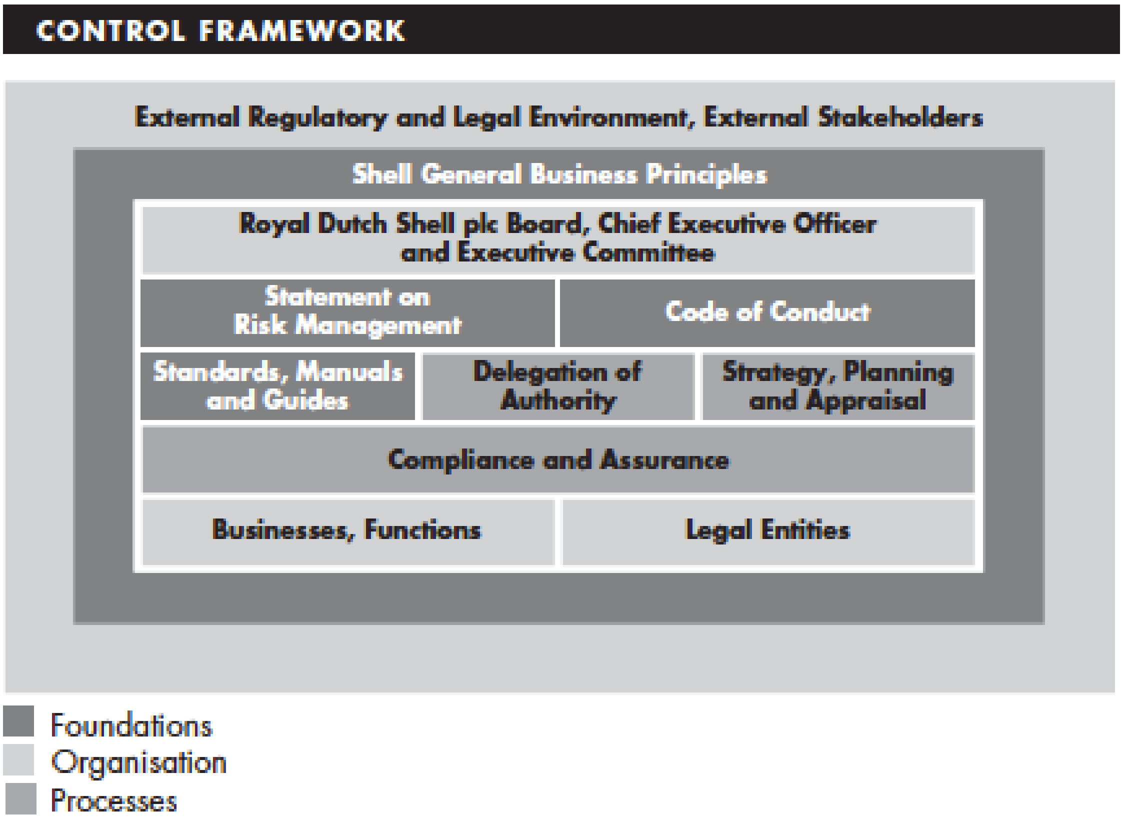
Exhibit 9. Ten most profitable companies worldwide

Rank 2009	Company Global 500	Rank 2008	Profits ($ millions)	Profits % change from 2007
1	Exxon Mobil	2	45,220.0	11.4
2	Gazprom	22	29,864.1	16.1
3	Royal Dutch Shell	1	26,277.0	-16.1
4	Chevron	5	23,931.0	28.1
5	BP	4	21,157.0	1.5
6	Petrobras	34	18,879.0	43.7
7	Microsoft	117	17,681.0	25.7
8	General Electric	12	17,410.0	-21.6
9	Nestlé	48	16,669.6	87.8
10	Industrial & Commercial Bank of China	92	15,948.5	48.8

Source: Global Fortune 500; From the July 20, 2009 issue

Note: Figures prepared in accordance with International Accounting Standards. Excise taxes have been deducted. Company is incorporated in Britain. Executive offices are in the Netherlands.

Exhibit 10. Shell's Control Framework



Note: "Foundations" comprise the objectives, principles and rules that underpin and establish boundaries for Shell's activities. "Organisation" sets out how the various legal entities relate to each other and how their business activities are organized and managed. "Processes" refer to the more material processes, including how authority is delegated, how strategy, planning and appraisal are used to improve performance, how compliance is managed and how assurance is provided. All control activities relate to one or more of these components.

Source: (Shell, 2010)

Exhibit 11. The Case of Ken Saro Wiwa

Kenule "Ken" Beeson Saro Wiwa (October 10, 1941 - November 10, 1995) belonged to the Ogoni people, an ethnic minority in the Niger Delta which has suffered extreme and unremediated environmental damage from decades of crude oil extraction. He was an outspoken critic of the Nigerian military government of General Sani Abacha, which he viewed as reluctant to enforce environmental regulations on the foreign petroleum companies operating in the area. As the president of the Movement for the Survival of the Ogoni People (MOSOP), Saro-Wiwa led a nonviolent campaign against environmental degradation of the land and waters of Ogoniland by the operations of the multinational petroleum industry, especially Royal Dutch Shell. At the peak of his non-violent campaign, Saro-Wiwa was arrested, hastily tried by a special military tribunal, and hanged in 1995 all on charges widely viewed as entirely politically motivated and completely unfounded. Shell was accused to be involved in the development of the strategy that resulted in the unlawful execution of the Ogoni Nine and the provision of monetary and logistical support to the Nigerian police for "security operations" that often amounted to raids and terror campaigns against the Ogoni. In 2009, this case was settled out of court with Shell paying $15.5 Million USD compensation to the plaintiffs. The company maintains that it "was falsely alleged to have been complicit in the men's death" and agreed to a settlement because they felt "it was time to draw a line under the past and assist the process of reconciliation" (Royal Dutch Shell, 2009, p. 25).

Source: humanrights.org/Categories/Lawlawsuits/Lawsuitsregulatoryaction/LawsuitsSelectedcases/ShelllawsuitreNigeria; Royal Dutch Shell. (2009). Royal Dutch Shell PLC Sustainability Report 2009. London.

Exhibit 12. NGOs and BBC targeted by Shell PR machine in wake of Saro-Wiwa death

NGOs and BBC targeted by Shell PR machine in wake of Saro-Wiwa death

Secret documents reveal the oil giant's crisis management strategy following the execution of the Nigerian activist

Eveline Lubbers and Andy Rowell

Guardian.co.uk, Tuesday 9 November 2010 17.33 GMT

In June last year, the company paid $15.5m to settle a legal action over the deaths in a federal court in New York without admitting liability. It was one of the largest payouts agreed by a multinational corporation charged with human rights violations.

The documents – which were part of this legal case but were never made public – describe the company's "crisis management strategy and plan". This was finalised by Shell's senior executives at a secret meeting in Ascot in January 1996, two months after Saro-Wiwa's death. The strategy was described as "most confidential".

(...)

The documents outline a tactic of divide and rule, where Shell planned to work with some of its critics but isolate others. Under the "occupying new ground" scenario, the document detail how Shell would "create coalitions, isolate the opposition and shift the debate."

(...)

One suggested tactic to counter these organisations was to "challenge [the] basis on which they continue their campaign against Shell in order to make it more difficult for them to sustain it".

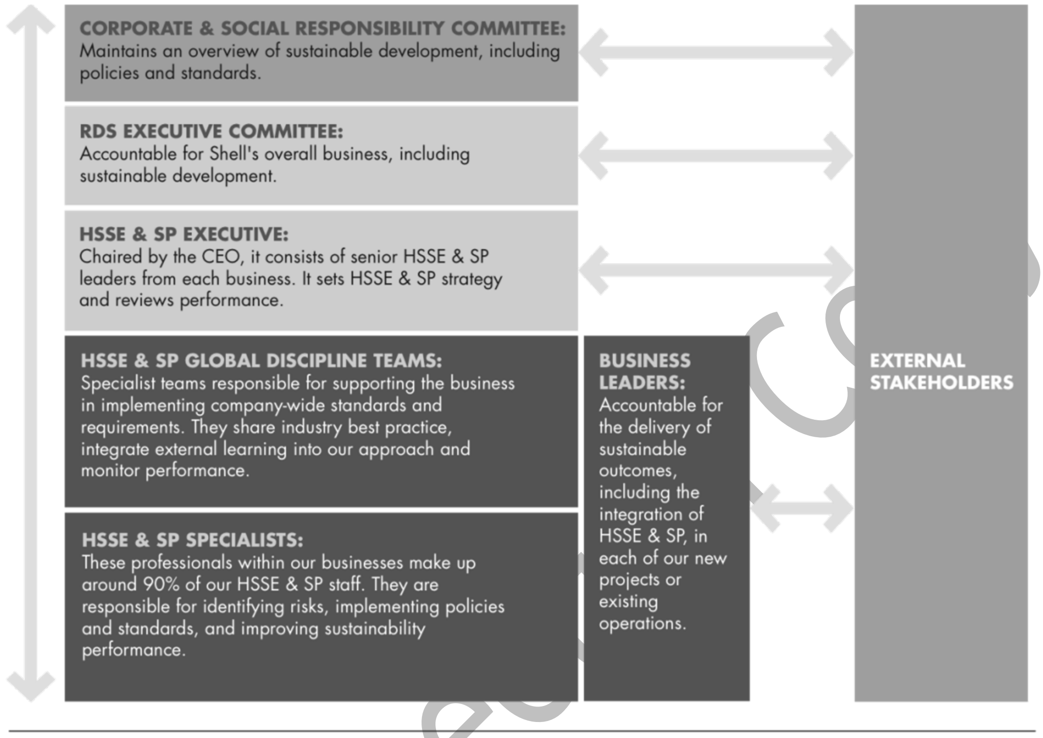
(...)

The documents also noted that "showing progress with the 'greening of Shell Nigeria'" was "strategically critical" after Saro-Wiwa's death. Although elsewhere, the documents acknowledge that the strategy may not be seen as genuine. "Our present communications strategy could be construed as green imagery" the authors wrote. To improve its green image, the company had to counter accusations of "environmental devastation", so Shell planned to produce a video "to publicise successes" and "to turn the negative tide". The most important topic to be included in the film was "oil spills generally, focusing on sabotage." This would have had the effect of playing up the impact of illegal activity in causing oil spill pollution in the delta, but in another document, the head of Shell Nigeria, N A Achebe, had acknowledged internally that "the majority of incidents arise from operational failures".

The documents even reveal that Shell discussed whether it should stay in the country in the wake of Saro-Wiwa's death. One scenario was called "milking the cow", whereas the "pull-out" scenario was seen as "giving in" or "caving in" which would set a "very negative precedent for the group". Another reason for not leaving was that "issues of liability will not disappear even with a total withdrawal."

• This article was amended on 11 November 2010. The original referred to a secret meeting in Ascot in January 1995. This has been corrected. http://www.guardian.co.uk/business/2010/nov/09/shell-pr-saro-wiwa-nigeria

Exhibit 13. Overview of Shell's sustainable development and governance structure



Source: Shell Sustainability Report 2009