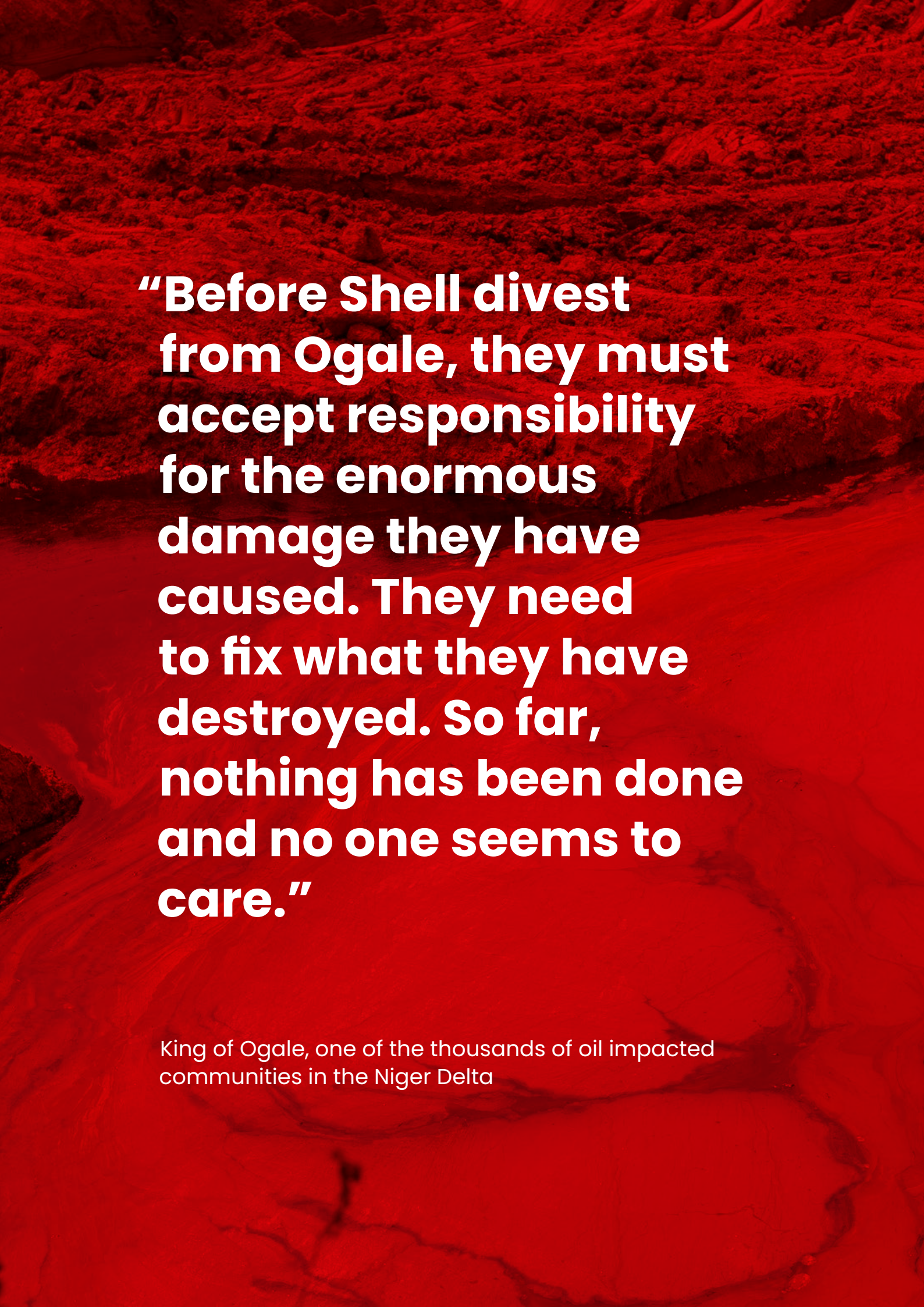
SOMO

Selling out Nigeria

Shell's irresponsible divestment

February 2024



“Before Shell divest from Ogale, they must accept responsibility for the enormous damage they have caused. They need to fix what they have destroyed. So far, nothing has been done and no one seems to care.”

King of Ogale, one of the thousands of oil impacted communities in the Niger Delta

Contents

Part I
Context

1. Introduction

About this report

This report examines the manner, legacy, and likely future consequences of oil company Shell's exit from its onshore oil operations in Nigeria's Niger Delta. While this report focuses on Shell as the international oil company (IOC) with the largest onshore presence in the Niger Delta, all the US and European oil majors are divesting from onshore oil production in the region, and many similar issues may apply to them. The report takes a human rights perspective grounded in legal principles and international standards regarding companies' responsibilities to respect human rights, to address their adverse impacts, and to conduct human rights due diligence to prevent or mitigate harms their operations may cause or risk causing. It specifically looks at how the business and human rights framework applies to the context of oil industry divestment and the concept of a just energy transition.

The report discusses both the pollution-ridden past that Shell leaves behind and the grave future environmental and human rights risks that will result from the way the divestment process has been carried out. It focuses on the onshore oil industry because it is onshore oil leases that are being sold off and onshore is where millions of people live side by side with the industry.

Shell's divestment from oil in the Niger Delta has received attention from civil society organisations (CSOs) that have long called on the company to clean up its oil spills and other oil-related environmental damage, and to compensate those who have suffered due to oil extraction.[1] Communities fear that, once Shell exits, they will never see their environment restored or receive compensation for lost livelihoods. Most people in the Delta depend on farming and fishing, occupations that are impossible when the soil and waterways are deeply contaminated.

A further worry is that Shell is selling its oil blocks and infrastructure as going concerns to companies that appear, in several cases, to lack the finances and willingness both to deal with the old and damaged infrastructure and to undertake responsible closure and decommissioning when this becomes necessary. This latter aspect of Shell's legacy – the need for proper decommissioning of the oil infrastructure – has received less attention. As this report makes clear, the manner of Shell's exit exposes the communities of the Niger Delta to major ongoing risks to their environment, health, and human rights, long after the oil industry ceases and likely for generations to come.

Questions of who is responsible and how repair and decommissioning will be funded are critical to environmental and climate justice and human rights in the Delta. Such questions relate to matters of ownership and, particularly, operatorship of oil exploitation rights and infrastructure.

Report structure

The report is divided into three parts. Part I presents the context. In this Introduction (Chapter 1) we set out the current situation of the oil industry and divestment in the Niger Delta. Chapter 2 describes the relevant Nigerian legal framework and the applicable international standards for oil industry divestment.

Part II of the report looks in depth at Shell's legacy in the Niger Delta, and the potential to address this legacy, post-divestment. Chapter 3 describes the widespread pollution that Shell is leaving behind and examines how the company has so far been able to exit without proper remediation of past oil spills and pollution. This chapter also looks at the potential for communities to take legal action over the pollution, after Shell has left.

Chapter 4 explores the issue of decommissioning of oil infrastructure, which is both a current and major future hazard in the oil-producing areas. Chapter 5 turns to an examination of the entities to which Shell has sold its oil business, and how the UK oil giant's approach to divestment has led to a maze of investors and new companies owning and operating the oil mining leases, companies that in many cases appear to lack the finances or stability to ensure safe operations and proper decommissioning. Across each of these chapters we highlight the lack of transparency that has accompanied the divestment process.

Part III of the report draws the threads together. Chapter 6 summarises Shell's multifaceted due diligence failures, and those of the new buyers and Nigeria's regulators. Chapter 7 offers conclusions and recommendations for the Nigerian government, as well as several international agencies – within the framework of the human rights responsibilities of corporations and the imperative of justice in the energy transition. In the Annex, we reproduce in Shell's written response to our findings and analysis, which the company emailed to us on 8 November 2023. We had further email correspondence with Shell and relevant responses are also reflected in the main text of this report.

Key sources on divestment in the Niger Delta

The report builds on the work of several leading CSOs in the Niger Delta, many of which contributed to our research and/or acted as reviewers. In particular, we draw from the following previous reports on divestment:

- Environmental Rights Action (ERA)/Friends of the Earth Nigeria, *Shell Divestments & Local Communities Responses in the Niger Delta,* 2015.[2]
- Friends of the Earth Europe, Amnesty International, ERA/Friends of the Earth Nigeria, and Milieudefensie/Friends of the Earth Netherlands, *Nigeria: No Clean-Up, No Justice: An evaluation of the implementation of UNEP's environmental assessment of Ogoniland, nine years on,* 2020.[3]
- Stakeholder Democracy Network (SDN), *Divesting from the Delta: Implications for the Niger Delta as international oil companies exit,* 2021.[4]
- Bayelsa State Oil and Environmental Commission (BSOEC), *An Environmental Genocide: The Human and Environmental Cost of Oil in Bayelsa, Nigeria,* 2023.[5]
- We the People, *Dirty Exit: Why Oil Companies in Nigeria Are Selling Off Assets and How it Denies Niger Delta Communities Justice,* 2023.[6]
- Amnesty International, *Nigeria: Tainted Sale?,* 2023.[7]

The report also draws on a growing and important body of work on responsible divestment in the context of the energy transition, including *Responsible Change: How Governments Can Address Environmental, Social and Governance Challenges When Petroleum Assets Change Hands,* published by the Natural Resource Governance Institute and an excellent review by the Columbia Center on Sustainable Investment of legal provisions for offshore oil and gas infrastructure decommissioning.8

Methodology and acknowledgements

This report is based on desk research and a research mission to the Niger Delta, funded by SOMO and carried out by Richard Steiner, a professor and conservation scientist, Director of Oasis Earth, who has worked on oil and environment issues for decades, and energy specialist Dr Festus Odubo, who was Director of Community Outreach at the Ijaw Diaspora Council, between 1 and 17 July 2023. This mission resulted in an expert report, *Just Transition: Reforming Oil Industry Divestment, Decommissioning & Abandonment in the Niger Delta, Nigeria,* published in December 2023,[9] on which this SOMO report has drawn substantially.

SOMO is also indebted to Professor Emeka Duruigbo, Roberson King Professor of Law, Texas Southern University, Thurgood Marshall School of Law, Houston, TX, who carried out the analysis of Nigeria's laws and regulations in relation to divestment.

The desk research involved extensive analysis of company reports, legal documents, and civil society reports, as well as use of databases such as Refinitiv Eikon.[10] SOMO carried out interviews with oil industry experts by phone and using online platforms and held follow-up discussions with civil society groups and activists in the Niger Delta during October and November 2023.

In researching and publishing this report, the authors benefited from substantial support and guidance from Stakeholder Democracy Network (SDN), based in Port Harcourt, Rivers State, for which we are very grateful. Research and engagement with the Ogale community were carried out by the Centre for Environment, Human Rights and Development (CEHRD), also based in Port Harcourt. Additionally, the report benefited from collaboration with many other colleagues in the Niger Delta. We would like to particularly thank Alagoa Morris of Environmental Rights Action/Friends of the Earth Nigeria for his invaluable support and his insights that contributed to the research.

SOMO engaged with Shell, some of the domestic oil companies (DOCs) that have purchased oil mining leases from Shell, and the Nigerian regulators in the preparation of this report. Professor Steiner and Dr Odubo met the National Oil Spill Detection and Response Agency (NOSDRA) and Nigerian Upstream Petroleum Regulatory Commission (NUPRC) staff in July 2023 to discuss divestment issues. In addition, SOMO contacted Shell at its UK headquarters by letter (sent by courier and email), dated 25 October 2023, and again by email on 20 November 2023. We received replies from Shell by email on 8 November and 21 November 2023. Shell provided overall comment on SOMO's findings (reproduced in the Annex) but did not address most of the specific issues and questions raised. The company's response is reflected in relevant sections of this report. SOMO sent letters by courier to Aiteo Eastern E&P, Elcrest, Eroton, ND Western and Seplat in Nigeria, and to Seplat in the United Kingdom (UK) and San Leon Energy in Ireland, all of which have been involved in divested Shell assets. The letters were sent between November 2023 and January 2024. Only ND Western responded.

That response is also reproduced in the Annex to this report. Efforts by the courier company to deliver a letter to Eroton were unsuccessful. SOMO spoke to a NOSDRA official on 30 October 2023 by phone and had a follow-up email communication on 18 November 2023.

The report was reviewed by an independent fact checker and by an expert in Nigerian law. It also benefited from peer reviews. We would like to thank Isabelle Geuskens of Milieudefensie, Alexander Sewell of Stakeholder Democracy Network and Luis Scungio of SOMO for their expert review of the research.

An oil spill remediation site near Ogale, February 2024. Photo by Simpa Samson.

Structure of Nigeria's onshore oil industry

Oil extraction in the Niger Delta is undertaken by oil companies usually operating in joint ventures (JVs) or via production sharing contracts. JVs involve a group of companies, including, in the Delta, the state-owned Nigerian National Petroleum Corporation (NNPC). NNPC is usually the majority shareholder. One of the non-state companies involved in the JV is usually the operator responsible for extraction and day-to-day running of infrastructure such as pipelines and wellheads.

Historically, the largest operator in the Niger Delta in terms of oil production has been Shell via its subsidiary the Shell Petroleum Development Company of Nigeria Limited (SPDC).

SPCD operates the SPDC JV, in which it holds a 30% stake, the French company TotalEnergies 10%, the Italian company Eni (Agip in Nigeria) 5%, and NNPC 55%. The SPDC JV is sometimes confused with SPDC the company, but they are different entities. SPDC is a company currently 100% owned by Shell (it will be owned by Renaissance Africa Energy if the sale announced in January 2024 goes through – see later chapters of this report). The SPDC JV is an unincorporated consortium of the companies referred to above. The JV is called the SPDC JV because SPDC is the operator, meaning it runs day-to-day oil extraction operations on behalf of the other members. The SPDC JV has rights to multiple oil mining leases (OMLs).

Divestment and Shell

International oil companies (IOCs) have been divesting from onshore Niger Delta oil operations for over a decade, often selling their interests in OMLs and associated infrastructure to domestic oil companies (DOCs).[11] More recently, some IOCs announced sales of their Nigerian subsidiaries entirely.[12]

Divestment by the IOCs has been led by Shell Plc's subsidiary SPDC.[13],[14] Shell has been in the Niger Delta for over 70 years, having begun its exploration for oil under colonial rule, when it was given preferential access to Nigeria's hydrocarbon resources.[15]

Between 2010 and 2021, Shell divested from 12 onshore OMLs to DOCs (an additional OML was transferred to the national oil company), leaving it with 15 onshore OMLs by 2024.[16] Even with this divestment, Shell remained the largest onshore operator in the Niger Delta, as it has been for some seven decades.

In January 2024 Shell announced that it had found a buyer for its Nigerian subsidiary SPDC.[17] It will sell SPDC to a consortium going by the name of Renaissance Africa Energy Company, a group of oil investors about which relatively little is known. Renaissance itself is a newly created company. What Shell has said publicly about the sale of SPDC has generated some confusion. Shell has stated that Renaissance will be the new owner of SPDC but also that "the proposed transaction keeps SPDC intact"[18]. Whatever the confusion, what is clear is that SPDC will cease to be a subsidiary of Shell Plc when the deal is completed. The 30% stake of the 15 onshore OMLs that SPDC still has rights to and operates on behalf of the SPDC-led JV will be part of the sale to Renaissance (Box 1).

Box 1. Oil mining leases (OMLs), divestment, and environmental and human rights responsibility

OMLs are large areas of land where the Nigerian government has given oil companies the right to extract oil. In the Niger Delta millions of people live, farm, and fish within the OML areas.

As Shell has divested from individual OMLs it runs on behalf of the SPDC JV, so too have Eni and TotalEnergies, meaning new players buy the 45% share that the three European majors collectively divest in each OML.

In most OML areas, if not all, multiple oil spills have affected communities' land, water, livelihoods, and health. Few of these spills have been properly cleaned up.[19] So when Shell sells an OML it sells a lease inextricably linked to decades of negative environmental and human rights impacts.

As part of the sale of OMLs, Shell is also selling infrastructure – oil pipelines, wellheads, and manifolds[20] – that run across the OMLs. The Niger Delta's oil-producing areas are covered by thousands of kilometres of pipeline punctuated by wells and flow stations. Much of the infrastructure is located close to people's homes, farms, and water sources.[21] The people of the Delta live side by side with the industry. The condition of this infrastructure thus has a significant bearing on the risk of future harm to local communities.

Operatorship of OMLs and associated infrastructure involves responsibility for preventing and remedying environmental and human rights harms that arise from oil operations. Thus the capacity of the companies buying OMLs from the oil majors, particularly the company designed as the new operator of each OML, is of paramount importance, as this report demonstrates.

Table 1 provides an indication of the money Shell has made from its onshore OML divestments to date. According to available reports, which are limited, the amount the company has received from these OML sales exceeds US$ 4.7 billion (and is probably significantly higher). Shell will also receive US$ 1.3 billion for the sale of SPDC.

Table 1. Shell's onshore OML sales to domestic oil companies

Year Sold	OML	Sold to	Shell sold for (US$)
2010	4	Seplat	Unknown
	26	First Hydrocarbon Nigeria	$ 98 million[22]
	38	Seplat	Unknown
	41	Seplat	Unknown
2011	34	ND Western	Unknown
	42	Neconde Energy	$ 390 million[23]
2012	30	Shoreline Natural Resources	$ 567 million[24]
	40	Elcrest	$ 102 million[25]
2014	18	Eroton	$ 737 million[26]
2014	24	Newcross	$ 600 million[27]
2014	29	Aiteo Eastern	$ 1.7 billion[28]
2021	17	TNOC (Heirs Energies)	$ 533 million[29]
2024	SPDC	Renaissance Africa Energy	$ 1.3 billion[30]

Note: This table is based on a table produced by Stakeholder Democracy Network. SOMO has added amounts known to have been received by Shell for the sale of the OMLs. The list above includes only divestments from onshore OMLs to DOCs.

Shell's reasons for divesting

Shell describes its reasons for exiting the Niger Delta differently in different public statements. The reasons matter and need to be analysed against the manner, due diligence, and impacts of Shell's exit, issues that later chapters of this report consider.

Shell has repeatedly stated that divestment, in Nigeria and elsewhere, contributes to the reduction of the company's greenhouse gas (GHG) emissions.[31] In 2020 Shell said:

> **"Divestments are a key part of our efforts to refresh and upgrade our portfolio as we drive towards our target to become a net-zero emissions energy business by 2050, in step with society."[32]**

Shell has also stated that it is exiting the onshore Niger Delta because of security challenges. Shell's former CEO Ben van Beurden told the 2021 Annual General Meeting that Shell could no longer be exposed to the risk of theft and sabotage. He was also quoted as saying: "We cannot solve community problems in the Niger Delta, that's for the Nigerian government perhaps to solve. We can do our best, but at some point in time, we also have to conclude that this is an exposure that doesn't fit with our risk appetite anymore."[33]

This explanation, which cynically blames the local people for Shell's business decision to leave the Niger Delta, does not stack up. The timing of the international oil company exits is notable. Security challenges have, by the companies' admission, been long-standing in the Niger Delta. That context has improved over recent years, although security remains a problem. What has changed most is the external context for the oil industry, as the world seeks to address the climate crisis.

In 2021 industry consulting company Wood Mackenzie noted about Shell's plans to exit the Niger Delta that: "Emissions from Shell's assets in the onshore and shallow water Niger Delta are among the highest in its global portfolio. This is because of ageing infrastructure, under-investment, vandalism, continued flaring and the harsh operating conditions."[34]

The Wood Mackenzie observation on aged infrastructure and underinvestment refers to issues repeatedly raised by communities and civil society groups in the Niger Delta. These concerns need to be considered when assessing who has bought this infrastructure from Shell in the divestment process, especially whether they can maintain, let alone upgrade it, and who will be left with the bill for abandonment and decommissioning.

Niger-Delta-based Environmental Rights Action/Friends of the Earth Nigeria has described the situation: "[T]he term divestment in Africa has been distorted by the fossil fuels industry and mispresented to mean the sale of toxic assets and oil facilities in environmental hotspots as against its true meaning."[35]

Shell's divestment of oil assets in the Delta is inextricably linked to the energy transition. However, its divestment and its strategic pivots in Nigeria are not in support of addressing climate change. They are part of a business strategy that sees risks and opportunities – for Shell's shareholders – in the climate crisis. Divesting from oil while investing in Nigeria's gas is a clear example of Shell's response to the crisis (Box 2). Investing in gas is investing in fossil fuels, and the pivots to gas by companies like Shell are part of a trend that is drive up investment in hydrocarbons even as the climate crisis gets worse.

Another issue raised by some civil society actors is the impact of recent legal actions against Shell in the UK and the Netherlands. These cases have resulted in judgments favourable to Niger Delta communities and have challenged Shell's positioning on how well it prevents and remediates oil spills. The most notable such cases are:

- **Bodo community litigation against Shell in the UK.** The Bodo community commenced legal action in the UK courts against Shell in 2011 over failure to address vast pollution resulting from two massive oil spills. In 2015 the case resulted in a UK£55 million settlement by Shell and an agreement to clean up Bodo. This has led to a more extensive (although far from problem-free) clean-up process at Bodo than has happened in most other oil spill impacted areas.[36] In addition, during the legal process Shell was forced to disclose documents which showed it was aware of the age and poor conditions of

pipelines, and to accept that the oil spills at Bodo were larger than it had claimed.[37]

- **Milieudefensie and Nigerian farmers v Shell in Netherlands.** This case began in 2008 and was fought until 2021, when the claimants secured a positive judgment. A critical element of the court's ruling was that Shell acted unlawfully by not installing an (adequate) Leak Detection System on a pipeline, which the court went on to order the company to do.[38]

More judgments like these could see Shell having to carry out significant and costly work to address critical shortcomings in infrastructure and clean-up of oil spills. Divestment, some activists believe, is an effort to enable Shell to sidestep the efforts of communities and CSOs to hold it to account. It remains to be seen if this is the case.

As the sun sets for the oil industry, on whatever time horizon, Shell is selling off problem assets. The company's well-timed (from its perspective) escape from the Niger Delta's onshore oil business, while maintaining its access to Nigeria's gas, is a remarkable feat of escapology.

Box 2. Shell's expanding gas business in Nigeria

While Shell is divesting from the onshore Niger Delta, it is not exiting Nigeria's oil and gas industry. The company will remain a key investor via Nigeria's offshore oil operations and other business interests, particularly gas. Even with the sale of SPDC Shell's interests in Nigeria continue via the Shell Nigeria Exploration and Production Company (SNEPCo). In addition, Dutch-based Shell Gas BV holds 25.6% of Nigeria LNG Limited (NLNG), which produces and exports liquefied natural gas to European and other markets.[39]

Shell had at least 20 companies in Nigeria as of November 2023.[40] This almost certainly affects the company's leverage and the political will of the Nigerian government when it comes to Shell's unclean getaway from its onshore Niger Delta legacy. Shell remains a big investor, with deep connections to the government.

2. How the legal framework applies to Shell's divestment

Oil, gas, and solid minerals are natural resources usually owned by a country and are not goods that companies manufacture. In most countries, therefore, the government is involved in deciding which companies extract these resources and under what terms. This is generally arranged through legal agreements between the government and the extracting company, based either on national legal frameworks or on negotiations.

The government also has a say when companies divest, whether by selling their assets to another company or full closure of operations. In the case of the Niger Delta, Shell's divestment comprises two elements: first, for over a decade Shell's Nigerian subsidiary has divested its stake in several individual oil mining leases (OMLs); second, Shell Plc is now selling all of its shares in its Nigerian subsidiary, SPDC. With both divestments Shell sells key infrastructure such as pipelines and wellheads. There are some different legal parameters for these divestments, which affect the potential for communities to seek remedy for legacy pollution in the future, issues we address in chapter 3.

Divestment of OMLs and of SPDC, which still owns stakes in several OMLs, requires consent of the Minister of Petroleum Resources. The minister's consent is needed both for a direct transfer of an interest in an oil and gas asset and for an indirect transfer through sale and acquisition of shares in

the company that owns the interest or assets. This position is established in case law[41] and in government guidelines.[42]

The legal and regulatory framework governing Shell's exit from the Niger Delta is complicated because the main petroleum sector law has recently changed. The Petroleum Act 1969 was superseded by the Petroleum Industries Act (PIA) 2021. All divestments until now have been under the older regime, which says very little about divestment, although associated industry guidelines provide some clarity. The PIA is clearer and on these issues. However, Shell's OMLs remain governed by the older legislation (see below).

There is some overlap between the two laws. Additionally, several other laws and regulations are also relevant to the divestment story unfolding in the onshore Niger Delta oil industry. The most relevant laws and regulations are described below.

Local content law and the creation of new companies

Nigeria's Oil and Gas Industry Content Development Act 2010 (known as the Local Content Act) seeks to increase the participation of Nigerian companies in the nation's oil sector. The Act provides preferential treatment for local ventures:

> **"[Nigerian operators] shall be given first consideration in the award of oil blocks, oil field licences, oil lifting licences and shipping services and all projects for which contracts are to be awarded in the Nigerian oil and gas industry … [and] there shall be exclusive consideration for Nigerian indigenous service companies."[43]**

While this law has a positive intent, it has helped enable the divestment of assets by IOCs to much smaller DOCs. Almost all divestments have happened after 2010 and have been – at least ostensibly – to DOCs.[44] The law created the potential buyers that arguably did not exist before. Many DOCs that have bought Shell's assets came into being only after 2010.

Divestment under the Petroleum Act 1969

Prior to 2021, during a period when Shell divested more than 12 OMLs, there was less clarity on the divestment process, but ministerial consent was required. According to the law firm Dentons' legal overview of the situation in 2016:

> **"Nigerian law requires holders of oil and gas licences to obtain prior consent from the Minister of Petroleum Resources (Ministerial Consent) before transferring such rights or interests to a third party. Recent case law *(Moni-Pulo Limited v. Brass Exploration Unlimited)* and regulatory guidance have indicated that Ministerial Consent will be required for direct transfers of interests in oil and gas assets or sale of shares in an asset holding company or an offshore intermediary company."[45]**

However, while ministerial consent was required, there was little clarity as to the process or criteria a minister would use in making decisions. This lack of transparency has been a recurrent concern for communities who live in OML areas where Shell and other oil majors have divested.[46]

The Environmental Guidelines and Standards for the Petroleum Industry

Nigeria's federal Environmental Guidelines and Standards for the Petroleum Industry in Nigeria (EGASPIN) were established in 1991. The original version of EGASPIN did not contain provisions stipulating required procedures for industry divestment. But a 2018 update includes a requirement for an environmental evaluation study (EES) and report to be concluded pre-divestment. Section 2.1 (ii) of the 2018 EGASPIN requires:

> **"An operator or licensee that intends to divest any interests in its concession … to conduct an Environmental Evaluation Study to document the current state of the environment at the time of the divestment. The EES shall be supervised and the report submitted to the DPR [Department of Petroleum Resources] for review and approval prior to finalizing any divestment agreements."** [47]

EGASPIN requires that the EES should contain "qualitative and quantitative descriptions of the already impacted environment". It further requires that the "operator or licensee prepares/produces and submits the EES to the Director of Petroleum Resources" and that the Director of Petroleum Resources "determines appropriate mitigating and ameliorating measures and instructs the operator/ licensee to institute same".

As this guidance has only been in place since 2018, only one Shell OML divestment to date – that of OML 17 in 2021 – would have required an EES. Shell has stated that "SPDC is committed to complying with the Environmental Guidelines and Standards for the Petroleum Industry in Nigeria (EGASPIN)".[48] Researchers working with SOMO asked Nigeria's current regulatory bodies, including the National Oil Spill Detection and Response Agency (NOSDRA) and the Nigerian Upstream Petroleum Regulatory Commission (NUPRC), and Shell itself about the EES report on OML 17. None of these actors was able to confirm the existence of such a study.

Under EGASPIN, if the oil industry regulator accepts a divestment without insisting that the divesting company meets the EES requirement, communities or residents may seek a court order restraining the government from approving the divestment or nullifying a completed divestment. Although the OML 17 sale has been completed, this could be a critical issue for future community and CSO advocacy.

A less clear issue is whether the divestment by Shell Plc (the parent company) of all of its shares in SPDC would trigger a requirement for an EES on the remaining OMLs. Shell has repeatedly stated that SPDC will remain a company operating these OMLs (an SPDC owned by Renaissance), which may lead to the view that no EES is required as the divestment was not of "any interests in its concession", but of shares in a company. However, Nigerian case law, as noted above, recognises that the minister's consent is needed both for a direct transfer of an interest in an oil and gas asset and for *an indirect transfer through acquisition of shares in the company that owns the interest or assets*. The latter applies in the current context, and arguably the SPDC transaction cannot be completed without compliance with EGASPIN's EES requirement.

Yet whether Shell should do an EES for all OMLs that will be effectively divested by sale of SPDC may be approached differently. Strictly speaking, and from the quoted part of EGASPIN, the EES requirement is for the OML holder seeking to dispose of its (percentage) interest in the OML, and not a shareholder seeking to sell its shares in the lessee company. EGASPIN refers to "operator" or "licencee" seeking to divest interest in a "concession". These words, "operator" or "licensee" would not refer to a "shareholder" in SPDC. Divestment of an interest in a concession cannot refer to a share sale but a sale of (a percentage in) an OML.

SPDC could argue it is not divesting from the OMLs, since SPDC remains a company and is still operating the leases. The structure of the deal is that Shell Plc is selling shares in SPDC, but SPDC is not divesting any OMLs. On this reading of the legal position, EGASPIN would not apply here.

Similarly, with SPDC's operatorship of the SPDC Joint Venture, the exit of SPDC's initial shareholders would not require SPDC to do anything differently about its operator status. This area is one in which the distinct legal personality of a corporation is applicable. A company is a separate legal person from its shareholders, a principle that has been recognized in Anglo-Nigerian jurisprudence for over 100 years, starting with Salomon v Salomon (1897) AC 22, recognized in numerous Nigerian cases and codified in Section 42 of Nigeria's Companies and Allied Matters Act (2020). Thus, an operator that is organized as a corporation is separate from its shareholders. The composition of its shareholders does not affect its legal status. This is also relevant for the DOCs that have purchased OMLs over the past decade. Several are consortiums fronted by Special Purpose Vehicles (SPVs, companies set up to enable the purchase of OMLs, in this context). The shareholders – the companies behind the SPV – may change, without triggering any requirement for an EES, even when there is a change – *de facto* – in the operator.

Divestment and the Petroleum Industries Act 2021

Nigeria's Petroleum Industry Act (PIA) 2021 concluded a 20-year government effort to reform governance of the country's oil and gas industry. The PIA reallocated federal oversight and regulation of the industry from the former Department of Petroleum Resources to two new agencies: NUPRC and the Nigerian Midstream and Downstream Petroleum Regulatory Authority (NMDPRA). Both are part of the federal Ministry of Petroleum Resources.

The PIA provides a deliberate process for companies to apply to the Ministry of Petroleum for approval of a proposed sale or divestment of assets. It stipulates that a company may not transfer any assets without written consent of the minister, under NUPRC guidance. A company wishing to transfer or divest assets must apply to NUPRC and provide it with sufficient information to evaluate the proposed sale. Within 60 days of receipt of such an application, NUPRC is required to make its recommendation to the minister.

Within this time NUPRC must conduct due diligence checks to ensure the acquiring company has the requisite capability to manage the asset. The regulator also examines the pricing of the transaction to ensure the Nigerian government's

revenue will not be adversely affected. The scope of NUPRC's due diligence is set out in PIA section 95 (11):

> **"The Minister may grant consent to an assignment, novation or transfer of a petroleum prospecting license or petroleum mining lease, subject to the following terms and conditions which the Commission may consider appropriate, that the proposed transferee –**
> **(a) is a company incorporated in Nigeria;**
> **(b) is of good reputation and standing;**
> **(c) has sufficient technical knowledge, experience and financial resources to enable it effectively to carry out all responsibilities of a licensee or lessee under the license or lease."**

There is no reference in the due diligence process to the impact of the sale or divestment on nearby communities. Nor do the regulations refer to social and environmental issues. As far as SOMO could discover, it is not possible for communities and CSOs to know how the regulatory agency has assessed the "good reputation and standing" of an incoming company, nor how the issue of "sufficient technical knowledge, experience and financial resources" is assessed.

In a meeting with Professor Richard Steiner and Dr Festus Odubo in July 2023, the Permanent Secretary of the Ministry of Petroleum confirmed that there is no provision in law requiring public engagement in proposed sales, other than the public bidding solicitation.

EGASPIN is still in force, and therefore its requirements regarding divestment should also be adhered to. However, it is not clear if NUPRC will consider EES reports under EGASPIN as part of its due diligence.

An additional consideration, relevant to the current context of Shell's divestments, is that many provisions of the 2021 PIA are only effective in respect of new petroleum prospecting licences (PPLs) and petroleum mining leases (PMLs) issued under the PIA. They do not apply to existing OMLs, which remain governed largely by the older legislation.

Section 311 (9)(a) of the PIA saves the provisions of the 1969 Petroleum Act relating to oil prospecting licences (OPLs) and OMLs until the licences and leases are terminated and renewed or converted to PPLs and PMLs under the PIA.

Under the PIA, conversion of existing OMLs is not mandatory. The PIA allows current holders of OMLs to voluntarily convert to PMLs within 18 months from the date of the PIA, i.e. by February 2023. Where OML holders choose not to convert to the PIA regime, the older Petroleum Act 1969 regime continues to apply until the expiration of their existing leases. Upon expiration, the new regime will apply to the renewed leases. This is relevant as Shell reportedly renewed many of its unsold OMLs in 2018, meaning that its ongoing onshore OML operations are covered by the older regime for 20 years.[49] As SPDC remains a company after the sale of Shell Plc's shares to Renaissance, this also means most or all of the 15 onshore OMLs that the Renaissance-owned SPDC will operate also remain governed by the older law.

To summarise, while the PIA became effective on 16 August 2021, the legislation's grandfathering provisions limit its application regarding existing OMLs. The entire provisions of the PIA will only apply to an existing OML voluntarily, based on the election of the leaseholder by entering into a conversion contract, or mandatorily, following the termination, expiration, or renewal of the OML. It follows from the provisions of section 303 (1) of the PIA that, unless a leaseholder elected to convert to the PIA regime or the OML is terminated, expires, or is renewed, the provisions of the PIA will not apply to such an OML.

However, some provisions of the PIA apply to leases both under the Petroleum Act and under the PIA. They include requirements to establish and fund community trusts and decommissioning and abandonment escrow accounts. Thus, the decommissioning and abandonment provisions of the PIA and the regulations made under the statute are of general application whether or not the lease is governed by the PIA or the Petroleum Act, an issue taken up in Chapter 4.

The PIA will ultimately repeal the Petroleum Act 1969 upon the termination of the existing OPLs and OMLs.

Selling a company

There is a legal framework for oil and gas specifically, which we have discussed above insofar as it applies to divestment. However, as Shell is also selling a company, the applicable legal framework is also relevant. There are different legal constructions under which a company can be sold. In the case of the sale of SPDC to Renaissance Africa Energy, the sale would be of shares. In a share sale, the buyer purchases shares in the company, rather than just the assets. The transaction is between the company's shareholders (in this case, Shell Plc and Shell NV) and the buyer of the shares (Renaissance). By purchasing all the shares in SPDC, Renaissance would purchase the company, which is a separate legal entity. Usually, the company continues to retain its assets and liabilities, meaning the SPDC that Renaissance will own after the deal retains SPDC's assets and liabilities.

While what has been announced by Shell does not appear to be a merger or other legal construction that would see SPDC cease to exist, once SPDC is a company owned by Renaissance, this is a future possibility. The company can hardly continue to have the name *Shell* Petroleum Development Company of Nigeria when Shell Plc does not have any stake in it. If a merger or takeover occurs that sees SPDC ceasing to exist altogether, and getting absorbed into Renaissance, then the liabilities of the pre-sale pollution would be borne by Renaissance. The next section considers the legal framework that would apply should there be a further development in this regard.

In summary, since the sale here is a sale of shares connoting a change of ownership, and not a sale of an OML connoting a divestment of assets, liability for pre-sale pollution, would remain with SPDC. In spite of the change of ownership in a share sale, the company – SPDC – being a separate person from its owners, would still retain its assets and liabilities.

Mergers and acquisitions under Nigerian law

The governing statute on mergers and acquisitions in Nigeria is the Investments and Securities Act 2007. Section 119 (1) of the Act defines a merger as "any amalgamation of the undertakings or any part of the undertakings or interest of two or more companies or the undertakings or part of the undertakings of one or more companies and one or more bodies corporate". This definition is broad enough to encompass a future SPDC acquisition (i.e. SPDC merging or being "acquired by" Renaissance or some similar construction that would see SPDC cease to exist). Section 119 (2) of the Act states that a merger "may be achieved in any manner, including through: (a) purchase or lease of the shares, interests or assets of the other company in question; or (b) amalgamation or other combination with the other company in question".

Mergers require judicial approval under the statute. The approving court is empowered by Section 122 (6) (a) of the Act to make an order providing for "the transfer to the transferee company of the whole or any part of the undertaking and of the property or liabilities of any transferor company". Section 122 (10) defines liabilities to include "rights, powers and duties of every description notwithstanding that such rights, powers and duties are of a personal character which could not generally be assigned or performed vicariously". This definition is quite encompassing.

Clearly, under Nigerian law, an acquisition of a company results in the transfer of all the assets and liabilities of the acquired company to the acquiring company. The Nigerian Supreme Court took this position in *Afolabi v. Western Steel Works Ltd* (2012), where it held: "The purchaser of a company buys its assets and liabilities." This position was reiterated by the Court of Appeal in *Keystone Bank Limited v. Dr Vincent O. Ebuh* (2021), where the court stated: "In Afolabi & Others vs Western Steel Works Limited (2012) … it was held among others that: 'The purchaser of a Company buys its assets and liabilities'."[50]

Put simply, SPDC can continue to exist, or – at some point in the future – it can be absorbed into a new entity, through merger or acquisition, and cease to exist. The legal implications for liability are different, and discussed further in Chapter 3.

International standards and divestment

In addition to Nigeria's domestic legal framework governing the divestment of oil leases or assets (see above), companies also have obligations to act according to international standards. These include accepted international standards for commercial due diligence[51] and agreed intergovernmental standards, in particular the United Nations Guiding Principles on Business and Human Rights (UNGPs) and the OECD Guidelines for Multinational Enterprises (OECD Guidelines), both of which require corporate human rights and environmental due diligence.[52]

Buyers' responsibilities

All companies involved in the acquisition of assets should carry out commercial due diligence. Typically, such due diligence will include careful assessment of the financial aspects of a deal and of any liabilities or problems the buyer may end up having to deal with.

According to the law firm Dentons, writing specifically about Nigeria's situation in 2016, when the oil industry divestment trend was well underway:

> **"Purchasers of oil and gas assets and their financiers will need to conduct an extensive due diligence process to fully understand the target asset's obligations, liabilities, production history and projections. Lenders will also need to complete 'know your customer' checks on borrowers, beneficial owners and affiliated entities in order to ensure that they are not lending to sanctioned entities, politically exposed persons or in furtherance of money laundering activities."[53]**

Buyers' commercial due diligence should also capture issues related to unremediated social and environmental harms, as these are potential liabilities and can affect the social licence to operate.[54]

Sellers' responsibilities

Shell claims that it divests responsibly: "[We] carry out due diligence on potential buyers when divesting parts of our business"; it goes on to say:[55]

> **"We have a well-established, systematic and assured method of assessing risk in divestments. This includes using in-house and external experts, where appropriate, to conduct checks and examine key attributes of potential buyers. These attributes include their financial strength; operating culture; health, safety, security and environment (HSSE) policies; and approach to ethics and compliance. We also consider risk and people management processes and standards; community liaison practices; and social investment programmes. Applicable attributes are assessed against Shell's policies, as well as the likely requirements of relevant laws and regulations."**

Shell also has responsibility to carry out human rights and environmental due diligence on its divestments. The UNGPs and OECD Guidelines are clear that companies should enter and exit business operations and relationships responsibly. These international standards provide a framework for responsible disengagement (Box 3).

Due diligence in the fossil fuel sector (oil, gas, and coal), as in other mineral extraction sectors, should pay particular attention to the question of remedy, given the sector's well-documented history of human rights, social, and environmental harms. This is one of the most significant challenges for fossil fuel companies. There can be no just energy transition in response to climate change that includes a legacy of unremedied human rights and environmental abuses around former oil, gas, and mining projects. Nor can offloading uneconomic or problematic extractive projects on to governments or other companies form any part of a just transition or responsible business conduct.

Box 3. International standards for responsible disengagement

Based on widely accepted international standards, to which Shell has publicly committed, the following would apply to divestment from oil operations:

Apply due diligence to any proposed disengagement. The decision to disengage is usually a major decision and can lead to significant changes for different stakeholders. The UNGPs and OECD Guidelines expect disengaging companies to conduct human rights and environmental due diligence. Due diligence covers human rights, social, and environmental impacts the business may have caused or to which it contributed. The action of exiting or disengaging can contribute to a range of adverse human rights impacts. The fact that a business may cause harm by remaining does not mean it can ignore harms caused by its exit.

Remediate abuses and harms. Responsible disengagement means the exiting company must remediate previous adverse impacts it caused or to which it contributed. This applies even if the company disengages from the business relationship through which it contributed to the impact. Businesses are not "off the hook" as soon as they disengage but continue to have responsibilities to remediate harms in accordance with the UNGPs and OECD Guidelines. Efforts to sell off or avoid liability and responsibility for past harms are incompatible with respect for human rights. Historical abuse is increasingly the focus of official complaints procedures and litigation.

Communicate and consult meaningfully and timely. The UNGPs and OECD Guidelines underscore the importance of communicating and consulting with relevant stakeholders as clearly as possible. Consultation is critical for meaningful due diligence to ensure companies are clear about their responsibilities and the action they should take.

Part II
Toxic legacy

3. Legacy pollution and limiting liability

While divestment and acquisition of oil interests are usually seen as a purely business matters, and legal requirements focus on the commercial elements, in the Niger Delta the central issue is how divestments by the oil majors affect any possibility of remedy for communities affected by past pollution. Shell and other IOCs' sales of their Nigerian onshore oil interests, and the context of the global energy transition, have reinforced the urgency of the need to clean up oil contamination and to compensate people for their loss of livelihoods. If communities who have borne the brunt of the fossil fuel era are left with a toxic legacy as IOCs move on, this deepens global inequalities and undermines prospects for a just energy transition.

The most oil polluted place on earth?

Hundreds of oil spills occur every year in the Niger Delta.[56] The scale of oil spills is unlike anywhere else in the world. The extent of the region's legacy oil pollution (pollution that has remained without proper clean-up for years) was powerfully revealed in the 2011 UN Environment Programme's study of the Ogoniland area of the Niger Delta, which noted:

> **"UNEP's field observations and scientific investigations found that oil contamination in Ogoniland is widespread and severely impacting many components of the environment. Even though the oil industry is no longer active in Ogoniland, oil spills continue to occur with alarming regularity. The Ogoni people live with this pollution every day … members of the current Ogoniland community have lived with chronic oil pollution throughout their lives."[57]**

The Bayelsa State Oil and Environment Commission's report in 2023 similarly revealed a disastrous situation:

> **"The picture that emerges is of a catastrophic pollution crisis, devastating in both its scale and scope … The Commission's scientific research demonstrates the extent to which oil pollution has poisoned Bayelsa's soil, water, air and, ultimately, people. The cost of this contamination has been catastrophic.[58]**

These broad expert-led and scientific studies add to dozens of reports and campaigns by Nigerian and international human rights and environmental groups over decades.

Shell, which has been the main focus of many of these reports because it has long been the main oil operator in the region, has pushed back on its responsibility for the pollution. While the oil spills themselves are undeniable, Shell has used two main lines of defence. One is that the company claims that it has cleaned up oil spills. This claim has been repeatedly rejected and will be discussed further in this chapter. Second, Shell has consistently sought to deflect attention from its responsibility for these spills by highlighting the issues of oil theft and sabotage of infrastructure (known as "third-party interference").

Shell denies that it has misused the oil theft narrative. While theft and third party interference are issues, investigations by Amnesty International have exposed how the company has mislabelled spills caused by operational problems and old or corroded pipelines as "third-party interference".[59] Moreover, experts have highlighted Shell's failure to properly protect its oil pipelines and infrastructure from tampering.[60] Together with weakness in reporting of spill volumes and resulting environmental and, therefore, livelihood damage,[61] this has major implications for the human right to remedy of the affected communities.

However, under Nigerian law, regardless of the cause of a spill, the operator must clean it up. And so we come back to the legacy pollution – both a

long-standing and a current problem in the Niger Delta. Shell has not cleaned up oil spill pollution properly.

Shell's failure to clean up pollution

Shell knows that inadequate remediation is a major concern of many communities and CSOs. When researchers working with SOMO visited the Niger Delta in July 2023, community members repeatedly described the issue. As the operator of the OMLs, Shell is legally obligated to clean up and remediate all oil spills regardless of cause. Shell claims it does this, yet the physical evidence, CSO reports,[62] and Shell's own reporting show this is not the case.

In its annual sustainability reports Shell identifies sites needing remediation. This includes legacy sites, which are different to newly polluted sites. They are areas where pollution occurred in the past but has not yet been properly cleaned up. Shell has been identifying old sites needing remediation since the 1990s. This is welcome but underscores the fact that these sites were not cleaned up fully when the pollution first occurred.

Shell has identified hundreds of sites needing remediation over the past decade, adding new sites to the list each year (Table 2).

Table 2. Shell's reporting on oil spill site remediation, 2011 - 2022[63]

2011	Of 401 sites requiring remediation at the start the year, SPDC cleaned "more than 75%" by year-end (this would mean approximately 300 sites)
2012	Of 316 sites requiring remediation at the start of the year, SPDC cleaned "almost 80%" by year-end (approximately 253 sites).
2013	Of 167 sites requiring remediation at the start of the year, SPDC cleaned more than 85% by year-end (approximately 142).
2014	Of 303 sites requiring remediation at the start of the year, 194 (64%) were remediated and certified by year-end.
2015	133 new sites requiring remediation were identified, of which 23 were in Ogoniland. Of the total 305 sites requiring remediation at the start of the year, 184 (60%) were remediated and certified.[64]
2016	Of 270 sites requiring remediation at the start of the year, 92 (34%) were remediated and certified, with 31 in Ogoniland. 73 new sites requiring remediation were identified, with 9 in Ogoniland. In total, 251 sites required remediation.
2017	Of 251 sites requiring remediation, 92 were remediated and certified, with 32 in Ogoniland. 84 new sites requiring remediation were identified, with 8 in Ogoniland. In total, 243 sites remained in need of remediation.
2018	Of 202 sites requiring remediation at the start of the year, 116 were remediated and 46 certified. 148 new sites requiring remediation were identified. At year-end 234 sites required remediation.
2019	130 sites were remediated and 123 certified, compared with 116 remediated and 46 certified the previous year.
2020	Number of sites remediated during the year: 50; 464 in total since 2016.
2021	Number of sites remediated during the year: 187; 651 in total since 2016.
2022	Number of sites remediated during the year: 230; 776 in total since 2016.

What Shell's data show

The figures in Shell's annual sustainability reports, quoted above, do not fully add up.[65] What these data appear to tell us, however, is that Shell identified over 2,000 sites needing remediation between 2011 to 2022. These figures support the claims of communities and CSOs that oil spills are not properly cleaned up and sites are left polluted for years.[66]

In each year in the table above, up to 2018 when the presentation of data changes, Shell remediated significantly fewer sites than it identified as needing remediation (for example, in 2015, 305 sites needed remediation and 184 were cleaned up). Each year, more sites are added to the list of those needing remediation via both carry-over of sites not fully remediated during the preceding year and newly identified sites adding to the number (although Shell's reports refer explicitly to identifying "new" sites only between 2015 and 2018).

SOMO asked Shell, in the context of divestment, if it claims to have completed all possible remediation in each OML prior to departing.[67] Shell did not respond on this point. However, in announcing the sale of its Nigerian subsidiary, SPDC, Shell appears to have explicitly acknowledged the ongoing existence of "historical spills that have not been cleaned up".

Remediation data credibility

Based on its published data, Shell can remediate over 100 sites a year and cleaned up 230 sites in 2022. This is a significant volume of remediation activity. At Bodo (the site of two major oil spills – see Chapter 1), remediation activities were "started in November 2019 and were due to be completed by mid-2021".[68] Although some other spill sites would require less time than the heavy pollution at Bodo, the number of remediations reported by Shell per year in its sustainability reports raises questions about clean-up quality.

The rate of clean-up suggested by the Shell reports also stands in stark contrast to the rate of clean-up reported under the Nigerian government's major Hydrocarbon Pollution Remediation Project (HYPREP) in Ogoniland, where Shell is involved as well as the Ministry of Environment (Box 4).

Box 4.
The 2011 UN Environment Programme report and the Ogoniland clean-up

In 2011 UNEP published its *Environmental Assessment of Ogoniland.*[69] Ogoniland, the home of Nigeria's Ogoni people, came to international prominence in 1995 with the trial and subsequent execution of the writer and environmental activist Ken Saro Wiwa and eight other Ogoni leaders (the "Ogoni Nine").[70] The trial was widely condemned as unfair.

Shell had withdrawn from Ogoniland two years before, in 1993, in the face of local protests about its impact. The company has never been able to resume operations in the area, but the Trans Nigeria Pipeline, which belongs to the SPDC JV and carries crude oil from various companies, passes through Ogoniland. Oil spills have been frequent in the decades since Shell left Ogoniland, from old and corroded infrastructure and third party interference.[71]

UNEP's 2011 report exposed grave levels of pollution in Ogoniland and led to a process to clean up the area. Shell, UNEP, and the Nigerian government are involved in this initiative. In 2012 the government set up the Hydrocarbon Pollution Remediation Project (HYPREP) to oversee the process. HYPREP contracts companies to do the clean-up, as the oil companies have done for many years. Overall progress of the Ogoniland clean-up has been slow.

According to Stakeholder Democracy Network (SDN) and the Centre for Environment, Human Rights and Development (CEHRD), two CSOs based in the Niger Delta that carry out independent monitoring of the HYPREP Ogoniland clean-up project, as of December 2022, contractors reported they had completed clean-up at 47 out of 50 "simple" sites.[72] Of these, the government had certified only 26 sites as complete. While there are complexities around the HYPREP process, the rate of clean-up in this initiative, which involves Shell, and the rate of clean-up reported by Shell for its overall legacy pollution in the same time period, are very different. In the decade since 2012, the HYPREP process has led to fewer than 50 sites being remediated, while in a similar period, Shell's data suggest almost 2,000 sites have been cleaned up. Moreover, the data Shell presents on clean-up in Ogoniland (Table 2) paints a quite different picture to the data of the CSOs – Shell reports over 63 sites in Ogoniland were remediated and certified between 2016 and 2017.

Shell's figures suggest a rapid rate of certification of remediation between 2014 and 2019. Certification of remediation requires assessment of reports and a site visit by the regulator, NOSDRA. Shell's data also raise questions about this. For example, in 2015, 184 sites were remediated and certified. This implies that 184 joint certification visits with the regulators took place in one year, or a certification visit every 1.4 working days, assuming a five-day working week. Given NOSDRA's well-documented resource limitations, this raises questions as to the quality of

certification.[73] Even the lower figure of 92 sites remediated and certified in 2016 indicates regulatory certification taking place every 2.8 working days, and on Shell sites only. The weaknesses of regulatory certification are discussed below.

When SOMO put its concerns and questions about site certification to Shell, the company did not respond.[74]

Systemic failings in the clean-up and remediation process

The core concern about oil spill clean-ups and remediation is that they are done very poorly, often by contractors without the knowledge or skills to do a proper job. Clean-up activity happens but does not result in removal of the pollution to an acceptable level. The serious shortcomings of clean-up contractors have been repeatedly documented.[75]

The Bayelsa State Oil and Environment Commission (BSOEC), which carried out an assessment of oil impacts in Bayelsa State and reported in 2023, noted:

> **"Most remediation work in the Niger Delta is subcontracted to local companies. In many cases, they are chosen primarily for their record of achieving regulatory certification from the government and because of their connections with the oil producers, rather than reasons related to their technical capabilities. All too often it is alleged that remediation contracts are used not to deliver effective pollution clean-ups but rather as vehicles for the distribution of patronage and economic rents to favoured local groups. The Commission has heard evidence that the strength of incentives these relationships create are such that some involved in remediation work have even been alleged to have sponsored members of the local community to sabotage pipelines to increase the flow of remediation funds."[76]**

The BSOEC's findings echo those reported by the United Nations Environment Programme (UNEP) in 2011. UNEP noted that Shell's criteria for clean-up contractors placed far less emphasis on technical competence than on a contractor's track record in securing certification from the regulators. It found several sites that Shell said it had remediated but were in fact still contaminated. UNEP investigated 15 locations in Ogoniland that Shell had classified as "remediation completed" and found 10 of these still contaminated, in some cases to a depth of at least five metres.[77]

Further evidence of the serious shortcomings of the contractors and regulator certification has emerged as the Ogoniland clean-up has proceeded. As noted above, CSOs have monitored and reported on the clean-up, which has suffered significant delays. They have expressed concerns about the ability of the clean-up companies to deal with the pollution.

According to SDN, which has regularly reported on the Ogoniland clean-up:

> **"Poor practice and inadequate management continue to hamper clean-up with many questionable techniques still being deployed. SDN has raised concerns on several fronts in previous reports but continues to observe concerning behaviours. During regular site visits since the start of this monitoring project, we have identified a series of practices which are a threat to the quality of the clean-up."[78]**

A 2020 report by Friends of the Earth and Amnesty International also found serious issues with the clean-up of pollution in Ogoniland.[79] The report highlighted both weaknesses in the process and significant delays. Field researchers criticised the quality of work of contractors. The report also raised concerns about limitations in the laboratories used to certify soil and water samples, and Shell's role in the governance structure of the HYPREP process.

An according to Dataphyte, online media, research and data analytics organisation in Nigeria which investigated the Ogoniland process, the clean-up contractors included inactive companies and companies that appeared not to exit.

The issue of clean-up contractors, as the Bayelsa and UNEP reports make clear, is not limited to the HYPREP clean-up of Ogoniland. Shell relies significantly on clean-up contractors for oil spill clean-up and remediation. There is no information on the identity of the contractors or their qualifications. The consistency with which poor clean-up practices have been documented in the Niger Delta, and now consistently in the Ogoniland/HYPREP case, Shell and the other oil companies should be fully aware of the persistent problems.

There is a remarkable consistency across the reports of UN agencies, CSOs, communities, and other actors about the serious flaws in Shell's clean-up and remediation process. Despite these consistent research-based concerns, Shell continues to maintain it cleans up all spill sites, implying it does so satisfactorily.

Flawed and untrustworthy certification by the regulator

Nigeria's regulatory agencies should play an important role in safeguarding the people and environment of the Niger Delta – before, during, and after the onshore exit of the US and European oil majors. However, Delta communities and civil society have for decades criticised the regulators for failure to enforce domestic law in the case of the oil industry. Today these same regulators appear to have little involvement in the divestment process. None of the communities that researchers working with SOMO contacted had been consulted by regulators prior to sale of OMLs.

A critical element of the divestment process should be ensuring that legacy pollution is cleaned up properly. The regulator charged with overseeing oil spills and clean-up, and that certifies sites as properly remediated, is the National Oil Spill Detection and Response Agency (NOSDRA). For years NOSDRA has been strongly criticised for its lack of independence in oil spill investigations and remediation, and for certifying what later have proved to be incorrect data on spills and clean-ups.[80]

Box 5. Long-standing oil pollution at Ikarama

Ikarama in Bayelsa state has suffered from multiple oil spills over many years, so much so that it is considered by some to be the community that has suffered the most oil spills in the Niger Delta, not an accolade to be envied. In March 2021 a local man was using an excavator to prepare a fishpond. He described to Environmental Rights Action/Friends of the Earth Nigeria what he found, saying:

> **"I saw crude oil coming out from the ground. I raised alarm by informing the ERA/FoEN through Alagoa Morris. Thereafter NOSDRA, Shell, and ERA came and some spots in this environment were dug. And it was very glaring that crude oil was coming out from the ground. As a community person, I felt that since even the multinational oil company has come here to witness crude oil coming out from the ground, we expected them to come back for another related visit, because they promised to come back to carry out soil tests in the entire environment."[81]**

However, according to ERA, the site was not cleaned up. In April 2022 the same individual again brought an excavator to try to develop a fishpond. He descried to ERA that when he excavated "what we saw was even worse than the one of 2021."[82] Other community members also raised concerns about the crude oil which is "visible and its pungent smell [that] permeates the environment when the heat of the sun is high."

As of the time of writing, ERA says Shell has not addressed this deep pollution at Ikarama.

Oil pollution at Ikarama, April 2022. Photo courtesy of Alagoa Morris.

The agency itself acknowledges its heavy dependency on the oil companies it is supposed to regulate, stating on its website:

> **"NOSDRA relies on voluntary engagement and support of oil companies to provide data, logistics, quantity estimates, soil/water samples and to carry out cleanup operations."[83]**

NOSDRA'S certification of oil spill sites as properly cleaned up and remediated has taken on increased significance because of the way Shell approaches divestment and its liabilities for remediating oil pollution. Shell relies heavily on this certification to defend itself when concerns are raised about its pollution in the Niger Delta, including as a legal defence in court. In a UK legal action brought by two Niger Delta communities – Ogale and Bille, Shell has stated:

> **"NOSDRA oversees the remediation process and will, after it has confirmed remediation via a site inspection and testing, provide a remediation certificate confirming the same.**
>
> **…**
>
> **"Of the 112 oil spills listed in Annex 2 for which SPDC has a record, 90 have been certified as remediated by the Nigerian regulator. Of the 22 spills listed in Annex 2 that have not been certified as remediated, 21 spills have in fact been remediated and most are due to be certified as remediated by the regulator in due course."[84]**

Research by Amnesty International, SDN, and others – and NOSDRA's own admission quoted above – make plain that NOSDRA relies on data provided by the oil companies to certify remediation. This is a clear conflict of interest. In addition, the role of NOSDRA at site visits is, at best, unclear. According to SDN research in 2016, much of the remediation certification process is based on paper documents the companies must submit to NOSDRA. An oil company that decides its clean-up of a spill is complete submits a "Form C" to the regulator,[85] but:

> **"According to the data in [NOSDRA's online] Oil Spill Monitor, Form C has been submitted to NOSDRA for only 734 spill incidents since January 2010. This means that in 5,600 (88%) oil spill incidents during this time no site cleanup and remediation assessment report form was recorded as having been submitted to NOSDRA by oil companies."[86]**

Moreover:

> **"The form assumes that an oil company field officer will be present at the site following cleanup and remediation of the oil spill, and will record field observations accurately and report this to NOSDRA within no specified time period. The form assumes that it is only the oil company field representative or reporting officer who will unilaterally decide whether further remediation is necessary. The form assumes that a detailed cost of the oil spill will be known to the oil company reporting officer and is recorded accurately."[87]**

The process also assumes that samples will be taken after clean-up and that a NOSDRA staff member will be present when samples are collected and tested at a company laboratory.

NOSDRA's lack of independence manifests in other ways. It frequently has to rely on the oil companies for transport to many spill sites, using their boats, helicopters and land vehicles. Even more problematically, Shell has trained NOSDRA staff on remediation based on the company's own definitions and standards. This is hardly independent certification, with the regulator both trained by and heavily dependent on the company in reviewing clean-up reports and undertaking site inspections.

The International Union for Conservation of Nature (IUCN) has described how Shell provided training for 150 Department of Petroleum Resources (DPR) and NOSDRA personnel:

> **"Between February and May 2018, 150 staff from DPR and NOSDRA were trained, with *international experts from Shell Group acting as facilitators*. The curriculum and training materials for the course, 'Application of risk-based screening levels (RBSLs) for soil and groundwater in the Niger Delta', were *developed by soil and groundwater specialists in Shell* and used data and the Niger Delta-specific CSMs, jointly developed with the IUCN NDP [Niger Delta Panel]" (emphasis added).[88]**

As the IUCN reports, Shell set its standards and then trained the regulators using its own staff as facilitators and materials the company had itself developed. This is a blatant conflict of interest, underscoring the oil industry's autonomy and Nigeria's regulatory weakness. With the positioning of Shell staff as trainers and the regulators as trainees, the latter would be unlikely to contradict or override Shell's own assessment of the correctness or completeness of its pollution remediation.

SOMO also asked NOSDRA to confirm how it certifies remediation. A NOSDRA official stated that its staff visit every remediation site but also that certification can be issued in cases where a site is re-polluted (e.g., there has been another oil spill at the same site), even though NOSDRA cannot check the original clean-up (and the clean-up may not be done or may be unfinished at the time of the re-pollution). The reason is bureaucratic; before the "new" pollution can be cleaned up, the "old" pollution must be certified, even when the "new" pollution means there cannot be proper verification that the original remediation (if any) was properly done. However, by issuing a certificate NOSDRA is officially asserting that the work was done (and, presumably, can be paid for). There is no record of how many official certifications of clean-up and remediation have been issued in this way, but it would appear to risk creating some perverse incentives.

SOMO put it to NOSDRA that certification of "re-polluted" sites under such circumstances necessarily assumes the original pollution was satisfactorily cleaned up, which would be open to abuse. NOSDRA said that the agency did not necessarily assume the original pollution was adequately remediated, but the sign-off was necessary to pave way for the contracted party to close out the contract. The NOSDRA official we discussed this with agreed this could be open to abuse in some cases.

The challenges with NOSDRA certification have also been reported in the HYPREP process in Ogoniland. As mentioned earlier, CSOs have been monitoring the process. In their reports of this monitoring SDN and CEHRD have reported that several clean-ups did not meet relevant standards. In a report published in 2022, covering the period July to December 2021, they noted that during the reporting period, six lots were certified by NOSDRA as complete. However, at three of these lots (3, 15, 43), SDN sampling found locations where TPH and/or BTEX thresholds for clean-up certification were exceeded.[89]

NOSDRA's certification of oil spill sites as remediated is almost certainly a grave obstacle to justice for affected communities, which Shell and other companies' use as a shield against litigation only exacerbates. Further, for oil companies that knowingly rely on a certification process over which they have substantial control, and that they know is largely a flawed paper exercise, this may amount to collusion in a process that ultimately leads to serious human rights and environmental abuses.

Questionable laboratory testing of soil and water samples

A further weakness in the regulatory certification of clean-ups in the Niger Delta is the deficiency of laboratory analysis of soil and water samples. As part of their role in monitoring the Ogoniland clean-up, SDN and CEHRD received government permission to collect soil and water samples at sites that had been cleaned up. SDN and CEHRD noted for the period July to December 2022:

> **"In our previous report, we reported on the results of 20 duplicate samples sent to an International Laboratory Accreditation Cooperation (ILAC) accredited laboratory, which returned TPH [total petroleum hydrocarbon] levels *on average twice that of local laboratory analysis*. During this reporting period, we received results on 19 duplicate soil samples … for TPH analysis from an ILAC-accredited laboratory in the UK (ALS Laboratories, UK). The result from the international laboratory showed 14 examples of target TPH levels that exceeded thresholds (70% of samples), whereas the local laboratory results showed 9 examples (45% of samples).**
>
> **"On average, the ILAC accredited laboratory reported TPH levels 83% higher than the local laboratory – although there is a high degree of variation between individual duplicate samples … This is a similar result to our previous duplicate sample analysis, where TPH levels were nearly twice that of the local laboratory. As noted in our last report, a certain level of natural variation would be expected. For example, because TPH contaminants will be unequally distributed in a soil sample core, even duplicate samples from the same core may return different results in the analysis. However, the level of variation we found is large, and a consistent pattern appears to be emerging. We are therefore increasingly confident that this is not simply due to natural variation in contaminant levels in the duplicate samples" (emphasis added).[90]**

Box 6. Bodo: the real challenges of proper clean-up

In 2008 and 2009 there were two massive oil spills at the community of Bodo in the Niger Delta. The area was devastated. Shell claimed – repeatedly –that both spills resulted in approx. 4,000 barrels of oil spilt. The wildly erroneous (as was subsequently shown) figures were also recorded on a document of the oil spill regulators, NOSDRA. After years of publicly confirming the 4,000 figure, during a UK legal action Shell admitted its figures were wrong.[91] It is now clear that the spills released closer to half a million barrels of oil.

The official investigation documents recorded information that could – except for legal action in the UK – have hugely undermined justice for Bodo. Compensation depends on damage, which depends on the volume of oil spilt. Shell settled the case for UK55 million. Very few oil spill cases have the benefit of working with a UK law firm on something that approaches a level playing field with the oil giant.

But the story did not stop there – and is ongoing at the time of writing. The court also mandated that Shell clean up the pollution at Bodo. In February 2024, the job is not yet done. According to Leigh Day, the law firm representing the Bodo community, "Over the last nine years the Bodo Community has repeatedly been forced to return to court to get Shell to clean up its oil."[92]

Shell has pushed back and according to the UK lawyers, has "asked the court to reject the community's attempts to secure the use of independent scientific expertise to scrutinise its clean-up." Lawyers for the community "produced preliminary scientific evidence that Shell's clean-up methodology does not meet accepted international standards and will leave dangerous levels of contamination in the Bodo creek."

On 12 February 2024, the court rejected Shell's efforts to stop the Bodo community's legal claim for confirmation by independent experts that the clean-up has been conducted to international standards.

The Bodo case, with disclosures required by the court process, has shone a spotlight on the oil spill investigation and clean up process, and Shell's conduct in and claims about the Niger Delta. The official investigation form recorded manifestly false data. The clean-up that has already taken more than a decade is incomplete. And Shell is trying to avoid independent scrutiny.

Bodo is unusual – not in the pollution or lack of proper clean up, but because the oil company's practice and the regulators abject failures were so clearly exposed.

The credibility of the Nigerian laboratories' certification therefore comes seriously into question. While information on the laboratories is limited, SOMO investigated those companies that publish information on their role in the oil sector.[93] In doing so, we observed that several clean-up contractor companies were also laboratories for the certification of oil spill clean-ups, raising further questions about conflicts of interest.

Summing up:

- Across the Niger Delta there have been hundreds of oil spills annually, in and around the homes, farms and waterways of the people of the Delta. This is undisputed.
- Many sites are not properly cleaned up when the oil spills occur and become legacy or historical pollution sites. Legacy pollution is well-acknowledged. Shell – in announcing the sale of SPDC – explicitly addressed the expectation that there would be "historical spills that have not been cleaned up by the time the transaction completes".[94]
- Clean-up and remediation are done largely by contracts and the quality and credibility of these contractors, about which there is little transparency, has been called into question. Despite the opacity around the contractors, available evidence shows that many do not have the expertise to do proper clean-ups. These contractors also carry out the remediation of legacy pollution.
- Regulatory certification of clean-up and remediation is deeply flawed and has been shown to certify as clean sites that are not. The regulatory agency lacks resources and independence.

Shell cannot claim to be unaware of any of the above information. The situation is stark: there has been massive oil pollution for decades and the system to clean it up does not work. So it remains.

Shell's liability for past oil spills

Given the legacy of pollution left behind as Shell has exited, selling first OMLs and now its subsidiary SPDC, a key question is: what is the potential to pursue the company for this legacy liability after it divests? Here we consider the legal liability of SPDC and Shell Plc post-divestment.

Liability for oil spills on sold OMLs

When Shell divests from an OML, legal liability for damage to individuals and communities by oil spills that happened before the divestment remains with Shell, with caveats. The law in this regard is the common law torts (wrongful acts) of negligence and nuisance, applicable in both Nigeria (the "host state") and the UK (Shell's "home state"). In general, proving liability rests on showing that the defendant (the oil company) owed the plaintiff (the community or individuals affected) a duty of care; that the defendant breached that duty; and that the breach resulted in damage to the plaintiff. This has been the basis of legal claims against Shell in Nigeria and the UK over oil spills.

The person (companies are considered legal "persons") that commits a tort is personally liable. If an oil spill occurs at a facility owned or operated by a licence holder and causes damage to the person, property, or livelihood of another person, the licence holder bears personal responsibility. This responsibility stays with the

entity that was the licence holder at the time the tort occurred, even in the event of the transfer of the asset concerned (such as an OML or pipeline) to another actor (such as the companies buying the OML licences).

The only way liability can be transferred with the transfer of an OML is if the claimant (the individuals or communities who suffered the impacts of the oil spill) consents to the transfer. Without such consent, the responsible party retains liability. Where the seller and purchaser enter into an agreement transferring the seller's personal liability for an oil spill, the tort victims are not bound by the agreement. Accordingly, the victims may proceed in their suit against the person that committed the tort. Upon judgment in favour of the victims, the oil company wrongdoer – and seller – could approach the purchaser or transferee to satisfy the judgment in accordance with their agreement, but satisfying the court judgment remains the former's responsibility until it is done.

This means that, where there has been an oil spill prior to Shell divesting from an OML, the liability for the damage stays with Shell, even after it divests. It would be virtually impossible to establish in the Nigerian or UK courts a case against the new company that buys the OML for a spill that happened before it became the licence holder. The purchaser did not commit the tort or damage and did not owe or breach any duty of care to the defendants. This means that communities can pursue Shell in legal actions after divestment.

However, there are caveats, and a key issue has been that, under Nigerian law, the company does not have to pay compensation if the cause of the oil spill is designated "third-party interference". It has to clean up, but not to compensate.

Additionally, with the sale of SPDC, the legal situation changes to some degree.

Liability for oil spills after SPDC sale

As noted in the Introduction to this report (Chapter 1), Shell Plc announced the sale of its wholly owned Nigerian subsidiary, SPDC, in January 2024. From the public information this is a share sale, where (unlike the divestment of OMLs described above, which was done by SPDC) Shell Plc sells all its shares in SPDC to Renaissance. In a share sale, the buyer purchases shares in the company, rather than just the assets. By purchasing all the shares in SPDC, Renaissance will have purchased the company, which is a separate legal entity. Usually, the company continues to retain its assets and liabilities, meaning the SPDC that Renaissance will own after the deal retains SPDC's assets and liabilities.

As noted above, where SPDC has divested from an OML up to now, any legal liability for damage to individuals and communities by oil spills that happened *before* the divestment remains with SPDC. Shell Plc as the parent company can also be held legally liable for oil spill damage caused by SPDC's operations in a range of circumstances (as is the case in two UK legal actions: Boxes 7 and 8).

But when Shell sells SPDC, the issues are different. If the wrongdoer remains in existence as a company after corporate restructuring, it will bear the liability. Based on Shell's press statements, SPDC will remain in existence after the sale of all Shell's shares in SPDC to Renaissance. In its "Frequently asked questions"

document, Shell responds to these questions: "Who will have responsibility for remediating environmental impacts from the SPDC JV's operations? What will happen with historical spills that have not been cleaned up by the time the transaction completes?" with the following answer:

> **"SPDC will continue to be accountable for its share of commitments within the SPDC JV, and to conduct any remediation as operator of the joint venture where spills may have occurred in the past from the joint venture's operations … the transaction has been designed to ensure that the company can continue to perform its role as operator and to meet its share of commitments within the joint venture, including those relating to health, safety, security and environment."[95]**

Therefore, legal action can still be brought against SPDC for past oil spills. The sale of SPDC will not terminate any oil spill litigation against it, nor will it prevent the institution of new lawsuits against SPDC for past or new oil spills. However, the SPDC against which such claims are initiated will be an SPDC owned by Renaissance, not Shell. In effect, the legal action will be against a new Nigerian-registered entity without links to an international oil company. Retention of the name 'SPDC' is a somewhat misleading corporate sleight of hand.

As suggested earlier, SPDC may cease to exist as a separate company in the future through further corporate restructuring. In the event of any merger or acquisition that would see SPDC cease to exist, pending lawsuits against SPDC can continue as if the acquisition did not occur, or the acquiring corporation may be substituted for SPDC. According to Section 122 (6) (c) of the Investments and Securities Act 2007, upon the application of the parties to a merger, the court approving the merger may order "the continuation by or against the transferee company of any legal proceeding pending by or against any transferor company". If there is no substitution, judgment may be rendered against SPDC, but it will be satisfied by the acquiring company.

If, in the future, SPDC ceases to exist and is incorporated or absorbed into another company, the acquiring company (e.g. Renaissance), as the successor of the wrongdoer, inherits the liability and can be sued. But there are other potential futures. Another concern would be if SPDC continued to exist but sold its assets (and not its liabilities) to a new company in the future. If SPDC were to subsequently become insolvent and unable to meet its liabilities, communities could be left without access to remedy. The current share sale is unlikely to be the final chapter in this story, and (if the Renaissance deal goes ahead), CSOs will monitor SPDC's evolution closely.

Legal claims against Shell Plc for past oil spills post-divestment

Legal actions against Shell Plc for oil spills in the Niger Delta in UK and Dutch courts have been welcomed by communities and CSOs as opening up an important avenue for parent company accountability and remedy. Such legal action against Shell over spills that occurred when it was the owner of SPDC could, potentially, continue be mounted in the UK, after the current deal is completed, and even in the event of further action that would see SPDC dissolved. A legal basis for taking

cases in the UK, for example, can be Shell Plc's direct responsibility for oil spills and impacts in the Niger Delta.

This offers a glimmer of hope for oil-impacted communities in Nigeria, and for corporate accountability. The practical challenges after Shell sells SPDC will doubtless be even greater than those that communities face currently, but a door is still open to try to hold the oil major legally accountable for decades of damage in the Niger Delta.

While legally the opportunity to pursue Shell Plc for oil spills remains after divestment, Shell is moving to close the door on this limited potential. This has become evident in the UK legal action taken by thousands of people from the two communities of Ogale (Box 7) and Bille (Box 8 in Chapter 4).[96]

Shell has argued in the Ogale case that people cannot bring a legal action for a spill that happened more than five years ago, and that no court can order the company to clean up pollution, which only the Nigerian regulator can do. These two arguments, if they were to prevail in the UK courts, would close the door for almost any actions.

There are solid legal grounds to refute Shell's position. First, if the spill's impacts have continued, then the harm is also ongoing, and a legal limitation period would not apply. In a recent and positive development, the UK High Court ruled that the claimants can move forward based on Nigerian constitutional law, which does not have such a time limitation. Shell's argument that no court can order it to clean up runs counter to accepted legal principles about the role of courts in enforcing the rights of plaintiffs. In this case, Shell is clearly seeking both to prevent the community from obtaining a proper clean-up and to keep the issue within the competence of a regulatory body that has repeatedly been incapable of performing its function (see discussion of NOSDRA above).

Shell's legacy of poor infrastructure: the future oil spill risk

Besides leaving a widespread legacy of pollution at the OMLs it divests from, Shell's divestment of infrastructure is equally a concern. Old, poorly maintained, damaged, and poorly protected pipelines, wellheads, and manifolds are at high risk of future spills and leaks, leaving Niger Delta communities vulnerable to harm if the company leaves without properly addressing this issue.

The condition of Shell's infrastructure in Nigeria has remained a closely guarded secret. While Shell makes some statements about upgrades to oil pipelines and other infrastructure, it has consistently declined requests to provide full information. With new companies buying the liabilities associated with the infrastructure, questions arise about the buyers' and the Nigerian authorities' due diligence. No information has been published. Inquiries by SOMO's partner organisation the Centre for Environment, Human Rights and Development (CEHRD) to the Nigerian regulators about this received no response.[97]

Box 7. Ogale: one of the most polluted areas in Ogoniland

One community awaiting the outcome of Shell's divestment is Ogale in Ogoniland, southeast Rivers State.[98] In 2021 or 2022 Shell sold key pipeline infrastructure that runs through Ogale as part of the sale of assets. The community was not aware this was happening and discovered the sale only during their legal action in the UK against the company, claiming damages and demanding restoration of the environment.

Ogale community members told researchers working with SOMO who visited in July 2023 about the lack of clear information about Shell's plans, and their concerns that the company will leave them with the legacy pollution. They do not believe a new company will accept responsibility for cleaning up.

Leading the effort to secure justice in the face of Shell's divestment is King Bebe Okpabi, Paramount Ruler of Ogale.[99] He says the community is determined that Shell must address the past pollution: "Before Shell divest from Ogale, they must accept responsibility for the enormous damage they have caused. They need to fix what they have destroyed. So far, nothing has been done and no one seems to care."

The Ogale community is on the front line of the fight to ensure a just energy transition, to prevent US and European oil majors from exiting decades of profitable oil operations and leaving behind devastating environmental damage. Their legal challenge to establish their right to pursue Shell as the parent company reached the UK Supreme Court on 12 February 2021 and the Supreme Court ruled that there was "a good arguable case" that Shell plc was legally responsible for systemic pollution caused by its Nigerian subsidiary, SPDC. The case is now proceeding on the substantive issues and is closely watched by CSOs and others around the world.[100]

The Ogale claim sets out how the community have suffered "at least 40 oil spills from Shell's infrastructure … since 1989", which "have caused serious contamination to the community's land and waterways".[101] Ogale, like many other communities in the Niger Delta, lives from fishing and farming. People's livelihoods have been devastated by the years of oil pollution and the failure to clean it up properly. Many people rely on the Ogale Stream for water but fear the health risks. The community also once used water boreholes, but these are now too polluted for drinking or other uses.

King Okpabi is angry at what he sees as the willingness of companies like Shell to spend money to protect themselves rather than provide fair remedy to the Delta's people: "Shell is spending millions of pounds in legal fees to get away without paying us any compensation. Why don't they use that money to make sure we can have clean water again?"

King Okpabi also foresees serious risks with the abandonment of old oil infrastructure:

> **"Shell reaped enormous profits from the pipelines, but they are the same pipelines they brought in over 50 years ago. I am very worried for the future, as the older pipelines get, the more accidents will happen. We've already had so many spills and we fear many more in the future."**

Lack of information around the divestment process also causes stress for the community: "Shell's divestment is something that will be discussed behind our backs. A new company will come with Nigerian soldiers and then run away if there are any problems."

However, the available evidence is damning. In a legal action in the UK in 2014 over oil spills at Bodo, Rivers State, court documents exposed that Shell had known for years its oil pipelines in the area were in very poor condition and likely to leak. The court papers include an internal Shell memo based on a 2002 study that states:

> **"[T]he remaining life of most of the [Shell] Oil Trunklines is more or less non-existent or short, while some sections contain major risk and hazard."**[102]

In another internal document, from 2009, a Shell employee warns: "[The company] is corporately exposed as the pipelines in Ogoniland have not been maintained properly or integrity assessed for over 15 years." This is reinforced in a 2008 US diplomatic cable published by WikiLeaks, which states that a pipeline contractor with many years' experience in the Niger Delta told the US consulate in Nigeria that:

> **"73 per cent of all pipelines there are more than a decade overdue for replacement."**[103]

In addition to the evidence of old and corroded infrastructure, Shell has long maintained that its oil infrastructure in the Niger Delta is subject to tampering and third-party interference. While this narrative has been, in our view, abused by Shell (something the company refutes), it also means Shell has a due diligence obligation to make its infrastructure safe from tampering that can lead to damage to the environment and people. A few years ago, Shell began reporting that it was implementing anti-theft protection mechanisms, such as anti-tamper locks and steel cages for wellheads. We asked if Shell made sure all infrastructure it is divesting is tamper-proof? Or has Shell knowingly sold infrastructure that can be easily tampered with, such as the Nembe Creek Trunk Line (see chapter 4)? We also asked Shell if, when selling the OMLs and associated infrastructure, it did due diligence on the ability of the new owners to address the risks of third-party interference? The company did not provide any information on these points.

Fisherman Odoyibo Washington standing with his fish net ready to look for fish in the polluted river in Ogale community, photo by Simpa Samson.

4. Abandoned: the timebomb of non-decommissioned infrastructure

A critical element of the lifecycle of all oil facilities is decommissioning. This happens when oil infrastructure is no longer in use and/or operations cease. Given that oil infrastructure carries dangerous and polluting substances, and that leaks after infrastructure use ceases pose serious risks to the environment and human health, best international practice recognises the need for proper decommissioning. This should be set out in the national law of oil-producing countries.

Past and current oil pollution and the immediate risk of further pollution from old, poorly maintained, and inadequately protected infrastructure loom large for many people in the Niger Delta. In addition, risks posed by failure to properly decommission oil infrastructure are enormous.

There are two categories of oil infrastructure relevant to Shell's divestment from the onshore Niger Delta: first, infrastructure Shell had already abandoned prior to its sale of OMLs, which it should have properly decommissioned but did not; second, all the infrastructure that Shell sold and which will have to be decommissioned sooner or later. As the Nembe Creek Trunk Line example below (case study 4.3) shows, sooner is a real possibility. But is there any plan or adequate funding for this?

Nigeria's legal framework for decommissioning

In Nigeria, prior to the Petroleum Industry Act (PIA) of 2021, there were only limited legal requirements for decommissioning.

The Petroleum (Drilling and Production) Regulations implement provisions of the (repealed) Petroleum Act 1969 regarding applications for oil exploration and oil prospecting licences and guidelines on oil drilling and extraction operations.[104] The regulations refer to the removal of oil equipment and the plugging of oil wells but lack specific rules of procedure or liability. The regulations impose no requirement for any specific decommissioning plan.

More detailed provisions are contained in the Environmental Guidelines and Standards for the Petroleum Industry in Nigeria (EGASPIN) issued by the Department of Petroleum Resources (DPR) in 1991 and their 2002 revised edition (further updated in 2018). According to EGASPIN: "Where possible, communities where such decommissioning is to take place (site) shall be consulted (public/community concern)."[105] This is one of very few Nigerian provisions that gives communities any say in how the oil industry affects them. It has no meaningful enforcement mechanism.

EGASPIN provides that a "Decommissioning Certificate shall be issued by the Director, Petroleum Resources, when the decommissioning activity is certified as satisfactory."[106] While EGASPIN improved on the status quo before its introduction, it also has gaps that open it up to criticism. An important criticism is that EGASPIN does not appear to require any estimate of the potential cost of decommissioning or require licence holders to prove they can provide financial resources for decommissioning. There is no system to accumulate such funds while the facility is producing oil or gas. Nor, if the facility is sold to another operator, does there seem to be a mechanism for the first operator to take its share of the decommissioning liabilities. The danger is that the facility may be left for long periods after it has ceased production without any money available for decommissioning.[107]

These issues have been partly addressed by the 2021 PIA. The PIA contains specific provisions on decommissioning and abandonment of offshore and onshore oil and gas facilities. It is explicit about who bears the legal and financial responsibilities for decommissioning. It requires the decommissioning and abandonment of petroleum wells, installations, structures, utilities, plants, and pipelines for petroleum operations on land and offshore to be conducted in accordance with good international petroleum industry practice.

The PIA requires the complete removal of installations and structures on land and the restoration of the environment to its original condition, apart from buried transportation pipelines and gathering lines.[108] The Act also provides that, except for the abandonment of wells, after the licensee or lessee submits a decommissioning and abandonment programme to the regulatory agency, there shall be consultations with interested parties and other relevant public authorities and bodies.[109]

In the case of divestment or transfer of assets, the PIA provides:

> **"The Commission or Authority, as the case may be, may recall a licensee or lessee responsible for a decommissioning and abandonment programme with respect to a licence or lease that has expired or is surrendered or a licensee or lessee that has transferred or divested its interest or equity, to carry out an obligation under this Act, *provided however that where a new company has assumed all respective obligations, with the approval of the Commission or Authority, upon the transfer or divestiture, the licensee or lessee shall have no further responsibilities*" (emphasis added).[110]**

This provision indicates that where a company effectively divests its interests or transfers its assets, it will no longer have responsibilities for decommissioning the facilities. Instead, all decommissioning responsibilities will fall on the purchaser, assignee, or transferee. This is a major concern, given the lack of stability of some of the new lease holders (see chapter 5).

To ensure that companies are financially capable to undertake any needed decommissioning, the PIA requires the establishment of a decommissioning and abandonment fund by each lessee and licensee in a financial institution that is not an affiliate of the lessee or licensee.[111] The fund will be maintained in the form of an escrow (third-party) account that can be accessed by the regulatory agency.[112] The fund shall be devoted to the singular purpose of paying for decommissioning and abandonment costs.[113]

The yearly amount to be contributed to the fund shall be determined by the decommissioning and abandonment plan. This amount "shall be based on a reasonable estimate by the licensee or lessee of the applicable decommissioning and abandonment costs, projected forward on a nominal basis and divided by the estimated life of the facilities".[114] The reasonable cost estimate shall be approved by the regulatory agency.[115]

Each lessee or licensee shall inform the regulatory agency that it has established a decommissioning and abandonment fund not more than three months after it commences production for upstream petroleum operations or commissions the facilities for midstream petroleum operations.[116]

The DPR's Guidelines on Ministerial Consent issued in 2021 also address decommissioning and abandonment. Where the assignment is by way of transfer of interest in an asset held in a JV with NNPC, the assignor is required to submit to the DPR an agreement between the parties on the treatment of the assignor's abandonment and decommissioning liabilities. The agreement shall contain the cost of the abandonment and decommissioning liabilities, and such costs shall be deducted pro rata from the transaction payment.[117]

These new, and far better, requirements on decommissioning come too late for the OMLs sold prior to the PIA coming into force. SOMO asked Shell, Aiteo, Elcrest, Eroton, ND Western and Seplat as well as and the regulator NUPRC about the funding agreements for decommissioning. None responded.

In May 2023 NUPRC issued new regulations elaborating guidance and requirements for decommissioning and abandonment of petroleum wells, installations, structures, utilities, plants, and pipelines for upstream petroleum operations on land and offshore. These regulations derive from the 2021 PIA.

As noted in Chapter 2, some provisions of the PIA apply to leases under both the Petroleum Act and the Petroleum Industry Act. They include the requirement to establish decommissioning and abandonment escrow accounts. Accordingly, SPDC should have set up a decommissioning fund. Shell has not provided any information on whether it has set up a decommissioning fund in line with the legislation. There is no information to suggest that Shell made provisions for decommissioning in the sales of OMLs.

Provisions related to decommissioning may also be contained in contracts between the government and oil companies. In a review of international obligations, national laws, and contractual approaches in relation to decommissioning liability in offshore oil and gas, the Sabin Center for Climate Change Law and Columbia Center on Sustainable Investment looked at Nigeria and identified references to 'abandonment security' funds in contracts between private oil companies and the government.[118] While the study related to offshore oil and gas, it suggests decommissioning funds may have been required via contractual agreements (such as those relevant to the joint ventures that are common in onshore oil). However, there is little information available on this issue from companies or regulators.

International standards for onshore decommissioning

Important accepted international standards apply to the decommissioning of oil infrastructure. Ipieca, an international industry body,[119] has set out key elements in its 2020 document, *Environmental management in the upstream oil and gas industry*:[120]

> **"At the end of the commercial life of onshore oil and gas facilities, typically 20–50 years, the buildings and equipment should be removed and the surrounding lands must be returned to stable, environmentally appropriate conditions. Wellheads will be removed and wells plugged in line with current national and international guidance. Typically, a closed well would be subject to inspection by the relevant authorities prior to the site being reinstated to a natural state prior to the drilling and production activities.**

> **"In some locations, soil and groundwater treatment may need to be part of the reclamation effort, and measures to encourage recovery of site habitats may also be required. A survey may be carried out to establish site conditions following cessation of operations. The relevant authorities may also require a level of ongoing monitoring for an agreed period. An integral part of decommissioning of oil and gas infrastructure is consideration of future users of the onshore site. Soil and ground water conditions should be assessed and returned to a suitable condition for reuse of the site. The required end state conditions will vary dependent on local requirements and the nature of the site redevelopment.**

> **"Liability for residual site contamination varies with local law, but would typically rest in the first instance, with those who caused or knowingly permitted the contamination."**

The reality: a ticking timebomb of abandoned infrastructure

The reality of decommissioning and abandonment in the Niger Delta is that they have seldom been undertaken properly or at all. There was, until the PIA, no requirement for companies to put funds aside for decommissioning. On the contrary, there is ample evidence that oil companies abandoned infrastructure without any efforts to make it safe. A significant number of oil spills are due to leaks from, or tampering with, abandoned infrastructure.

Shell has a poor track record here. When Shell left Ogoniland (one of the oil-producing regions of the Niger Delta) in 1993, many of its facilities were not properly decommissioned or made safe. In its major 2011 investigation in Ogoniland, the UN Environment Programme (UNEP) reported:

> **"UNEP's reconnaissance routinely came across oilfield resources which had evidently been abandoned in an uncontrolled fashion … The control and maintenance of oilfield infrastructure in Ogoniland is clearly inadequate. Industry best practice and [Shell's] own documented procedures have not been applied and as a result, local communities are vulnerable to the dangers posed by unsafe oilfield installations. The oil facilities themselves are vulnerable to accidental or deliberate tampering."**[121]

Shell has tried to argue that it was not able to access the infrastructure in Ogoniland, but many CSOs have demonstrated that Shell had access to the area repeatedly over the years after oil production stopped.[122]

An additional concern is that, despite the stark warnings of the 2011 UNEP report, as far as SOMO could discover, there has not been any effective action to address the abandoned infrastructure in Ogoniland. Decommissioning is not part of the HYPREP mandate, and sources involved with the Ogoniland clean-up confirm that decommissioning or making abandoned infrastructure safe are not part of the process. In 2020, almost a decade after the UNEP report, Shell stated, in relation to Ogoniland, that it had "Completed an inventory and physical verification of assets for decommissioning and working with joint venture partners and the federal government of Nigeria to develop a decommissioning plan for these assets."[123] Given the risks associated with abandoned infrastructure the delay implied here is astonishing. Moreover, the plan does not appear to exist and there is no indication that any actual decommissioning has been done.

Several contacts involved in monitoring developments in Ogoniland say there has been no action to address the UNEP recommendations on decommissioning. Despite more than a decade passing, and despite full knowledge and, clearly, with HYPREP, access to Ogoniland, Shell has not undertaken a programme to address the "the dangers posed by unsafe oilfield installations". This is a shocking failure.

Additionally, Shell cannot deploy the lack of access argument when it comes to the infrastructure across the OMLs has sold. Having been put on notice by the 2011 UNEP report, Shell should have taken immediate action to review its decommissioning across its operations. But Shell was in fact busy selling its OMLs.

Professor Richard Steiner and Nigerian/US energy specialist Dr Festus Odubo carried out a fact-finding mission looking into oil industry divestment, decommissioning, and abandonment in the Niger Delta from 1 to 17 July 2023. They made day-long site visits to Afam Ukwu in Oyigbo Local Government Area (LGA), Ogale in Eleme LGA, Ikarama in Yenagoa LGA, and Otuabagi in Ogbia LGA. Additionally, the Bayelsa State government facilitated a site visit by boat to Nembe, the site of the 2021 Santa Barbara well blowout, and the following day to Aghoro, the site of the 2018 Trans-Niger Pipeline spill.

Professor Steiner noted:

> **"Most of the derelict oil facilities we inspected had not been properly Decommissioned & Abandoned, as has been required by Nigerian federal law for decades. (note: Professor Steiner refers to the fact that Nigeria's legal regime for has long required companies that act in line with established good oilfield practice and consequently responsibility for proper decommissioning can be read into these legal provisions] While Nigerian law and regulation clearly require proper Decommissioning & Abandonment and removal of all unused oil facilities to best international standards, these requirements are rarely enforced. Proper D&A of wells includes isolating reservoirs with cement plugs and mechanical plugs placed at specified intervals down the borehole."**[124]

One local expert said these improperly abandoned facilities are essentially "landmines" or "time bombs" spread across the Delta that could explode at any time.

The challenge of abandoned infrastructure that had not been made safe was also raised by a NOSDRA official who spoke to SOMO.[125] They noted that wells that are locked but not fully decommissioned are then targeted by third parties to steal crude oil.

Professor Steiner raised his observations with the Nigerian oil industry regulators and asked them about the due diligence and monitoring of divestment. NUPRC staff were unable to confirm whether they conduct comprehensive oversight of divestment, decommissioning, and abandonment of oil facilities in the Delta. NUPRC also failed to provide any documents to confirm it ensures compliance with Nigerian laws and regulations regarding the oil industry; and it failed to respond to freedom of information (FOI) requests submitted in May and June 2023 by SOMO's partner organisation CEHRD.

While NUPRC confirmed receipt of the FOI requests, the agency declined, without explanation, to provide any documents. The implication is that these documents were never submitted to NUPRC by oil industry operators, licensees, or lessees as required by law, and NUPRC did not follow through by enforcing their required submission.

Proper decommissioning is a widespread and growing problem across the global oil industry that needs to be addressed with urgency. One recent study reported that there are approximately 29 million abandoned oil and gas wells worldwide.[126] It will almost certainly cost hundreds of billions of dollars to properly secure these derelict wells.

The 2023 study by the Sabin Center for Climate Change Law and Columbia Center on Sustainable Investment, referred to above, underlined how action to address the climate crisis is likely to lead to stranded oil and gas assets, and many governments may be unprepared for the rapid decline in oil and gas, and the scale of the decommissioning challenge.[127] Nigeria has both offshore and onshore oil production and the country's decommissioning challenges are likely to be one of the more complex globally.

Impacts from improperly plugged and abandoned wells include groundwater and surface water contamination; air contamination, including with toxins such as methane, volatile organic compounds, benzene, arsenic, hydrogen sulphide, nitrogen oxides, sulphur dioxide, ammonia, and particulate matter; human health impacts; and ecosystem impacts, including forest fragmentation, habitat loss, farmland loss, and soil degradation.[128]

While it was possible for researchers to see the evidence of infrastructure that is not properly decommissioned, there is very little information available from companies or regulators. The lack of transparency around decommissioning activity or about the decommissioning funds that the PIA mandates is deeply concerning. Shell has said almost nothing about its role in either proper decommissioning of existing abandoned infrastructure or how it has arranged funding for its share of decommissioning costs when selling OMLs. SOMO asked Shell about this issue in a letter dated 25 October 2023. Shell did not respond on this point.

However, in its announcement of the sale of SPDC, Shell stated that it "is providing additional financing of up to US$1.3bln over future years to fund SPDC's share of the development of the SPDC JV's gas resources to supply feedgas to NLNG, and its share of specific decommissioning and restoration costs."[129] As far as SOMO could discover, this is the first time Shell has mentioned decommissioning funds in relation to the sale of its onshore oil assets.
The January 2024 statement on the sale of SPDC does not clarify how much of the US$ 3.1 billion would cover decommissioning versus development of the gas resources in which Shell has a significant commercial interest.

The Nembe Creek Trunk Line: unsafe and abandoned

The oil majors' failure to properly decommission infrastructure that they have abandoned prior to divestment potentially pales in comparison with the future decommissioning challenge Nigeria will face. The country is already confronting this challenge as infrastructure is abandoned by new companies.

The Nembe Creek Trunk Line (NCTL) is a case in point. The NCTL is 97 km long and was constructed between 2007 and 2010 by Shell to bring oil from OMLs 18 and 29 to the Bonny Island offshore oil terminal, which Shell operates.[130] Just five years after completing the NCTL, Shell sold the asset to Aiteo. By 2021 the NCTL was all but abandoned because of leaks and theft. Nigerian media and domestic oil companies claim the relatively new NCTL was heavily vandalised with some 500 holes along its length.[131]

Aiteo, Eroton, and another new company, Newcross Exploration and Production (owner and operator of former SPDC-owned OML 24), used the NCTL for a few years. Then, in 2021, because of what Aiteo claimed was an unmanageable risk of sabotage and theft from the pipeline, the company established the Nembe Crude Oil Export Terminal, a tank farm and floating storage and offloading tanker loading facility at the Nembe Creek flow station, to ship oil directly to the offshore Brass Island oil terminal via mid-sized tankers. This new on-river oil terminal, commissioned to replace the NCTL, has reportedly not been subject to a proper environmental impact assessment.[132]

Also in 2021, Eroton, the operator of OML 18, stopped using the NCTL due to the leak problems.[133] It reportedly began evacuating its crude oil via barges and using a floating storage vessel. And in August 2022, Newcross, the operator of OML 24, reportedly also ceased using the NCTL.[134]

The condition and safety of the abandoned pipeline pose serious long-term risks to the people who live along its route, as well as raising important questions for Shell, Aiteo, and Nigeria's regulators.

While much of Shell's infrastructure in the Niger Delta has been criticised because of its age and condition, and the lack of safeguards against tampering, the NCTL should not suffer from these problems. As a recently commissioned pipeline, constructed when Shell was fully aware of the risks to the environment and communities from third-party interference with pipelines, the NCTL should have been built to avoid these problems.

Standard good oilfield practice requires Shell to make its infrastructure safe. If interference with oil infrastructure is a risk, then Shell has a legal obligation and a human rights due diligence responsibility to put in place tamper-proof systems. In Nigeria when the NCTL was constructed, good oilfield practice was a legal requirement. Nigeria's Mineral Oils (Safety) Regulations 1962 state that good oilfield practice compliance "shall be considered to be adequately covered by the appropriate current Institute of Petroleum Safety Codes, the American Petroleum Institute Codes, or the American Society of Mechanical Engineers Codes".[135]

The NCTL was barely open before Shell was reporting spills.[136] In December 2011, the NCTL was shut down "because of leaks caused by two failed bunkering points, and since repairs were completed, more than 50 theft valves have been discovered. In one case, some 17 illegal bunkering points were found within a distance of 3.8km."[137] Shell continued reporting leaks from the NCTL almost every year until it was sold.

In 2012 Shell's then Managing Director, Mutiu Sunmonu (now a non-executive director of Eroton and San Leon, which own stakes in OML 18, which used the NCTL – see Chapter 5) commented:

> **"It is difficult to sustain production in the circumstance as we have to shut down when a facility trips and fix the cause before restarting. This happened three times just between the 26th and 30th of January [2012]. We have increased surveillance of the route so we can detect crude theft activities and respond early to spills, but what is urgently needed is robust intervention at federal, state and local government levels. We need increased patrols of creeks and waterways, removal of illegal offtake points and dismantling of illegal refineries."[138]**

These comments did not address why a new pipeline commissioned where Shell clearly knew third-party interference was a serious risk was so exposed to tampering and not properly safeguarded.

Shell publicly reported on the NCTL prior to its sale, making it impossible that Aiteo and others were unaware of the problems. Yet Shell sold, and Aiteo bought, this asset.

The oil companies' abandonment of the NCTL raises the question of who will now properly decommission this large pipeline. As far as SOMO can discover, Shell was not required to provide funding towards decommissioning as part of its exit. SOMO asked Aiteo if it had put funds aside to deal with the issue.[139] The company did not respond. The companies may have been able to walk away from the NCTL, but the many communities along its length cannot. One of these is the Bille community (Box 8).

Box 8.
The case of Bille[139]

Bille is a small fishing community in Rivers State consisting of around 45 islands and a population of some 13,000 people. The NCTL (owned by Aiteo) passes through the area. According to the community, their creeks, mangroves, and island areas have been devastated by oil emanating from Shell's infrastructure. Between 2011 and 2013, oil spills from Shell's apparatus caused massive contamination of waterways around the community.

The NCTL was sold in 2015. From 2015, individuals from the Bille community issued claims against Shell in the UK courts, demanding compensation for damage caused by the oil spills.

The community claim that Shell did not clean up the spills when they occurred and that most of the resulting damage still has not been remediated, indicating that when Shell sold OML 18 and the NCTL, it did so without cleaning up past pollution.

The law firm representing the community claim that very large areas of mangrove swamp have been damaged by oil spills in the area. The pollution has contaminated the community's drinking water and has killed most of the fish in the waterways, leaving many of Bille's fishing population without a source of food or income.

Chief Okpoki Bennet of Bille told SOMO that Shell's oil production has devastated the aquatic system. "So many lost their livelihoods. All we got from the oil was hunger and poverty because of the pollution… we have hosted a multi-million-dollar company for so long, we have nothing to show for it. They have divided us as a community and created confusion."

He also echoes a widely held view of Shell's impact in the Delta, saying "There have been so many oil spills, mainly as a result of the old and dilapidated pipelines even though they blame it on theft and sabotage."

Like many, the people of Bille are fearful of the future. They are the only community in our research who said Shell told them in advance about the divestment. But Chief Bennet does not think this led to any positive outcome. "Shell has completely failed us. And now we have Aiteo. They are a faceless company and we don't know who to complain to. Aiteo comes into the community without giving any notice, flanked by the military. And they think they are above the law as they have the backing of the military and senior politicians. We're very fearful about the future", he said.

Bille is the first community to try to pursue Shell after it has divested. Shell is pushing back vigorously in its defence. The case is being watched closely.

In summary:

- The Niger Delta is covered by thousands of kilometres of pipelines and hundreds of wellheads and manifolds.
- Across the region there is evidence that Shell has abandoned infrastructure without properly decommissioning it and making it safe. This has been visible for years.
- All of the infrastructure will need to be decommissioned. That infrastructure is now controlled by a maze of investors, some of which already have financial difficulties.
- Shell should pay a significant amount towards decommissioning of the infrastructure it used for so long – in line with industry standards. But there is no information to suggest Shell made provisions for decommissioning in OML sales and no information to show it set up a decommissioning fund as required by the PIA.

A total lack of transparency coupled with the history of abandoned oil infrastructure and divestment to companies with financial challenges (see next chapter) strongly suggest that Nigeria will face a huge, unpaid, bill for decommissioning of infrastructure. It is entirely foreseeable that a country that has significant dependency on oil revenues will be unable, as energy transition progresses, to decommission and rehabilitate the Niger Delta. Nor should it have to fully bear this cost – it is substantially the responsibility of the oil companies. Given the context and the available facts, it is hard to conclude other than that the people of the Niger Delta are being left to live with the harms of oil, well after oil production is done.

Abandoned well head in Ogale, 2024, photo by Simpa Samson.

5. Case studies of Shell's divestment: the maze of investors

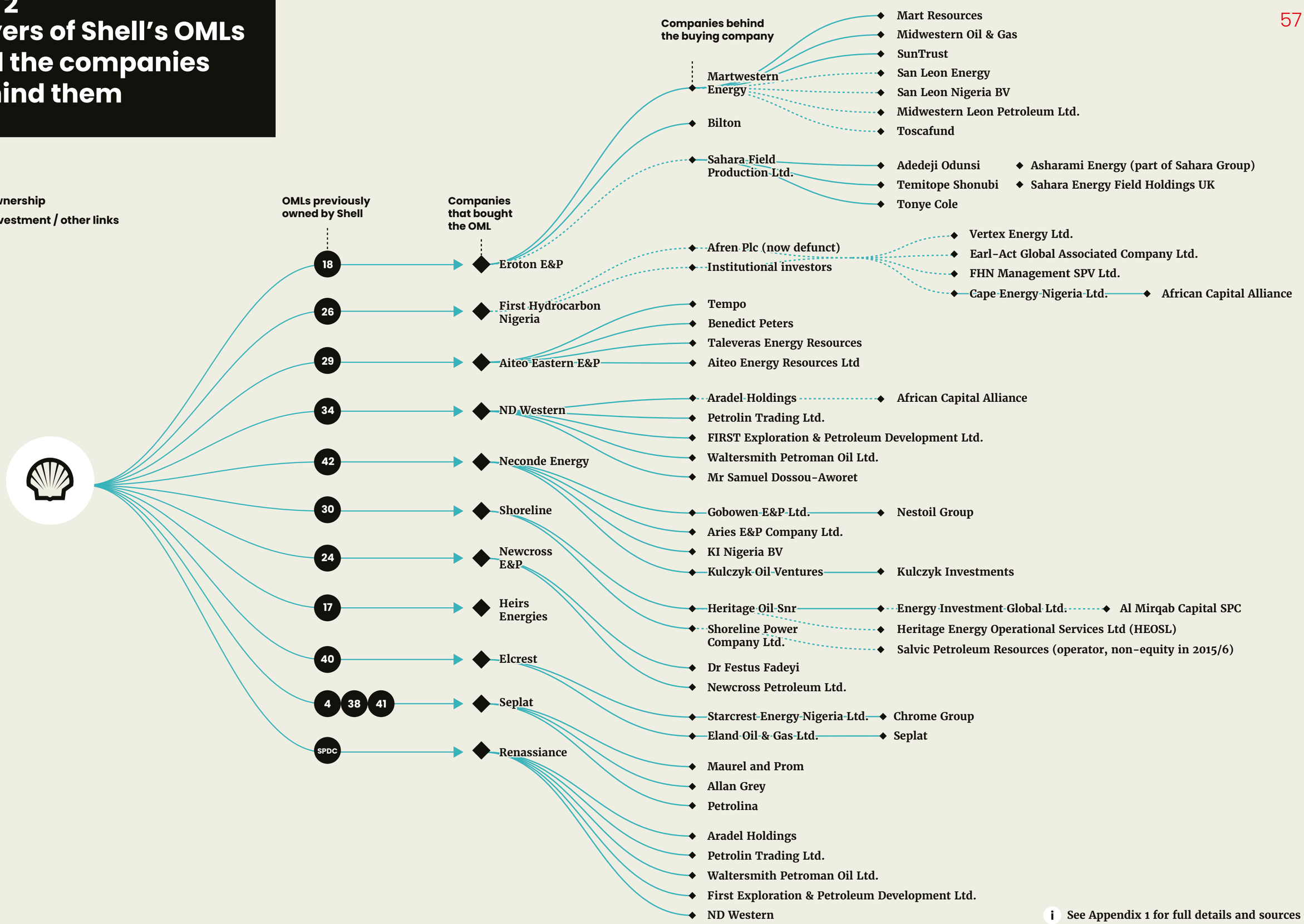
Oil extraction is a dangerous industry. The risks associated with the drilling for and extraction of oil are well documented. It is precisely because of the risks that the industry is subject to robust regulation in most countries and why the expertise of the companies operating oil wells and oil fields is so important. Competency and resources matter when it comes to the companies and entities that own and operate oil fields. This is recognised in Nigerian law and regulations and by Shell, which, as noted earlier, claims it screens potential buyers of its assets.

Selling OMLs and an oil company should be undertaken with all due care. This chapter looks at some of the deals Shell has made, and at the entities to which it has sold OMLs and appears shortly to sell SPDC. Case studies below of some of the OML sales include in-depth analysis, but we also look at the overall picture of OML ownership that has emerged from Shell's divestment of its onshore oil business in Nigeria.

Fig. 2
Buyers of Shell's OMLs and the companies behind them

LEGEND:

- ownership
- investment / other links



i See Appendix 1 for full details and sources

The chapter comprises four case studies of OMLs Shell has sold, plus a fifth case study of its sale of SPDC, its Nigerian subsidiary. The first four case studies assess the companies that bought the oil blocks and infrastructure, the financial deals involved, the legacy of pollution, and the future environmental risk for nearby communities. The fifth study takes a similar look at Renaissance, the buyer of SPDC. These are critical issues when it comes to assessing the quality of due diligence Shell – which claims to divest responsibly – and the Nigerian regulators have carried out.

Sucking Nigeria dry: Shell's divestment of OML 18

Shell sold OML 18 to a consortium fronted by Eroton Exploration and Production in 2014.[140] As with other Shell sales, its joint venture partners TotalEnergies and Eni also sold their stake in OML 18 to Eroton.

The deal was worth US$ 1.2 billion[141] of which Shell received US$ 737 million.[142] According to the law firm that represented Eroton: "The acquisition was financed in part by equity and in part by an inspired trade-backed US$663m seven-year syndicated reserve-based lending arranged by Afreximbank, with Shell Western Supply & Trading, the Africa Finance Corporation and five Nigerian banks as lenders."[143] *Export Finance* journal described the arrangement as the "most innovative commodities finance deal of the year".[144]

Eroton was only incorporated in 2013, in Nigeria. Its non-executive directors include former SPDC staff, including Mutiu Sunmonu, former Managing Director of SPDC and former Country Chair of Shell companies in Nigeria.[145]

While Eroton led the deal, the purchase of OML 18 involved many other companies. An important concern about due diligence in connection with the OML 18 sale is the complex investment structure behind this supposedly domestic oil company. Eroton is a special purpose vehicle (SPV), basically a structure to allow a group of investors to buy the OML, and yet it was also supposed to be the operator of the OML in an area where tens of thousands of people live.

The deals and companies behind OML 18 are eye-wateringly complex. This case underscores the extent of Shell's failure to act with meaningful due diligence and exposes the major risks of pollution and of infrastructure being abandoned in the future.

A complex and opaque ownership web

According to public disclosures made by an Irish company, San Leon Energy, which became involved in OML 18, Eroton was, at the time of Shell's OML divestment, owned 50/50 by two other Nigerian companies, **Martwestern Energy** and **Bilton**.[146] Nigeria's beneficial ownership portal, however, lists four individuals as owning Eroton (see Annex 2).

The San Leon disclosure document describes Bilton's role as maintaining security and community relations to help minimise disruption of operations at OML 18. The document describes the security package deployed by Bilton as having "effectively turned the OML 18 area from a restive community into one that has virtually eliminated the community disturbances that existed during the period prior to

Eroton's ownership of its interest in OML 18".[147] In the context of the Niger Delta, where actions of public and private security operatives have led to grave human rights violations, this description of Bilton's role is somewhat sinister. Almost no other information is available about this company, except that it consists of a small group of private individuals and was registered in August 2013.[148]

Martwestern was registered in August 2013,[149] the same month as Eroton was registered (in fact it was registered just eight days before Eroton). Its business is reportedly "petroleum products sales & distribution".[150] At the time of Shell's divestment of OML 18, Martwestern held both its 50% shareholding in Eroton and "an initial 90 per cent economic interest"[151] in the company. This raises questions about the role of Bilton, the group of private individuals.

Martwestern, Bilton, and Eroton entered into a shareholders' agreement dated 14 November 2013. Therefore, at the time of the divestment (completed in 2014–15) Shell should have been aware of these three companies.

Martwestern was at the time of the divestment in turn owned by three companies: **Mart Resources** (40%), **Midwestern Oil & Gas** (40%), and **SunTrust** (20%). Mart Resources appears to have been registered as an oil and gas exploration company in Alberta, Canada at one point, but is now registered in Nigeria.[152] SunTrust[153] and Midwestern are registered in Nigeria.[154] So Eroton, at the time it acquired the rights to OML 18, was owned by companies owned by other companies. The need for such a complex corporate structure is unknown. SOMO asked Shell how it could reasonably have done due diligence on this arrangement, and whether the arrangement raised any red flags. The company did not respond on this point.[155]

Midwestern Oil & Gas was incorporated in 1999 and commenced operations in 2001. The company's website describes it as "owned by a group of Nigerian Investors and Delta State Government".[156] The Nigerian Beneficial Ownership portal run by Nigeria Extractive Industries Transparency Initiative (NEITI) lists 16 beneficial owners of Midwestern, including Delta State Government.[157] Mart Resources was founded in 2002 as an oil and gas company focused on upstream interests in the Niger Delta region.[158] Its chairman, Charles Odita, is also an non-executive director of Eroton and CEO of Midwestern, as well as being a former Shell Nigeria executive.[159]

In October 2014, Mart Resources was

> **"pleased to announce that it is a member of a consortium (the 'Consortium') that has entered into an assignment agreement (the 'Assignment Agreement') with The Shell Petroleum Development Company of Nigeria Limited ('SPDC'), Total E&P Nigeria Limited and Nigerian AGIP Oil Company Limited (collectively, the 'Sellers') pursuant to which a special purpose company ('Consortium SPV') owned directly or indirectly by the Consortium members will acquire a 45% participating interest in Nigerian Oil Mining Lease 18 ('OML 18') and all associated assets, wells, pipelines and infrastructure".[160]**

The 2014 statement indicates that the companies behind the companies that directly owned Eroton were involved in the actual divestment and acquisition.

SunTrust also announced it was

> **"a member of the consortium that has acquired a 45% participating interest in OML 18 and all its associated assets, wells, pipelines and infrastructure from the Shell Petroleum Development Company ('SPDC'), Total E&P Nigeria Limited and Nigerian AGIP Oil Company Limited consortium. The acquisition was completed pursuant to an Assignment Agreement between the Sellers and Eroton Exploration & Production Company Limited ('Eroton'), a special purpose company owned by the Consortium members. The remaining 55% participating interest is retained by the Nigerian National Petroleum Corporation ('NNPC'). The signing ceremony in Abuja March 19, 2015, endorsed the granting of the ministerial consent and operatorship of OML 18 to the Eroton consortium by The Honorable Minister of Petroleum, Diezani Alison-Madueke."**[161]

Ms Alison-Madueke, Nigeria's former Minister of Petroleum, was arrested in London in 2015 on charges of corruption unrelated to the OML 18 deal.[162] She was formerly a Director of Shell in Nigeria and worked with the company for over a decade.

In addition to the group of companies referred to above, **Sahara Field Production Limited** (SFPL), a subsidiary of Nigeria-based **Asharami Energy**, acquired a 16.2% participating interest in OML 18.[163] According to Nigeria's Beneficial Ownership portal the owners of SFPL are Adedeji Odunsi, Temitope Shonubi and Tonye Cole. Yet Asharami Energy states on its website that SFPL is a subsidiary and lists OML 18 as one of its assets. The three individuals named in the Nigerian portal are listed in the UK company register (along with one other person) as the officers of Sahara Energy Fields Holding UK Ltd (Company number 07243330)[164]. Asharami (and therefore SFPL) are part of the Geneva-based Sahara Group.[165] In June 2015, *Africa Oil & Gas Report* stated that Sahara held 18% of OML 18 following the purchase of 40% of Eroton.[166]

Months before Eroton acquired OML 18, in February 2014, Eroton and Sahara finalised a collaboration agreement "outlining each party's rights and obligations for Eroton's submission of a competitive bid for the acquisition of the 45 per cent. interest in OML 18". The deal also involved "issues relating to the transfer and vesting in Sahara of its funded apportioned share of the asset … subject to obtaining the requisite regulatory approvals". By August 2016, based on the San Leon disclosure document:

> **"Eroton's principal asset is the 45 per cent. interest in OML 18. Eroton holds an 18 per cent. interest in OML 18 in trust for Sahara until a transfer of a direct interest in OML 18 to Sahara is approved by the Government of Nigeria, upon which Eroton's stake in OML 18 will reduce to 27 per cent".**[167]

This means that Sahara already had a stake in the project before Eroton and companies behind it placed the bid on OML 18, although for unclear reasons this stake was not officially acknowledged.

Eroton by this point was owned directly and indirectly by Martwestern, Bilton, SFPL, Mart Resources, Midwestern, and SunTrust. At the time Shell sold OML 18 to Eroton, it would have been clear the company was a front for other actors. Most had no, or only limited, experience in upstream oil. Yet Eroton, this amalgam of financial interests, was put forward as the operator of the OML. As noted earlier, the operator plays a critical role in engagement with the communities living in the OML area, and in dealing with maintenance of infrastructure and the prevention and clean-up of oil spills. This construction also raises questions about who or what Shell did due diligence on? Did it look at all of the companies that make up Eroton?

Although Shell sold OML 18 to a company that has little real substance and is owned by multiple other companies, this is not the end of the story. It gets more complex.

Enter the foreign investors: who owns the OML?

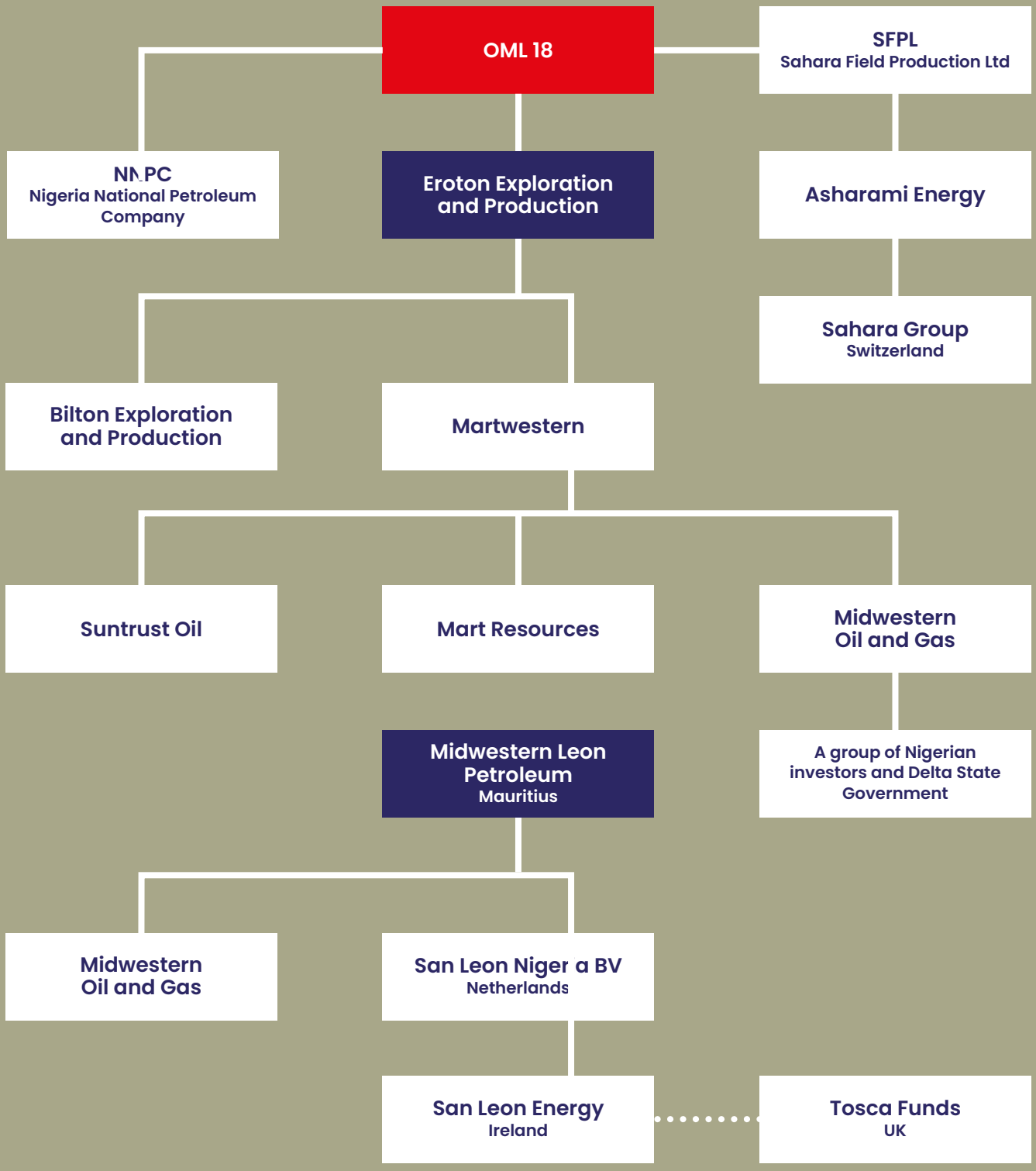
In 2016 Irish-headquartered company **San Leon Energy**, via its Dutch subsidiary, San Leon Nigeria BV, and the Nigerian company Midwestern Oil & Gas (the one that owned 40% of Martwestern, which owned 50% of Eroton, in case you have difficulty keeping up), set up a second SPV in this process incorporated in Mauritius called **Midwestern Leon Petroleum** (or **BidCo**). San Leon held a 40% share in this SPV, with Midwestern Oil & Gas holding 60% of BidCo. This SPV was set up to enable involvement in OML 18 by purchasing shares in Martwestern – which, we recall, owned 50% of Eroton and was owned by Mart Resources (40%), Midwestern (40%), and SunTrust (20%).

The means by which the San Leon and Midwestern Leon Petroleum SPV gained shares in OML 18 was by Midwestern Leon Petroleum purchasing shares in Mart Resources. In March 2016, Midwestern acquired Mart Resources, which reportedly led to its delisting from the Toronto stock exchange.[168] Acquireco, an indirect wholly owned subsidiary of Midwestern, acquired all of the issued and outstanding common shares of Mart.

The Mauritius SPV's purchase of Martwestern appears to have involved loan notes[169] backed by **Toscafund**, a UK asset manager.[170] This financing gave San Leon a 10.5% indirect share in OML 18, while Toscafund received 54% of San Leon shares pending repayment of the loan notes.

So Toscafund, who nobody in the Niger Delta has ever heard of, by 2017 owned over 50% of San Leon, which owned part of Midwestern Leon Petroleum, which owned Martwestern, which was part-owner of Eroton. At this point, companies based in Nigeria, Mauritius, the UK, Ireland, and the Netherlands had become involved. This appears less like Shell selling OML 18 to a competent and responsible Nigerian company than a way for a lot of Nigerian and foreign investors to make money. There is more.

Fig. 2
Economic interests in OML 18



Special Purpose Vehicle

See Annex 2 for details and sources

The reported ownership has varied over time. Eroton's role is, at time of writing, unclear.

In 2018 SunTrust Oil initiated a legal action against San Leon Energy (with an address in Ireland), Midwestern Leon Petroleum (Mauritius), Martwestern Energy (Nigeria), Midwestern Oil and Gas Company (Nigeria), Mart Resources Inc (with an address in Canada) as well as the Minister of Petroleum Resources and Nigeria's Corporate Affairs Commission, over the involvement of San Leon in OML 18. SunTrust's submission stated that the transfer of 4,000.000 shares in Midwestern Energy by Midwestern Oil and Gas to Midwestern Leon Petroleum on or around 30 March 2016 was a break of the shareholders agreement.[171] The outcome of this action is not known, but it underlines the complexity behind OML 18 and Eroton.

San Leon, Midwestern, and Eroton have very similarly composed boards of directors, indicating they are part of the same group, with possibly Eroton being an empty entity.[172] In 2020 San Leon Energy announced that Adekolapo Ademola "would join the Company on 7 April 2020 as a Non-Independent Non-Executive Director on behalf of Midwestern Oil & Gas Company Ltd". In this public announcement, San Leon also noted that Mr Ademola "currently holds or has held over the last five years the following directorships … Bilton Energy Ltd; Bilton OML 18 Ltd … Midwestern Oil & Gas Company Ltd … Eroton Exploration & Production Company Ltd … and Martwestern Energy Ltd".[173] We also note various other connections between this group's members below.

At time of writing there was uncertainty about the ownership of the OML and information in Nigeria's Beneficial Ownership portal differs from other sources. Appendix 2 provides additional details.

The money and who has it

Adding to the complexity of this divestment and acquisition, Eroton and Shell entered into an offtake agreement dated 10 July 2014, as amended by addendums of 8 and 9 September 2014, which sets out terms for Eroton's sale to Shell of oil production at OML 18. Shell used an entity based in the Bahamas for this agreement.

Eroton's finances are opaque. It took 45% control of OML 18 with a US$ 1.2 billion deal in 2015.

Refinitiv Eikon data and analytics software reported that on 1 December 2021 Eroton received a US$ 196 million loan or revolving credit facility as credit finance for oil mining leases in Nigeria.[174] San Leon's disclosure documents related to the OML deal suggests Eroton sought more debt financing in 2022.[175]

Repayment of San Leon's complex financial instrument (loan notes) appears to have had challenges. Toscafund now owns 75% of San Leon. The remaining shares in San Leon are held by Midwestern Oil & Gas (13.18%) and the chairman, Oisín Fanning (2.11%), with some available for retail investors.[176] In 2023 San Leon announced a US$ 187 million cash injection by **Tri Ri Asset Management**, a US real estate investment trust that also operates in the UK.[177] From the limited information available, it seems likely there is significant debt behind OML 18.

To make matters even more complex, in 2023 local media and communities reported that Eroton has been removed as operator and the Nigerian state-owned company, NNPC, has taken over. Some reports indicated that Sahara Group was involved in this move to oust Eroton as operator.[178] Eroton has refuted this publicly, and at the time of writing the situation was not clarified.

Shell manifestly did not act with due diligence in the sale of OML 18. Instead it, and the French and Italian companies that are Shell's partners, sold their interest to an SPV newly created for the purpose of purchasing the OML, backed by a range of investors engaged in complex financial structures that on the available evidence were focused on the creation of corporate wealth, not running a responsible oil business.

The chaotic sale of OML 29

In 2014–15 Shell sold its 30% stake in OML 29 in Bayelsa State to the Nigerian company Aiteo Eastern E&P. As part of the deal Aiteo also purchased Shell's stake in the Nembe Creek Trunk Line (NCTL; discussed in detail in Chapter 4). Shell's joint venture partners TotalEnergies and Eni also sold their interests in OML 29 to Aiteo. This gave the new company 45% of OML 29, with state-owned NNPC retaining its 55% share.

Aiteo Eastern E&P was set up in 2013.[179] The Aiteo Group itself was founded in 1999 and involved in downstream energy projects in Nigeria.

In common with most Nigerian companies that have bought OMLs from Shell, Aiteo does not disclose much financial or environmental information. It borrowed approximately US$ 2 billion in 2014 to purchase OML 29 and the NCTL.[180] Shell reportedly received US$ 1.7 billion for the sale, with Aiteo receiving US$ 504 million in financing from Shell and US$ 1.5 billion from Nigerian banks.[181]

At the time of the sale of OML 29, nearby community members said the divested assets were poorly maintained and unsafe. The community also said none of the previous spills had received proper clean-up.[182]

According to the Bayelsa State Oil and Environmental Commission, chaired by former UK Archbishop of York Lord Sentamu, which reviewed the sale, negotiations were conducted at the Ministry of Petroleum in Abuja, with no community engagement or knowledge, and apparently no discussion of the transfer of liabilities for legacy spills.[183]

SOMO could discover no social or environmental assessment undertaken prior to the sale. SOMO asked Aiteo if it had taken steps to understand if there were outstanding oil spill liabilities, but the company did not respond.[184]

Several years after Shell's divestment of OML 29, a major pollution incident occurred that raises significant questions about the due diligence done by Shell and Aiteo on the transfer of ownership and operatorship. This was the 2021 Santa Barbara blowout.

The Santa Barbara blowout

In November 2021 there was a large and widely reported blowout at OML 29's Santa Barbara Well 1.[185] Aiteo told the media at the time that pressure on the wellhead meant it was impossible to halt the oil flow immediately.[186] It took the company over one month to bring the oil spill under control. US blowout control specialists Boots & Coots were called in to plug the well.[187]

The impact of the blowout was devastating. Nigerian newspaper *Premium Times*, which investigated the case, commented: "Our review of the disaster has shown that oil and gas fumes from a wellhead operated by the Nigerian firm, Aiteo, caused large scale destruction of aquatic lives and damaged water bodies and farms. Residents have also reported health problems after the incident occurred."[188]

Local farmers and fisher people interviewed at the time spoke about the devasting impact on waterways, where oil spread for weeks, and damage to vegetation.[189]

When researchers working with SOMO visited the area in July 2023, community members described the impact of the spill on fishing and farming activities. In an-all-too familiar story, people explained to researchers how the fishing-dependent population around the spill area has been left without a source of food or income. People also told researchers that some had relied on river water for consumption but cannot use it now due to the health risks. The researchers observed damaged mangroves around the spill area. Community members also complained about a rise in respiratory problems, eye and skin irritation, and neurological effects such as headaches.

The Bayelsa State Oil and Environmental Commission observed: "The Nembe–Santa Barbara blowout, and the divestment that preceded it, should serve as a test case for how not to conduct asset divestment in the future. Full environmental impact assessments and transparent community consultation should be a standard requirement before any asset divestment."[190]

The official industry and government estimate of the amount of oil spilled by the blowout at Santa Barbara Well 1 was less than 5,000 barrels.[191] However, an independent estimate by Professor Richard Steiner, using video evidence of the plume velocity and volume, was that more than 500,000 barrels of hydrocarbon fluids, gas, and oil, were released.[192]

Such official underestimation of spill size and impact is common in Nigeria.[193] There is also dispute about whether the Santa Barbara spill was the result of sabotage or equipment failure – another common feature of the pollution investigation system in the Niger Delta (where, as we have discussed, the regulatory agency NOSDRA relies heavily on the oil companies for data and even to visit a spill site).

The wellhead blowout brought the question of decommissioning to the foreground. The well in question was not in production.[194] There is disused but not decommissioned infrastructure across many of the Niger Delta OMLs. Decommissioning is expensive. There is almost no transparency around decommissioning funds in Shell's OML sale agreements. Whether the blowout

was due to corrosion or to interference by a third party, the non-producing wellhead was evidently unsafe.

The Bayelsa State Oil and Environmental Commission also noted a major decommissioning challenge at OML 29 (a lease area that includes Oloibiri, the site of the first commercial oil discovery in Nigeria):

> **"Not surprisingly, much of the environmental damage perpetrated by Shell has not been addressed … Legacy questions are enormous and pressing: how are the obligations for massive environmental and social destruction to be met, once the operating company leaves? And how will decommissioning be 'built-in', as per international standards, into operating models?"**

Other disputes at OML 29

The Santa Barara wellhead blowout is not the only problem reported with former Shell infrastructure at OML 29. In 2021 Aiteo issued legal proceedings against Shell over several issues including the state of the Nembe Creek Trunk Line. According to Aiteo, it lost considerable amounts of money due to leaks from the pipeline, which was in a "degraded" state.[195] Aiteo claims to have spent US$ 933 million on pipeline repairs and that Shell misrepresented its condition.[196] Shell denies the allegations. However, the NCTL has been all but abandoned since Shell's pull-out (see Chapter 4).

In addition to starting litigation over the condition of the NCTL, Aiteo has claimed in legal proceedings that some of the wells it acquired as part of the deal were owned not by Shell but by the national oil company, NNPC.[197]

The financing of the divestment has also exposed other issues. In 2014 Aiteo borrowed some US$ 2 billion to purchase an interest in Nigerian oilfields and facilities, including OML 29.[198] According to the Nigerian *Premium Times*, about 75% of the funding came from the intergovernmental Africa Finance Corporation and from banks. The rest came from Shell in the form of vendor financing via an English-law-governed agreement. When Aiteo did not meet the repayment requirements, the lenders (including Shell) sought legal avenues to compel repayment.[199] At the time of writing, there is no known conclusion to the legal dispute.

Shell's divestment of OML 29 has exposed how chaotic and unclear the divestment process has been to date. In the case of this sale to Aiteo, Shell did not act with due diligence and instead sold its interest to a company newly created for the purpose of purchasing the OML. This company borrowed heavily to purchase the OML. Shell exited OML 29 with a financial interest still in place, enabling it to continue profiting from the oil,[200] while selling off a toxic asset.

This is not the only OML sale with these characteristics, as the subsequent case studies show.

OML 17: flouting environmental guidelines

Shell completed the sale of its stake in OML 17 to Trans-Niger Oil & Gas (TNOG) Limited (a company linked to Heirs Holdings Oil & Gas (HHOG) and Transnational Corporation of Nigeria), in 2021. In October 2023, HHOG changed its name to Heirs Energies Limited. Heirs Energies describes itself as the sole operator of OML 17.[201] According to its website, "Heirs Energies launched in January 2021, following the completion of an 8-year, $1.2 billion transaction to acquire oil license OML17, from the Shell Petroleum Development Company of Nigeria Limited, Total E&P Nigeria Limited, and ENI..."[202]

While Shell and TotalEnergies report they received US$ 533 million and US$ 180 million respectively from the sale,[203] the debt taken by Heirs Holdings for this deal is significantly greater. The law firm Templars, which advised on the deal, reports that acquisition of the 45% share in OML 17 cost US$ 800 million in total, and that Heirs took on overall debt of US$ 1.1 billion to enable it to have working capital for the asset. Heirs' main lenders include Absa Bank, Africa Finance Corporation, African Export-Import Bank, Hybrid Capital & Asset Management , Shell Western Supply & Trading, Standard Chartered Bank, Union Bank of Nigeria, and United Capital. "Junior" lenders are Shell Trading and Hybrid Capital & Asset Management.[204]

According to another law firm also involved in the deal structure, White & Case, Heirs has a "long-term offtake agreement with Shell and Total to ensure regular revenue and minimize payment risk".[205] Once again, we see Shell has been involved in the financing of the sale, in this case with an offtake agreement, meaning Shell will buy oil from the OML and sell it on.

OML 17 was Shell's first onshore divestment after the 2018 update of the Environmental Guidelines and Standards for the Petroleum Industry in Nigeria (EGASPIN). Section 2.1 (ii) of the 2018 EGASPIN requires a prospective seller, prior to divestment, to complete an environmental evaluation study (EES) and report (EER). Shell's divestment of OML 17 in 2021 should therefore have complied with the EGASPIN requirements. However, SOMO understands that no such study exists. SOMO wrote to Shell asking, if this information is erroneous, can Shell supply the documents? Shell did not supply the documents or respond on this point.

The sale of OML 17 raises further questions about Shell's due diligence. Firstly, the company to which it handed operatorship claims to have come into being only in the year of the sale, but to have negotiated the deal for eight years prior to that. Which entity was negotiating with Shell? Second, the importance of doing an assessment of environmental conditions prior to divestment should be clear from the perspective of human rights and environmental due diligence, but in this case was also a requirement under EGASPIN. Shell has publicly committed to both the UNGPs and EGASPIN but even in this divestment, it appears not to have carried out an EES or informed, let alone consulted, key stakeholders.

Beneficial ownership opacity:[206] OMLs 30 and 40

The new ownership of the transferred OML licences has proved complicated to unravel. Some OMLs have already changed operator and/or have new investors involved since the original divestment sale. This in itself raises questions about the

stability of the new owners and Shell's purported due diligence on them. The case of Eroton (case study 5.1) – the special purpose vehicle fronting a combination of Nigerian, UK, Irish, Mauritian, Dutch, and other interests – is far from the only complex ownership story involved in Niger Delta divestments.

Multiple investors are entering and exiting the sector, making deals and often using SPVs, with no information provided to nearby communities or civil society. It is often unclear who the owners and operators are that communities have to deal with, and in some instances, Shell remains a shadowy presence behind the scenes. The money behind several of the new ventures appears to be precarious, with massive risks in terms of the ability of companies to pay for the upkeep and proper decommissioning of wells and other infrastructure.

Here we provide two more brief examples.

OML 30

In 2012 newly set-up **Shoreline Natural Resources** acquired 45% of OML 30 from Shell, TotalEnergies, and Eni. The company's website states that it is "a joint venture between Shoreline Power Company Limited, a Nigerian Company … and Heritage Oil Shoreline Natural Resources (Nigeria) B.V, a subsidiary of Heritage Oil Limited."[207, 208] Heritage Oil appears to be based in Jersey, UK.

Heritage was acquired in 2014 by **Energy Investment Global Ltd**, a wholly owned subsidiary of **Al Mirqab Capital SPC** of Qatar.[209] Al Mirqab is reportedly an investment vehicle indirectly and beneficially owned privately by Qatari politician Sheikh Hamad bin Jassim bin Jaber Al Thani and his family.

Within less than five years of the divestment, OML 30 changed operator. According to local media reports, **Salvic Petroleum Resources**,[210] a company established in 2015, took over operations. Salvic was succeeded about a year later by **Heritage Energy Operational Services Ltd** (HEOSL) in 2017.[211] The reasons for these changes in operator are unclear, and there is no information available from Nigeria's regulators on the transfer. HEOSL has been described as "the first and only company in Nigeria operating this unique, non-equity-holding 3rd party operator model"[212].

This configuration indicates that here the investors have hired others to operate the OML, calling further into question what due diligence took place on the new owners. Selling an OML requires careful due diligence on the buyer, and particularly on the entity that will be the operator. The operator is responsible for the day-to-day running of the OML, for social and environment impact issues amongst other things. It appears that Shoreline Natural Resources was not able or willing to be the operator, and new companies had to be contracted to fill this key role. For the local communities they have moved from SPDC to Shoreline to Slavic and now HEOSL within eight years, raising questions about the initial assessment of the sale to Shoreline.

HEOSL is clearly related to Heritage Oil, one of the two companies that originally bought OML 30. As there is almost no transparency about the deals or the financials of these companies, it is virtually impossible to fully understand what is happening.

OML 40

In 2012 Shell sold its stake in OML 40 to **Elcrest Exploration and Production Nigeria Ltd**, reportedly for US$ 102 million.[213] According to the Upstream Nigeria directory,[214] Elcrest was a special purpose vehicle comprising Starcrest Energy Nigeria Limited (55%) and UK-registered Eland Oil & Gas Limited (45%). Starcrest, which states on its website that it is a subsidiary of the Chrome Group,[215] has operated since 2006.[216] Eland Oil & Gas is based in Aberdeen, Scotland, and has operated since 2009. In December 2019, Eland was acquired by **Seplat Petroleum Development Company** (of Nigeria) for approximately GBP 382 million.[217]

Again, the post-divestment changes in ownership makes it challenging for local communities, CSOs, other citizens, or even the Nigerian government to be able to hold the beneficial owners and/or the operators of OML 40 genuinely accountable for any social, environmental or human rights impacts their operations may have.

The sale of SPDC

In January 2024 Shell confirmed it had found a buyer for its Nigerian subsidiary, the Shell Petroleum Development Company of Nigeria (SPDC). It will sell SPDC to a consortium going by the name of **Renaissance Africa Energy Company**.

Renaissance Africa Energy Company is a newly created consortium, essentially a special purpose vehicle (SPV). Its CEO is a former Shell Nigeria executive, Tony Attah. The companies behind Renaissance are ND Western, Aradel Energy, First E&P, Waltersmith, and Petrolin. These are the same companies behind OML 34, which SPDC divested from in 2011.

ND Western was itself set up as an SPV in April 2011. Just two months later, Shell sold OML 34 to ND Western. The company describes itself as "a consortium of four companies, Niger Delta Petroleum Resources Limited (NDPR), Petrolin Trading Limited (PETROLIN), FIRST Exploration & Petroleum Development OML 34 Limited and Waltersmith Exploration and Production Limited" [218]

NDPR became Aradel in 2023. Aradel Holdings,[219] which owns Aradel Energy, is itself a "portfolio" company of African Capital Alliance,[220] a private equity and asset management company (meaning African Capital Alliance is invested in Aradel).

Petrolin is involved in oi and gas investing in several countries in Africa.[221] Petrolin also "holds significant interest in Tullow Oil, Vivo Energy, Seplat, Aradel and ND Western."[222] FIRST E&P was set up in 2011 just before the purchase of OML 34 by ND Western (in which it then invested).[223]

Waltersmith Petroman Oil Limited was incorporated in 1996 as a joint venture between Waltersmith & Associates Limited, a Nigerian company, and Petroman Oil Limited of Calgary, Canada, to operate as a Petroleum Exploration and Production company. In 2001, Waltersmith Petroman Oil Limited became a wholly Nigerian owned company with the divestment of Petroman Oil Limited.[224]

The sale of SPDC, as noted in the Introduction (Chapter 1), is a share sale, meaning that the parties are Shell Plc (seller of shares) and Renaissance (buyer). By purchasing all the shares in SPDC, Renaissance will have purchased the

company, which will remain a separate legal entity. In such cases the company usually continues to retain its assets and liabilities, meaning the SPDC that Renaissance will own after the deal retains SPDC's assets and liabilities. Among the assets are the SPDC stake in 15 onshore OMLs that SPDC operates.

At the time of writing, there is little additional information on the sale of SPDC. The fact that the company will continue as "SPDC" without any Shell involvement has caused confusion. As mentioned previously, it is expected that the situation will eventually evolve further through a merger or acquisition process that would see SPDC subsumed within another company.

The sale of SPDC has several features of interest, some of which are similar to OML sales. In particular, Shell is once again loaning money to the company that is buying its assets. Shell has stated: "At closing, Shell will provide secured term loans of up to US$1.2bln, to cover a variety of funding requirements."[225] In addition:

> **"Shell is providing additional financing of up to US$ 1.3bln over future years to fund SPDC's share of the development of the SPDC JV's gas resources to supply feedgas to NLNG, and its share of specific decommissioning and restoration costs. This additional financing will only be drawn down when these costs are approved and incurred by the SPDC JV."** [226]

The additional financing does not appear to be a loan, and represents (as we see in some OML sales) Shell's ongoing involvement in the onshore oil business, but at arm's length. In this case, Shell appears to have protected its access to gas reserves for its Nigerian gas business.

A notable feature is the level of involvement Shell will retain in the business it is selling. Shell states:

> **"The transaction has been designed to preserve the full range of SPDC's operating capabilities following the change of ownership. This includes the technical expertise, management systems and processes that SPDC implements on behalf of all the companies in the SPDC Joint Venture".**[227]

More startlingly:

> **"Following completion, *Shell will retain a role in supporting the management of SPDC JV facilities* that supply a major portion of the feed gas to Nigeria LNG (NLNG), to help Nigeria achieve maximum value from NLNG" (emphasis added, with "Shell" assumed in its public statements about the sale of SPDC to mean Shell Plc).**[228]

A plain reading of this text would suggest that while Shell is selling all of its shares in SPCD to Renaissance (a company now led by a former senior Shell Nigeria executive), Shell has ensured a substantial amount of influence and control via loans and "support" to the "management of SPDC JV facilities".

A final point about the currently available information on the sale of SPDC is what Shell receives compared to what it lends and invests. According to Shell's public materials: "The consideration payable to Shell as part of the transaction is US$1.3bln."[229] (Shell is loaning the buyer US$ 1.2 billion, interest rate and term of repayment unknown.) Shell also states: "The buyer will make additional cash payments to Shell of up to US$1.1bln, primarily relating to prior receivables and cash balances in the business, with the majority expected to be paid at completion of the transaction."[230] But, as we note above, Shell is also committed to investing US$ 1.3 in some manner, particularly related to its access to gas.

The implications of the financial arrangements are unclear. But they at least suggest that Shell will sell SPCD and, as it has with several OMLs, continue to make money from the oil operations. It will do this via interest payments on loans and from access to gas.

At the time of writing the deal is awaiting ministerial consent. That ministerial consent is required for indirect transfer of an interest in an OML has been established in several judicial decisions and practice of the petroleum ministry. News reports confirm that ministerial consent is required and that the oil companies involved have accepted this fact. The Chief Executive of NUPRC, Gbenga Komolafe, was quoted on February 3, 2024 as stating:

> **"NUPRC wishes to clarify that oil and gas assets in Nigeria can only be transferred in accordance with the requirements of the PIA, Petroleum Act (where applicable), the Guidelines and Procedures for Obtaining Minister's Consent to the Assignment of Interest in Oil and Gas Assets, 2021 (together the "Applicable Laws")." Mr. Komolafe added: "Under Nigerian law, while the entering into of a Sale and Purchase Agreement (SPA) between an assignor and an assignee constitutes an agreement to sell the relevant licence or lease in accordance with the terms of the SPA, the transfer can only be consummated upon the grant of Ministerial Consent."[231]**

The long-running saga of Shell in the Niger Delta is not over. However, a new a deeply concerning chapter is opening, one where the already limited chance of seeing the oil giant clean up its horrific mess has reduced even further. Action by the Nigerian government can address this issue, but this, sadly, is unlikely, despite the growing calls from Nigerian civil society to halt the sale or put conditions on it.

Chief amongst the conditions the CSOs are demanding are: ensuring SPDC fully cleans up and remediates the environment; pays adequate compensation to affected people; properly decommissions its inactive infrastructure; and ensures that the pipelines and other assets it is selling meet international oil industry standards of safety. CSOs also want the government to implement its legal responsibility to ensure newly entering companies are responsible actors.

Part III

Taking stock and moving forward

6. Failures of due diligence and implications : a stocktake

The foregoing case studies expose how untransparent and chaotic Shell's divestment has been. Those who will continue to suffer the most are the communities living in and around the Niger Delta oilfields. Although the law and regulatory bodies should protect these people, neither function effectively.

This chapter looks at the multifaceted failure of due diligence on the part of Shell, the new buyers, and Nigeria's regulators. These actors' lack of responsible conduct has created a disastrous mix of conditions, leaving the Niger Delta and its residents exposed to decades of further harm.

Shell's due diligence failures

As noted earlier, Shell claims it assesses the companies to which it sells assets in Nigeria using "a well-established, systematic and assured method"... "In selecting counterparties for a potential transaction, we assess their financial strength, operating culture, policies governing their health, safety, security, and environmental (HSSE) performance, and when relevant, the effectiveness of their social performance programs."[232]

Shell has a responsibility in any case to act with human rights due diligence in line with the UN Guiding Principles on Business and Human Rights, to which it has made a public commitment.[233] The UNGPs require Shell to consider the human rights risks and impacts of divestment and to take action to avoid or mitigate such risks. The OECD Guidelines for Multinational Enterprises (OECD Guidelines) also explicitly call for responsible divestment and additionally underline the imperatives of a just transition in line with the Paris Agreement. By contrast, as the assessment and case studies in this report show, Shell's asset sales have given rise to multiple danger signals and issues of concern. We summarise here key due diligence failures on the part of Shell.

Sales to newly created companies

Shell sold OMLs to several companies that were newly created, many solely for the purpose of buying the OMLs. These include Neconde Energy (created in 2010, purchased OML 42 in 2011), First Hydrocarbon Nigeria (created in 2009, bought OML 26 in 2010), Shoreline Natural Resources (created in 2010, bought OML 30 in 2012), Eroton E&P (created in 2013, bought OML 18 in 2014), Heirs Energies (established in 2021 in the same year it acquired OML 17); and Newcross E&P (created in 2013, bought OML 24 in 2014). Shell has most recently agreed to sell SPDC to a new entity, Renaissance, which appears to have been created in 2023.

Table 3. New Companies by date

OML	New companies to which Shell divested OML stakes	New company established	New company acquired OML[234]
4	Seplat	2009[235]	2010
26	First Hydrocarbon Nigeria	2009[236]	2010
38	Seplat	2009	2010
41	Seplat	2009	2010
34	ND Western	2011[237]	2011
42	Neconde Energy	2010[238]	2011
30	Shoreline Natural Resources	2010[239]	2012
40	Elcrest	2011[240]	2012
18	Eroton	2013[241]	2014[242]
24	Newcross	2013[243]	2014
29	Aiteo Eastern	2013[244]	2014[245]
17	TNOG (Heirs Energies)	2021[246]	2021

Although some of these companies had longer-established parent companies, several had no track record of upstream oil production. It is difficult to see how Shell's "well-established, systematic and assured method" for due diligence

could have assessed their financial strength, operating culture, or environmental performance. SOMO asked Shell to respond on this issue. The company did not.

Since selling the OMLs, Aiteo has defaulted on loan repayments, Eroton appears to have complex financial difficulties and has been embroiled in questions about its operatorship, Shoreline has ceased to act as operator and been rapidly succeeded by two other companies, and the major Nembe Creek Trunk Line has been abandoned. This is far from the full litany of post-divestment challenges.

In 2010, Shell sold OML 26 to First Hydrocarbon Nigeria (FHN), which was created in 2009. FHN was, at the time, owned partly by Afren Plc (45%) and by institutional investors (55%). Afren went into administration in 2015 when it was unable to refinance and was de-listed on the London Stock Exchange. In 2018 two former executives of the company were sentenced to terms of imprisonment.[247] The UK Serious Fraud Office stated that the Chief Executive and Chief Operating Officer "were found guilty of fraud and money laundering offences from which they personally received more than $17m and laundered $45m by deceiving the Afren Board into agreeing a $300m business deal."[248] The new shareholders behind FHN acquired 70% of the company from the Administrators of Afren Plc. FHN is now owned by African Capital Alliance via Cape Energy Nigeria Limited (19.9%), Vertex Energy Limited (40%), Earl-Act Global Associated Company Limited (25.1%), and FHN Management SPV Limited (15%).[249] OML 26 is operated by an Asset Management Team consisting of employees from FHN and NPDC.

An additional feature of concern, particularly from the perspective of local communities, is the question of who the operator of the OML is. In this regard the following is of note:

- OML 18: Eroton's operatorship has been the subject of public speculation as to whether it remains the operator.
- OML 26: The OML is operated by an Asset Management Team involving two companies one of which has had significant changes in ownership.
- OML 34: This OML is also operated by an Asset Management Team. ND Western, the SPV to which Shell sold OML 34 (and one of the companies to which it will now sell its shares in SPDC) told SOMO that "there is no distinct 'operator' responsible for community relations and maintenance of infrastructure in the OML 34 JV Asset Management Team …These functions are distinct and run by different departments withing the AMT."[250]
- OML 30: has had three different operators since it was divested.

While Shell is not responsible for the post-divestment challenges faced by new companies, the overall picture that emerges is hardly one where due diligence and responsible divestment appear to have been robust.

Selling to a Special Purpose Vehicle (SPV) as operator

Shell sold several OMLs to SPVs, which then became the operator. All of the SPVs were new companies, although not all of the new companies listed above were SPVs. In some cases, the SPVs to which Shell sold involved other SPVs.

The SPVs to which Shell divested OMLs include: Eroton which bought OML 18; ND Western which bought OML 34; and Elcrest which bought OML 40. In the case of

Eroton, Shell sold an OML to a company that was clearly merely an investment vehicle, without real substance.

While SPVs are a common business tool, their use to purchase OMLs in which tens of thousands of people live and where the environmental, social and health impacts of oil production are of significant concern, should be a red flag, particularly where an SPV becomes the operator. It is also difficult to see how Shell can have conducted due diligence on SPVs, particularly ones such as Eroton, in any meaningful way. Shell has not disclosed any information that would enable stakeholders to understand how it does what it claims to do.

Buyers' financial arrangements and risks

Many of the domestic oil companies (DOCs) that acquired OMLs from Shell and the other European oil majors used complex financial instruments. Several of these deals involved Shell as either lender or hedger of project financing with banks through offtake agreements, or both. In the sale of SPDC Shell will lend the buyers over US$1 billion to purchase its shares.

Eroton and San Leon (as noted above) appear to face significant financial challenges. Aiteo defaulted on its loans within four years of taking over the OML. Afren, the company invested in OML 26, went into receivership five years after the purchase of the oil lease. There have been numerous reports about the debt and financing challenges faced by DOCs, and how Nigerian banks have been significantly exposed to loan default risks involving DOCs that borrowed to purchase OMLs.[251] In an industry where price volatility is a certainty, and the global energy transition will increase uncertainty, and in a country whose government income is heavily dependent on oil revenues, the financial strength of companies to which IOCs divest is of paramount importance. This would have a significant bearing on the ability and willingness of companies to meet their responsibilities with regard to maintenance and repair of oil infrastructure and, ultimately, decommissioning.

Shell not only had to perform commercial due diligence on the companies to which it sold. Because it also entered into loan agreements with at least some of the players, this would mean it had insight into their financial arrangements. We asked Shell if it sees a serious risk that some new operators to which it sold OMLs will become bankrupt, or otherwise disappear, leaving behind even greater uncertainty about who will pay for remediation and decommissioning.[252] Shell declined to comment on this.[253]

Selling known problem assets without safeguards

Shell has sold assets that do not have adequate safeguards against tampering. Such safeguards are required by international standards.

Shell sold the NCTL to Aiteo. Prior to the sale, Shell knew and made public that the line was affected by leaks. Shell has not disclosed what, if any, protective measures it has put in place on the pipeline, or how a newly constructed pipeline can be so exposed to tampering when, at the time of its construction, Shell well knew the risks and publicised them.

We asked Shell on what due diligence basis it sold a pipeline it knew to be highly exposed to tampering to a company that, based on the financial structure of the deal and the buyer's limited experience, must have clearly shown itself as incapable of preventing further spills occurring. Shell did not respond on this issue.

SOMO asked Shell to comment on whether, in selling the NCTL to Aiteo, there was discussion about how the NCTL would be made tamper-proof or what would be done to solve the existing problems. Since by Shell's own admission the pipeline was a problem, what did Shell consider to be its due diligence at the point of divestment? Shell did not respond on this point.

No proper assessment of the infrastructure prior to sale

Shell – as well as the buyers and the Nigerian regulators – appear to have made no proper assessment of the infrastructure being sold. Despite researchers' efforts to identify any study or assessment, or even confirmation that such assessment was done, they could not.

Aiteo's claims about the condition of the NCTL and the confusion about which assets were included in the sale point to a lack of clarity on the infrastructure in that deal.

Shell left behind abandoned but not responsibly decommissioned infrastructure. There is no publicly available information on what, if any, agreement was made between Shell as the divesting entity and DOCs as the acquiring entity with regard to this issue.

Human rights and environmental due diligence failures

In addition to Shell's commercial due diligence failure detailed above, its sale of the OMLs also fails to adhere to human rights and environmental due diligence requirements.

Human rights due diligence should cover adverse human rights impacts that the business enterprise may cause or contribute to through its own activities, or that may be directly linked to its operations, products, or services through its business relationships. The UNGPs state, amongst other things, that:

- "In order to identify, prevent, mitigate and account for how they address their adverse human rights impacts, business enterprises should carry out human rights due diligence. The process should include assessing actual and potential human rights impacts, integrating and acting upon the findings, tracking responses, and communicating how impacts are addressed." (Principle 17)

- "In order to account for how they address their human rights impacts, business enterprises should be prepared to communicate this externally, particularly when concerns are raised by or on behalf of affected stakeholders. Business enterprises whose operations or operating contexts pose risks of severe human rights impacts should report formally on how they address them." (Principle 21)

- "Where a business enterprise identifies such a situation, whether through its human rights due diligence process or other means, its responsibility to respect human rights requires active engagement in remediation, by itself or in cooperation with other actors." (Principle 22)

The OECD Guidelines as revised in 2023 outline critical elements of environmental due diligence, requiring companies to act in line with the Paris Agreement and the concept of a just energy transition.

The research for this report has showed that Shell has failed in relation to all of the above.

Exiting without cleaning up pollution that harms human rights

Much has been written about Shell's failure to prevent and clean up oil pollution from its operations in the Niger Delta, and the incalculable human rights harm this has caused. With widespread allegations of oil pollution in each OML area, Shell should have assessed the areas and ensured proper remediation of any pollution in a transparent manner before exiting. No such assessments are known to have been conducted. Shell has divested OMLs without this most basic of human rights due diligence actions ("assessing actual and potential human rights impacts, integrating and acting upon the findings").

Shell will also effectively divest 15 onshore OMLs to Renaissance when the sale of SPDC is completed. No environmental assessment appears to have been undertaken regarding these OMLs. There is no comprehensive clean-up and remediation of legacy pollution. On the contrary, Shell appears to expect that the SPDC that will be owned by Renaissance Africa Energy will deal with the historical pollution, but there is no basis to assume this will happen. Nor do the UNGPs allow a company to simply walk away and hand over harmful human rights impacts to others ("responsibility to respect human rights requires active engagement in remediation, by itself or in cooperation with other actors"). Shell must stay engaged until the legacy pollution is addressed.

Little or no consultation with communities prior to divestment

The OECD Guidelines and the UNGPs make clear that effective human rights due diligence should involve "meaningful consultation with potentially affected groups and other relevant stakeholders, as appropriate to the size of the business enterprise and the nature and context of the operation".[254] SOMO's researchers could identity only one community where people said they had received information in advance of one of the OML divestments. In many cases people interviewed were unaware of the sale until well after it happened.

In February/March 2023 SOMO's partner organisation CEHRD surveyed the people of Elebele community in Bayelsa State and Umuechem community in Rivers State. The survey data shows that most respondents were not informed, let alone consulted, by Shell about its exit. A source familiar with the divestment process noted that many communities find out about IOC divestments only when there is an issue (an oil spill or an issue with a pipeline). When they contact the IOCs to resolve such issues, this is when they learn that the IOC is no longer the owner of the facility. In some cases, the facilities would have been transferred to more than

one entity without the communities' knowledge, leaving them at a loss as to who to contact to resolve pending issues.

Buyers' failure of due diligence and duty of care

The companies that purchased assets from Shell should also have conducted due diligence – on the condition of the assets if not on the human rights and environmental issues. Almost none of the new players has made any commitment to the UNGPs.

Based on SOMO's research, none of the new companies appears to have assessed prior environmental conditions around oil pollution. We asked several DOCs if and how they considered the risks of leaks from the pipelines and infrastructure in view of the widely available evidence of leaks. We also asked them what assurances or information they sought from Shell about oil pipeline maintenance and leak detection. We did not receive any responses.

The oil companies are responsible for damage resulting from corrosion, equipment failure, oil theft, and acts that vandalise the pipelines. They are required to safeguard their infrastructure and to clean up all oil spills, no matter the cause. This means that a critical element of due diligence would be to understand the condition of the infrastructure and the status of any leak detection and tamper-proofing measures. Without ascertaining this, the buyers could not be said to have done proper business due diligence.

Given the decades of reported oil spills, buyers cannot claim to be unaware that they would be purchasing assets that were certain to face the same problems. As several of the buyers have former senior Shell staff (including many who worked for Shell in Nigeria) on their boards or staff, it is inconceivable they would not be aware of the risks of oil spills.

None of the oil companies to which SOMO wrote in researching this report provided information on their use of oil pipeline leak detection systems, or on whether they had considered this as part of their due diligence.

As the Aiteo case study demonstrates, in at least some instances companies do not appear to have known precisely which infrastructure was part of the sale. This indicates that there was no proper inventory or that infrastructure inventories were incorrect, and that this was not picked up by the Nigerian regulators.

7. Conclusions and recommendations

Conclusions

The sun is setting on the global oil industry. While different actors can argue about the time frame for the end of oil, all the international oil majors are aware that they need to reduce their exposure to oil extraction. Shell's Nigerian onshore assets emit significant GHGs. In addition, the vast infrastructure, much of it aged, in poor repair, or inadequately safeguarded from tampering, will need to be decommissioned as the global oil industry winds down in the face of the ever-more-horrifying manifestations of the too-long-ignored climate crisis.

While there is no available estimate of the costs for decommissioning in the Niger Delta, Professor Steiner believes they will be very significant, given the scale of Shell's and the other IOCs' operations. The need to properly clean up oil pollution, mandated by courts in Europe in some cases, would add to the costs facing Shell, were more cases successfully taken forward. From a business perspective, it is not difficult to imagine these factors influencing decision-making.

The company that entered Nigeria in the colonial period and secured privileged access to Nigeria's oil resources is now seeking to pull off the ultimate corporate escape act. It is manoeuvring to exit its toxic assets in the Niger Delta, pass them to others (who it should know will not have the financial capacity to address the legacy), and slip away without properly cleaning up or decommissioning. All the burden of toxicity will transfer to someone else – to the Nigerian domestic companies and their web of corporate owners (many of whom will also, most likely, slip away), to the Nigerian state, and ultimately to the people of the Niger Delta.

Sandwiched between the Local Content Act, which created the buyers, and the 2021 Petroleum Industries Act that allowed OMLs to persist, a near-perfect escape route has been created. Nigerian legislators have written Shell's "get out of jail free" card. Passing these laws in this timeframe, without proper consideration of divestment, has – whether legislators knew it or not – enabled a massive oil giant to walk away and leave vast damage behind.

Generations of Niger Delta communities have lived and died, and raised children and grandchildren who will live and die, in the cesspit of Shell's greed, and the backing of their shareholders.

As divestment by IOCs nears its end, Niger Delta communities must have all possible legal opportunities to seek remedy for past spills and to challenge the IOCs for their failure to make infrastructure safe before sale. Nigeria's authorities must not continue to give "get out of jail free" approvals to IOCs. A core requirement should be for IOCs to provide a full inventory and assessment of the environment and the condition of all infrastructure at time of sale. Some legal provisions exist which allow Nigeria's regulators to act, even at this late stage. They must be seized urgently.

Recommendations

As part of the research process for this report, and the associated independent report by Professor Steiner,[255] SDN convened a workshop in Port Harcourt, Nigeria, on 31 October 2023 to vet a set of recommendations on divestment and decommissioning. The recommendations were endorsed by the following Niger Delta CSOs: Stakeholder Democracy Network (SDN), the Centre for Environment, Human Rights and Development (CEHRD), Social Action, Environmental Rights Action (ERA)/Friends of the Earth Nigeria, Youth and Environment Advocacy Centre (YEAC), Society for Women and Youth Affairs (SWAYA), and the Natural Resource Governance Institute (NRGI).

SOMO fully support the agreed-upon recommendations which can be accessed here. We also fully support the *National Principles for Responsible Petroleum Industry Divestment*, developed and agreed by CSOs working in the Niger Delta, and launched in Port Harcourt in December 2023.[256] These principles call for robust government action to prevent the IOCs from leaving behind substantial social, economic, and environmental costs.

In aligning with the CSO recommendations, we also call on the following actors to take specific steps to support a just energy transition and the remedy of decades of human rights and environmental abuses in the Niger Delta.

Recommendations to the Federal Government of Nigeria

- Suspend completion of the sale of SPDC pending a full and transparent review of whether all legacy pollution has been properly remediated and communities have received adequate compensation.

- Ensure that Shell and all divesting oil companies comply with all elements of EGASPIN, in particular the required 'Environmental Evaluation Study'.

- Make public all funds that Shell and other IOCs have assigned to decommissioning of oil infrastructure as part of divestment.

Nigeria should also consider its role in the region. As Africa's largest oil producer, Nigeria could play a crucial role in setting a high standard for the just transition in oil-producing countries, particularly in lower-income producer countries where foreign investors are exiting. Nigeria can ensure historical reparation is taken seriously in such disengagement practices, and we strongly urge the government to set the standard here.

Recommendations to United Nations Secretary-General

UN Secretary-General (UNSG) Antonio Guterres has repeatedly called for the phase out of fossil fuels. In doing so, the UNSG must take up the issue of decommissioning of oil and other fossil fuel infrastructure. Across Nigeria and many other oil producing nations, particularly in the Global South, international oil investors are exiting without making the infrastructure safe. This will leave hundreds of thousands, if not millions, exposed to decades of environmental harm, and put the financial burden on states that will already be struggling with loss of revenues. There is no version of a just energy transition that can include oil companies divesting without providing the funds for decommissioning.

Recommendations to the Extractive Industries Transparency Initiative

Shell and Nigeria are participants in the EITI. The issues raised in this report, in particular the lack of transparency on funding for decommissioning, and the failure of Shell to consult with affected communities, run contrary to the EITI principles.[257] Moreover, as the EITI has moved to promote a just energy transition, the report exposes how the way Shell has divested from the onshore Niger Delta is completely inconsistent with any reasonable definition of justice in the energy transition. We call on the EITI to engage with Nigeria and Shell regarding the divestment to achieve far greater transparency. We also urge the EITI to require full disclosure of funding for decommissioning of oil infrastructure as part of its efforts to support a just energy transition.

Annex 1
Shell's response

In response to SOMO findings, Shell stated:

Strategic context regarding divestments in Nigeria

It is the clearly stated policy of the Federal Government of Nigeria to increase production from its onshore oil resources as the country transitions towards Net Zero Emissions on a 2060 timeframe. The country's onshore oil industry therefore needs investors with the mandate to invest for the future and to enable that industry to continue playing a key role in the nation's development.

Divestments by International Oil Companies are contributing to a reconfiguration of the industry which is seeing other companies, including indigenous companies, playing an increasingly important role in helping the country to deliver its energy objectives. As any such divestments occur, mandatory submissions to the Federal Government of Nigeria enable government regulators to apply scrutiny across all the areas highlighted in your report and to provide approval for any agreements reached between the seller and buyer.

Divestment due diligence

Where Shell divests it seeks to do so responsibly in line with the principles shared on www.shell.com *[these are included in this report and not reproduced here]*.

Responsibility for operational matters

SPDC JV is a joint venture in which SPDC Ltd (a Shell Group company) holds a 30% participating interest. The remaining 70% is held by NNPC 55%, Total 10% and ENI 5%. The operator is responsible for delivering the joint venture's commitments relating to all operational matters, including compliance with applicable regulation.

Reporting on spills, remediation and certification

The joint venture is working to eliminate spills from its operations, remediate past spills and prevent spills caused by crude theft, sabotage of pipelines or illegal refining. While SPDC operates to the same technical standards as Shell companies in any other country, illegal activities continue to inhibit a normal operating environment. However, regardless of the cause of a spill, the joint venture cleans up and remediates areas affected by spills originating from its facilities.

SPDC maintains an industry-leading level of transparency in its operations and reporting. The joint venture has been reporting statistics on spills annually since 1995 and has maintained a dedicated website on spills management since 2011. This reporting is subject to continuous improvement in terms of additional transparency, in part thanks to ongoing dialogue with Civil Society Organisations (CSOs).

Unfortunately, along with other operators in Nigeria, SPDC continues to face the twin challenges of sabotage and crude theft, each of which not only deprives the country and Nigerian people of billions of dollars of tax revenue, but also endangers peoples' lives. Crude theft poses a serious environmental risk that impacts not just oil and gas operations but also local communities. SPDC continues to collaborate with the Nigerian government and other stakeholders with the aim of eradicating crude theft from its facilities. There is cause for optimism, as these collaborations are starting to yield results through changes in approach. Together, SPDC has also made progress in developing security systems that allow it to better monitor its facilities, and therefore detect and deter some of these illegal actions.

Given the widespread third-party reporting on the extent of crude theft and sabotage in the Niger Delta, your assertion that Shell has maintained a deliberately false narrative on spills in the Niger Delta is demonstrably untrue and reflects a lack of balance and omission of important context in your letter more broadly.

Annex 2
Ownership and sources of information on companies

The ownership of OMLs and the companies behind them is complex. Different sources provide different information. Some companies have had changes in ownership/shareholder since they first became involved in OMLs. SOMO used the Nigerian Beneficial Ownership portal hosted by Nigeria Extractive Industries Transparency Initiative as a key source but also consulted the websites and reports of companies, as well as media reports. All screenshots are from the Beneficial Ownership portal (https://bo.neiti.gov.ng/og_search).

Aiteo Eastern Exploration and Production: OML 29

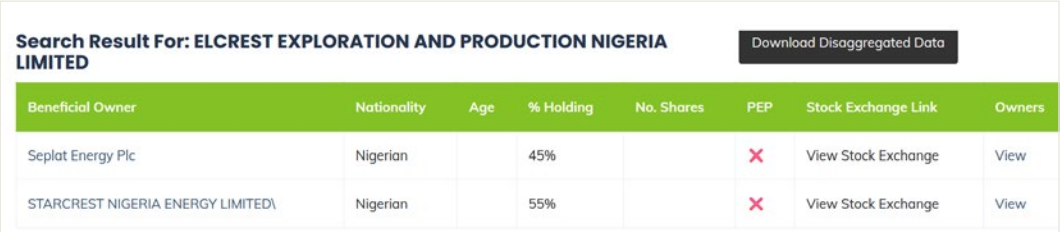
Search Result For: AITEO EASTERN EXPLORATION & PRODUCTION COMPANY LTD

Download Disaggregated Data

Beneficial Owner	Nationality	Age	% Holding	No. Shares	PEP	Stock Exchange Link	Owners
Aiteo Energy Resources Limited	Nigerian		84%		✕	View Stock Exchange	View
Benedict Peters	Nigerian		1%		✕	View Stock Exchange	View
Taleveras Energy Resources Limited	Nigerian		5%		✕	View Stock Exchange	View
Tempo Energy Nigeria Limited	Nigerian		10%		✕	View Stock Exchange	View

Aiteo Eastern E&P was set up in 2013.[258] The Aiteo Group itself was founded in 1999 and involved in downstream energy projects in Nigeria. Tempo was set up in 2009.[259] Taleveras was registered in 2011.[260]

Elcrest Exploration and Production: OML 40



Search Result For: ELCREST EXPLORATION AND PRODUCTION NIGERIA LIMITED

Download Disaggregated Data

Beneficial Owner	Nationality	Age	% Holding	No. Shares	PEP	Stock Exchange Link	Owners
Seplat Energy Plc	Nigerian		45%		✕	View Stock Exchange	View
STARCREST NIGERIA ENERGY LIMITED\	Nigerian		55%		✕	View Stock Exchange	View

The graphic refers to Starcrest and Eland. According to the Upstream Nigeria directory,[261] Elcrest was, at the time of the OML 40 divestment, a special purpose vehicle comprising Starcrest Energy Nigeria Limited (55%) and UK-registered Eland Oil & Gas Limited (45%).

In December 2019, Eland was acquired by **Seplat**.[262]

According to its website, Starcrest Nigerian Energy is part of the Chrome Group of companies.[263]

Eroton Exploration and Production Company: OML 18

Search Result For: EROTON EXPLORATION AND PRODUCTION COMPANY LIMITED

Download Disaggregated Data

Beneficial Owner	Nationality	Age	% Holding	No. Shares	PEP	Stock Exchange Link	Owners
Adekolapo Ademola	NIGERIAN		22%			View Stock Exchange	View
Brume Okoloko	Nigerian		10%		✕	View Stock Exchange	View
Onajite Okoloko	Nigerian		6.98%		✕	View Stock Exchange	View
Theodore Ezeobi Jnr	NIGERIAN		17.5%			View Stock Exchange	View

The information on the Beneficial Ownership portal differs from other information available on the ownership of Eroton and this may be due to various changes in the shareholding over time. In particular, SOMO has relied on a document published by San Leon Energy which corresponds with several media reports on the ownership of Eroton. SOMO wrote to Eroton and San Leon Energy prior to publication. Our courier company was unable to deliver a letter to Eroton at listed addresses in Nigeria. San Leon Energy did not respond.

At the time of the OML divestment, Eroton was owned 50/50 by two other Nigerian companies, **Martwestern Energy** and **Bilton**.[264]

Martwestern was at the time of the divestment in turn owned by three companies: **Mart Resources** (40%), **Midwestern Oil & Gas** (40%), and **SunTrust** (20%). Mart Resources appears to have been registered in Alberta.[265] SunTrust[266] and Midwestern are registered in Nigeria.

Midwestern Oil & Gas Company Limited was incorporated in 1999 and commenced operations in 2001. The company's website describes it as "owned by a group

of Nigerian Investors and Delta State Government".[267] Mart Resources Inc. was founded in 2002.

In addition to this grouping, **Sahara Field Production Limited** (SFPL), a subsidiary of Nigeria-based Asharami Energy, acquired a **16.2% participating interest in OML 18**.[268] Asharami and SFPL are part of the Geneva-based Sahara Group.[269]

Some sources suggest that Eroton holds or has held a 27% direct participating interest in OML 18, and Sahara Field Production Limited an 18% **participating interest**.[270] However, Eroton's website has been unavailable for several days prior to publication, and in 2023 media reports suggested Eroton was no longer operating OML 18.[271]

- Adekolapo Ademola (listed in the Beneficial Ownership portal) is a Non-Independent Non-Executive Director of San Leon Energy.[272]
- Brume Okoloko is a Non-Executive Director at Eroton, and his bio states that he is the Managing Director of DEL Waste Management Company, an innovative company committed to providing integrated waste management services to the oil and gas industry.[273]
- Onajite Okoloko is the Chairman of Eroton Exploration & Production Company Limited and also Chairman of Midwestern Oil and Gas Plc.[274]
- It was not possible to identify Theodore Ezeobi Jnr's connection to the company.

The same four people listed as owners of Eroton are named in some online sources as the owners of Bilton Energy.[275]

Given the different information available, it is not possible to be completely sure who owns Eroton, and the information in the graphic is based on best available data.

First Hydrocarbon Nigeria: OML 26

Search Result For: FIRST HYDROCARBON NIGERIA (FHN) LTD

Download Disaggregated Data

Beneficial Owner	Nationality	Age	% Holding	No. Shares	PEP	Stock Exchange Link	Owners
Cape Energy Ltd	NIGERIAN		19.90%			View Stock Exchange	View
Earl Act Global Associated Company Ltd	NIGERIAN		25.10%			View Stock Exchange	View
FHN Management SPV Ltd	NIGERIAN		15%			View Stock Exchange	View
Vertex Energy Ltd	NIGERIAN		40%			View Stock Exchange	View

In 2010, Shell sold OML 26 to First Hydrocarbon Nigeria (FHN). FHN was, at the time, owned partly by Afren Plc (45%) and by institutional investors (55%). Afren went into administration in 2015. FHN is now owned by Vertex Energy Limited, Earl-Act Global Associated Company Limited, FHN Management SPV Limited and African Capital Alliance via Cape Energy Nigeria Limited (19.9%).[276]

ND Western: OML 34

Search Result For: ND WESTERN LIMITED (PRIVATE LIMITED LIABILITY COMPANY)

Download Disaggregated Data

Beneficial Owner	Nationality	Age	% Holding	No. Shares	PEP	Stock Exchange Link	Owners
FIRST EXPLORATION & PETROLEUM DEVELOPMENT OML 34 LIMITED			10%			View Stock Exchange	View
Mr Samuel Dossou-Aworet	BENINESE	78	30%		✕	View Stock Exchange	View
NIGER DELTA PETROLEUM RESOURCES LIMITED			41.667%			View Stock Exchange	View
PETROLIN TRADING LIMITED			10%			View Stock Exchange	View
WALTERSMITH EXPLORATION & PRODUCTION LIMITED			8.333%			View Stock Exchange	View

ND Western was itself set up as an SPV in April 2011. Just two months later, Shell sold OML 34 to ND Western. The company describes itself as "a consortium of four companies: Niger Delta Petroleum Resources Limited (NDPR), Petrolin Trading Limited (PETROLIN), FIRST Exploration & Petroleum Development OML 34 Limited and Waltersmith Exploration and Production Limited" [277]

NDPR became Aradel in 2023. Aradel Holdings,[278] which owns Aradel Energy, is itself a "portfolio" company of African Capital Alliance,[279] a private equity and asset management company (meaning African Capital Alliance is invested in Aradel).

Petrolin is involved in oi and gas investing in several countries in Africa.[280] Petrolin also "holds significant interest in Tullow Oil, Vivo Energy, Seplat, Aradel and ND Western."[281] FIRST E&P was set up in 2011 just before the purchase of OML 34 by ND Western (in which it then invested).[282]

Waltersmith Petroman Oil Limited was incorporated in 1996 as a joint venture between Waltersmith & Associates Limited, a Nigerian company and Petroman Oil Limited of Calgary, Canada, to operate as a Petroleum Exploration and Production company. In 2001, Waltersmith Petroman Oil Limited became a wholly Nigerian owned company with the divestment of Petroman Oil Limited.[283]

Neconde Energy: OML 42

Search Result For: NECONDE ENERGY

Download Disaggregated Data

Beneficial Owner	Nationality	Age	% Holding	No. Shares	PEP	Stock Exchange Link	Owners
Aries Energy and Pet Coy Limited	Nigerian		20%		✕	View Stock Exchange	View
Gobowen E&p Limited			40%		✕	View Stock Exchange	View
K.I Nigeria B.V	Nigerian		20%		✕	View Stock Exchange	View
KOV Nigeria B.V			20%		✕	View Stock Exchange	View

Based on other sources, KOV is Kulczyk Oil Ventures[284] and K.I. is Kulczyk Investments.[285] The B.V. suggests registration in the Netherlands.

Gobowen is described in various media as a subsidiary or sister company of Nestoil.[286] Nestoil was connected to OML 42, but reports in 2018 suggested Nestoil planed to sell all or part of its stake in OML 42 due to financial issues.[287] SOMO could not find any independent website for Gobowen, and it is not listed on Nestoil's website. The only available data is that Gobowen E&P is linked to Nestoil.

Newcross E&P: OML 24

Search Result For: NEWCROSS E&P LIMITED Download Disaggregated Data

Beneficial Owner	Nationality	Age	% Holding	No. Shares	PEP	Stock Exchange Link	Owners
Dr Festus .A Fadeyi	Nigerian	81	10%		✕	View Stock Exchange	View
Newcross Petroleum Limited	Nigerian		90%		✕	View Stock Exchange	View

Seplat Energy: OMLs 4, 38, 41

Search Result For: SEPLAT PETROLEUM DEVELOPMENT COMPANY PLC Download Disaggregated Data

Beneficial Owner	Nationality	Age	% Holding	No. Shares	PEP	Stock Exchange Link	Owners
Allan Gray			7.22%		✕	View Stock Exchange	View
MPI			20.46%		✕	View Stock Exchange	View
PETROLIN TRADING LIMITED			13.77%		✕	View Stock Exchange	View
Professional Support			7.01%		✕	View Stock Exchange	View
Sustainable Capital			5.75%		✕	View Stock Exchange	View

Seplat was formed in June 2009.[288] Within a few months of forming, new investors became involved. According to Seplat, in December 2009, the French company, **Maurel and Prom**, acquired a 45% shareholding in Seplat. TAs new investors have become involved and Maurel and Prom reduced its shareholding. The most recent figures show Maurel and Prom 20.46% stake in Seplat. The South African headquartered asset management company, **Allan Gray**, holds 7.22% of Seplat.

Petrolin Trading Limited, owns 13.77 % of Seplat. Petrolin is based in Switzerland and was founded by Samuel Dossou-Aworet, who owns 30% of ND Western (see above). Both ND Western and Petrolin are involved in Renaissance Africa Energy, the company that Shell has announced it will sell its Nigerian subsidiary to (see below).

Shoreline Natural Resources: OML 30

Search Result For: SHORELINE NATURAL RESOURCES LIMITED Download Disaggregated Data

Beneficial Owner	Nationality	Age	% Holding	No. Shares	PEP	Stock Exchange Link	Owners
HERITAGE OIL SNR (Nigeria)			30.71%		✕	View Stock Exchange	View
SHORELINE POWER COMPANY LIMITED			69%		✕	View Stock Exchange	View

The website of **Shoreline Natural Resources** states that it is "a joint venture between Shoreline Power Company Limited, a Nigerian Company … and Heritage Oil Shoreline Natural Resources (Nigeria) B.V, a subsidiary of Heritage Oil Limited."[289] Heritage Oil appears to be based in Jersey, UK.

Heritage was acquired in 2014 by **Energy Investment Global Ltd**, a wholly owned subsidiary of **Al Mirqab Capital SPC** of Qatar.[290] Al Mirqab is reportedly an investment vehicle indirectly and beneficially owned privately by Qatari politician Sheikh Hamad bin Jassim bin Jaber Al Thani and his family.

Within less than five years of the divestment, OML 30 changed operator.

The two companies associated as operator are shown in the graphic but neither has an equity stake. According to local media reports, **Salvic Petroleum Resources**,[291] a company established in 2015, took over operations. Salvic was succeeded about a year later, in 2017, by Heritage Energy Operational Services Ltd (HEOSL).[292] HEOSL is clearly related to Heritage Oil, one of the two companies that originally bought OML 30. As of 20 February 2024, Slavic Petroleum Resources' office in Lagos was listed as temporarily shut and a link to OML 30 on its website appeared non-functional.

TNOG/Heirs Energies: OML 17

SOMO was unable to find TNOG or Heirs Energies on the Beneficial Ownership portal. Public reporting confirms Shell sold its stake in OML 17 to Trans-Niger Oil & Gas (TNOG) Limited (a company linked to Heirs Holdings Oil & Gas (HHOG) and Transnational Corporation of Nigeria), in 2021. In October 2023, HHOG changed its name to Heirs Energies Limited. Heirs Energies describes itself as the sole operator of OML 17.[293]

Renaissance Africa Energy: will purchase SPDC

The information on Renaissance comes from its website and Shell's announcement of the sale of SPDC.

The companies behind Renaissance are ND Western, Aradel Energy, First E&P, Waltersmith, and Petrolin. These are the same companies behind OML 34, which SPDC divested from in 2011.

ND Western was set up as an special purpose vehicle in April 2011. The company describes itself as "a consortium of four companies: Niger Delta Petroleum Resources Limited (NDPR), Petrolin Trading Limited (PETROLIN), FIRST Exploration & Petroleum Development OML 34 Limited and Waltersmith Exploration and Production Limited" [294]

NDPR became Aradel in 2023. Aradel Holdings,[295] which owns Aradel Energy, is itself a "portfolio" company of African Capital Alliance,[296] a private equity and asset management company (meaning African Capital Alliance is invested in Aradel).

Petrolin is a Swiss headerqarted international company.[297] Petrolin "holds significant interest in Tullow Oil, Vivo Energy, **Seplat, Aradel** and **ND Western**."[298]

FIRST E&P was set up in 2011 just before the purchase of OML 34 by ND Western (in which it then invested).[299] Nigeria's beneficial ownership portal lists the following entities as owners of FIRST E&P:

Search Result For: FIRST EXPLORATION & PRODUCTION LIMITED Download Disaggregated Data

Beneficial Owner	Nationality	Age	% Holding	No. Shares	PEP	Stock Exchange Link	Owners
Ademola Adeyemi Bero	Nigerian	59	44.98%		✗	View Stock Exchange	View
Cornelius Christain Uijlenhoed	Dutch	64	14.01%		✗	View Stock Exchange	View
Vitol Holdings II S.A Luxembourg	LUXEMBOURG	29	10%		✗	View Stock Exchange	View

Waltersmith Petroman Oil Limited was incorporated in 1996 as a joint venture between Waltersmith & Associates Limited, a Nigerian company and Petroman Oil Limited of Calgary, Canada, to operate as a Petroleum Exploration and Production company. In 2001, Waltersmith Petroman Oil Limited became a wholly Nigerian owned company with the divestment of Petroman Oil Limited.[300]

The Beneficial Ownership portal lists all of the below individuals as involved in Waltersmith. They are not listed in the graphic due to space.

Search Result For: WALTERSMITH PETROLEUM OIL LIMITED Download Disaggregated Data

Beneficial Owner	Nationality	Age	% Holding	No. Shares	PEP	Stock Exchange Link	Owners
Abdulrazaq Isa	Nigerian		16.64%		✗	View Stock Exchange	View
Danjuma Saleh	Nigerian		16.46%		✗	View Stock Exchange	View
David Ike (Estates)	Nigerian		0.0%		✗	View Stock Exchange	View
Dr. Andrew Uzoigwe	Nigerian		0.00%		✗	View Stock Exchange	View
Dr. Emmanuel Egbogah	Nigerian		9.5%		✗	View Stock Exchange	View
Dr. Jude Amaefule	Nigerian		6.29%		✗	View Stock Exchange	View
Mrs. Cecilia Aqua-Umoren	Nigerian		0.0%		✗	View Stock Exchange	View
Ohaji/Egbema Local Government Area	Nigerian		0.0%		✓	View Stock Exchange	View
Sapphire Investment Limited	Nigerian		0.0%		✗	View Stock Exchange	View

Annex 3
Letter from ND Western

DocuSign Envelope ID: 834184F8-1DC0-4EFE-B696-730B8144C88

ND Western
Powering Nations

ND Western Limited
25 Babatunde Jose Road
Victoria Island, Lagos
Tel: +234 909 699 6104

26 January 2024

Audrey Gaughran
Executive Director
Centre for Research on Multinational Corporations
KNSM-laan 17
1019 LA Amsterdam
The Netherlands

Dear Ms,

RE: ENQUIRY ON THE IMPACT OF DIVESTMENT BY INTERNATIONAL OIL COMPANIES FROM ONSHORE OIL MINING LEASES

We acknowledge receipt of your letter dated 09/01/24 on the above captioned matter, marked for the attention of our Chairman and Chief Executive Officer ('Letter').

Our response will be limited to your questions/comments on OML 34 and ND Western Limited ("ND Western"), within confidentiality boundaries. The submissions in your Letter on the acquisition of 45% interest in OML 34 by ND Western are correct to the extent of the acquisition itself, the description of ND Western and the identity of our shareholders. The sole correction to be made in this regard is that Petrolin Trading Limited owns 40% of ND Western and not 13.77% as you stated in your Letter. For all other statements made in your Letter regarding the ownership of our respective shareholders and/or their other activities outside ND Western, you may please refer to them as appropriate for their responses.

In answer to your question on the "complex construction for management of operations" of OML 34, please be advised that said complexity is within the realm of your opinion, and it suits the joint venture partners of OML 34 to operate the asset as currently structured for the time being.

Furthermore, there is no distinct 'operator' responsible for community relations and maintenance of infrastructure in the OML 34 JV Asset Management Team ('AMT'). These functions are distinct and run by different departments within the AMT.

Regarding your questions on decommissioning, ND Western and the AMT operate in all respects in accordance with the PIA and other applicable laws.

Your other ND Western-specific queries pertain to contractual relationships for which confidentiality restrictions apply, and your general comments on IOC divestments can be validated or otherwise from credible public sources.

Yours sincerely,
FOR: ND WESTERN LIMITED

DocuSigned by:
Omo Omorodion
TA1262BA83AF4A8...
Omo Omorodion
GENERAL COUNSEL & COMPLIANCE

DIRECTORS: Mr. Samuel Dossou-Aworet (Chairman), Dr. 'Layi Fatona (Executive Vice Chairman), Mr. Adegbite Falade, Dr. Ebenez Ageh, Mr. Thierry Georger (French), Mr. David Harris (British), Titi Omisore (Ms.), Mr. Ademola Adeyemi-Bero, Mr. Abdulrazaq Isa

References

1 See reports cited under 'Key sources' below and in the following footnotes.
2 ERA/Friends of the Earth Nigeria, Shell Divestments & Local Communities Responses in the Niger Delta, 2015, https://erafoen.org/wp-content/uploads/2016/05/SHELL-DIVESTMENT-REPORT.pdf.
3 Friends of the Earth Europe, Amnesty International, ERA/Friends of the Earth Nigeria, Milieudefensie/Friends of the Earth Netherlands, Nigeria: No Clean-Up, No Justice: An evaluation of the implementation of UNEP's environmental assessment of Ogoniland, nine years on, June 2020, https://friendsoftheearth.eu/publication/no-clean-up-no-justice-in-the-niger-delta/.
4 SDN, Divesting from the Delta: Implications for the Niger Delta as international oil companies exit, 2021, https://www.stakeholderdemocracy.org/report-divestment/#:~:text=Key%20messages%3A,over%20the%20past%2060%20years.
5 BSOEC, An Environmental Genocide: The Human and Environmental Cost of Oil in Bayelsa, Nigeria, 2023, https://report.bayelsacommission.org/.
6 We the People, Dirty Exit: Why Oil Companies in Nigeria Are Selling Off Assets and How it Denies Niger Delta Communities of Justice, 2023, https://wtp.ngo/wethepeople/publications/#:~:text=DIRTY%20EXIT%3A%20Why%20Oil%20Companies,operated%20for%20over%20six%20decades.
7 Amnesty International, Nigeria: Tainted Sale?, May 2023, https://www.amnesty.org/en/documents/afr44/6797/2023/en/.
8 Woodruff, N. Responsible Change: How Governments Can Address Environmental, Social and Governance Challenges When Petroleum Assets Change Hands, Natural Resources Governance Institute, 12 February 2024, https://resourcegovernance.org/publications/responsible-change-how-governments-can-address-environmental-social-and-governance. Martin Lockman, Martin Dietrich Brauch, Esteban F. Fresno Rodríguez, and José Luis Gallardo Torres, 'Decommissioning Liability At The End Of Offshore Oil And Gas: A Review Of International Obligations, National Laws, and Contractual Approaches in Ten Jurisdictions', Sabin Center for Climate Change Law and Columbia Center on Sustainable Investment, Columbia Law School, August 2023, https://ccsi.columbia.edu/sites/default/files/content/docs/Sabin-Center-CCSI-decommissioning-liability-offshore-oil-gas.pdf.
9 R. Steiner, *Just Transition: Reforming Oil Industry Divestment, Decommissioning & Abandonment in the Niger Delta, Nigeria*, Dec. 2023, https://www.oasis-earth.com/_files/ugd/92a90d_25043ffd87f7434f9b6b58f0c17baf96.pdf.
10 Refinitiv is now LSEG: see https://www.lseg.com/en/.
11 D.O. Salawu and M. Kalesanwo, 'The Guidelines and Procedures for Obtaining Minister's Consent to Assignment of Interest in Oil and Gas Assets: A Short Commentary', *Oil, Gas & Energy Law*, 13, 6, 2015 (stating that the oil and gas sector "has witnessed the increased transfer of Petroleum Assets to indigenous companies following the divestments by the IOCs"); J. Okoro, 'Assignment of Interests in Oil Mining Leases in Nigeria: Tax Considerations', *DNL Legal and Style*, 2021, https://dnllegalandstyle.com/2021/assignment-of-interests-in-oil-mining-leases-in-nigeria-tax-considerations/?utm_source=rss&utm_medium=rss&utm_campaign=assignment-of-interests-in-oil-mining-leases-in-nigeria-tax-considerations. See also SDN, *Divesting from the Delta*.
12 ENI, Eni signs agreement to sell Nigerian subsidiary NAOC Ltd to Oando PLC, 4 September 2023; https://www.eni.com/en-IT/media/press-release/2023/09/eni-signs-agreement-sell-naoc.html; Reuters, Nigerian oil regulator 'optimistic' on Exxon asset sale to Seplat, 11 October 2023, https://www.reuters.com/markets/deals/nigerian-oil-regulator-optimistic-exxon-asset-sale-seplat-2023-10-11/.
13 In 2022 Royal Dutch Shell changed its name to Shell Plc and moved its headquarters to the UK from the Netherlands.
14 Affidavit in Support of Motion Ex-Parte by the Plaintiff in *Aiteo Eastern E & P Company Limited v. SPDC Ltd*, Suit No. FHC/L/CS/52/2021, 19 Jan. 2021, paras 32-38 (discussing the divestment and listing specific cases where Shell sold its assets in Nigeria between 2011 and 2021).
15 Shell, 'The History of Shell in Nigeria', https://www.shell.com.ng/about-us/shell-nigeria-history.html; J.G. Frynas, M.P. Beck, K. Mellahi, 'Maintaining corporate dominance after decolonization: the "first mover advantage" of Shell-BP in Nigeria', 24 Feb. 2007, https://www.tandfonline.com/doi/abs/10.1080/03056240008704475.
16 Shell, Shell agrees to sell Nigerian onshore subsidiary, SPDC, 16 January 2024, https://www.shell.com/media/news-and-media-releases/2024/shell-agrees-to-sell-nigerian-onshore-subsidiary-spdc.html. "The SPDC JV holds 15 oil mining leases for petroleum operations onshore and 3 for petroleum operations in shallow water in Nigeria. It is operated by SPDC. However, in 2022 Shell stated that it had 16 OMLs." See: Shell

International BV and Shell Nigeria, 'Nigeria Briefing Notes', 2022, https://www.shell.com.ng/media/nigeria-reports-and-publications-briefing-notes/_jcr_content/par/toptasks.stream/1653314607835/69fc020fd40d0764f3d455c7cf3e3b89855f9512/shell-nigeria-briefing-notes-2021-updated.pdf: "The SPDC JV has 16 Niger Delta onshore oil mining leases (OML) after the completion of the sale of its interest in OML 17 on January 15, 2021"; SDN, *Divesting from the Delta*.

17 Shell, 'Shell agrees to sell Nigerian onshore subsidiary, SPDC', 16 Jan. 2024, https://www.shell.com/media/news-and-media-releases/2024/shell-agrees-to-sell-nigerian-onshore-subsidiary-spdc.html.

18 Shell, Shell agrees to sell Nigerian onshore subsidiary, SPDC.

19 Amnesty International, 'Nigeria: Shell must clean up devastating oil spills in the Niger Delta', 2 Feb. 2023, https://www.amnesty.org/en/latest/news/2023/02/nigeria-shell-oil-spill-trial/; Amnesty International, *Nigeria: Petroleum, Pollution and Poverty in the Niger Delta,* 2009, https://www.amnesty.org/en/documents/afr44/017/2009/en/; Amnesty International and Centre for Environment, Human Rights and Development, *Nigeria: Clean it up: Shell's false claims about oil spill response in the Niger Delta*, 2 November 2015, https://www.amnesty.org/en/documents/afr44/2746/2015/en/; Friends of the Earth Europe, Amnesty International, ERA/Friends of the Earth Nigeria, Milieudefensie/Friends of the Earth Netherlands, *Nigeria: No Clean-Up, No Justice: An evaluation of the implementation of UNEP's environmental assessment of Ogoniland, nine years on,* June 2020, https://friendsoftheearth.eu/publication/no-clean-up-no-justice-in-the-niger-delta/; BSOEC, *An Environmental Genocide: The Human and Environmental Cost of Oil in Bayelsa, Nigeria,* 2023, https://report.bayelsacommission.org/. See also ERA/Friends of the Earth Nigeria, oil spill field reports, https://erafoen.org/.

20 Oil manifolds include connection points, branched piping, and valves used to gather or distribute oil flows: International Association of Drilling Contractors, Oil and Gas Drilling Glossary, https://iadclexicon.org/manifold/.

21 Amnesty International, Nigeria: Petroleum, Pollution and Poverty in the Niger Delta, 2009, https://www.amnesty.org/en/documents/afr44/017/2009/en/.

22 Shell, https://www.shell.com.ng/media/2011-media-releases/oil-leases-sales.html.

23 Shell, https://www.shell.com.ng/media/2011-media-releases/oil-leases-sales.html; Reuters, https://www.reuters.com/article/uk-nigeria-shell-idUKBRE86U1FV20120731.

24 Oil & Gas Journal, https://www.ogj.com/general-interest/companies/article/17273561/shell-group-sells-another-nigerian-stake.

25 Oil Review Africa, https://www.oilreviewafrica.com/exploration/exploration/shell-nigeria-sells-oml-stake-to-elcrest; Ventures Africa, https://venturesafrica.com/elcrest-acquires-30-stake-in-shells-oml-40-oil-block-for-102m/.

26 Reuters, https://www.reuters.com/article/shell-nigeria-idUKL6N0WM13W20150320; https://oilreviewafrica.com/exploration/exploration/shell-sells-stake-in-nigeria-s-oml-18-for-us-737mn.

27 African Energy, https://www.africa-energy.com/news-centre/article/nigeria-shell-sells-oml-24-stake-newcross-energy-600m; Reuters, https://www.reuters.com/article/uk-shell-nigeria/shell-completes-sale-of-nigeria-oil-field-stake-for-600-million-idUKKCN0J415U20141120; Africa Oil & Gas Report, https://africaoilgasreport.com/2014/05/farm-in-farm-out/pan-ocean-wins-bid-for-shell-operated-oml-24/.

28 Bloomberg, https://www.bloomberg.com/press-releases/2015-03-25/royal-dutch-shell-plc-spdc-completes-sale-of-oml-29-nctl-in-nigeria; Reuters, https://www.reuters.com/article/shell-divestiture-nigeria-idINL3N0WR4PU20150325.

29 Shell, https://www.shell.com/media/news-and-media-releases/2021/spdc-completes-sale-of-interest-in-oil-mining-lease-17-in-nigeria.html and https://www.shell.com/media/news-and-media-releases/2021/spdc-completes-sale-of-interest-in-oil-mining-lease-17-in-nigeria.html; Reuters, https://www.reuters.com/article/uk-nigeria-oil-sale-idUSKBN29L07Q; Shell, https://www.shell.com.ng/media/2021-media-releases/spdc-completes-sale-of-interest-in-oil-mining-lease-17.html.

30 Shell, Shell agrees to sell Nigerian onshore subsidiary, SPDC.

31 Shell, Annual Report and Accounts 2022, https://reports.shell.com/annual-report/2022/strategic-report/our-journey-to-achieving-net-zero/climate-related-metrics-and-targets/greenhouse-gas-emissions.html: "Our direct GHG emissions (Scope 1) (consolidated using the operational control boundary) decreased from 60 million tonnes of carbon dioxide equivalent (CO2e) in 2021 to 51 million tonnes CO2e in 2022, driven by several factors including … divestments in 2021 and 2022 (e.g. the Deer Park and Puget Sound refineries in the USA) and the handover of operations in OML 11 in Nigeria in 2022". See also Washington Post, 'Big Oil is selling off its polluting assets – with unintended consequences', 27 March 2023, https://www.washingtonpost.com/world/2023/03/27/shell-nigeria-niger-delta-oil/.

32 Shell, 'Divesting responsibly', Sustainability Report 2020, https://reports.shell.com/sustainability-report/2020/servicepages/search.php?q=divestments&pageID=146174.
33 Reuters, 'Shell in talks with Nigeria to divest onshore oil stakes', 18 May 2021, https://www.reuters.com/business/energy/shell-talks-with-nigeria-divest-onshore-oil-stakes-2021-05-18/.
34 Wood Mackenzie, 'Shell to divest its entire Nigeria joint venture portfolio', 16 Aug. 2021, https://www.woodmac.com/news/opinion/shell-to-divest-its-entire-nigeria-joint-venture-portfolio/.
35 ERA /Friends of the Earth Nigeria, 'ERA/FoEN Report Exposes Reasons for Oil Corporations Divestment in Niger Delta', 20 Oct. 2022, https://erafoen.org/?p=3992.
36 Leigh Day, https://www.leighday.co.uk/news/cases-and-testimonials/cases/shell-bodo/
37 Amnesty International, Court documents expose Shell's false claims on Nigeria oil spills, November 13, 2014 at: https://www.amnesty.org/en/latest/news/2014/11/court-documents-expose-shell-s-false-claims-nigeria-oil-spills/.
38 Milieudefensie, "Milieudefensie and Nigerian farmers win landmark court case against Shell", 29 January 2001, https://en.milieudefensie.nl/shell-in-nigeria/milieudefensie-and-nigerian-win-landmark-court-case-against-shell.
39 Shell International BV and Shell Nigeria, 'Nigeria Briefing Notes'.
40 Refinitiv Eikon, Shell Plc, Company Tree Structure, data retrieved on 21 Nov. 2023.
41 *Moni Pulo Limited v. Brass Exploration Unlimited* (2012), 6 CLRN 153-235. See also *Lekoil 310 Limited v. The Honourable Minister of Petroleum Resources*, Suit No. FHC/L/CS/482/2018 (judgment delivered on 28 Mar. 2019).
42 Department of Petroleum Resources (DPR), Guidelines and Procedures for Obtaining Minister's Consent to the Assignment of Interest in Oil and Gas Assets, 2021.
43 Dentons, 'A legal overview of M&A and financing transactions in Nigeria's oil and gas sector', 2016, https://www.dentons.com/en/insights/articles/2016/january/19/a-legal-overview-of-ma-and-financing-transactions-in-nigerias-oil-and-gas-sector: "The surge in M&A activity has been driven in part by funding from the domestic debt market and a favourable regulatory disposition in furtherance of the Nigerian government's (Government) policy objective of increasing Nigerian companies' participation in the oil and gas sector and developing their technical and operational capacity. The Government's objective has been achieved in part through (a) the enactment of the Nigerian Oil and gas Industry Content Development Act 2010 (the Local Content Act)." Another law firm that has advised on acquisition of OMLs has also noted the role of the Local Content Law: see White & Case, 'Acquisition financing in an era of energy transition', 2021, https://www.whitecase.com/insight-our-thinking/acquisition-financing-era-energy-transition-0.
44 Dentons, 'A legal overview of M&A and financing transactions in Nigeria's oil and gas sector', 2016, https://www.dentons.com/en/insights/articles/2016/january/19/a-legal-overview-of-ma-and-financing-transactions-in-nigerias-oil-and-gas-sector: "The surge in M&A activity has been driven in part by funding from the domestic debt market and a favourable regulatory disposition in furtherance of the Nigerian government's (Government) policy objective of increasing Nigerian companies' participation in the oil and gas sector and developing their technical and operational capacity. The Government's objective has been achieved in part through (a) the enactment of the Nigerian Oil and gas Industry Content Development Act 2010 (the Local Content Act)." Another law firm that has advised on acquisition of OMLs has also noted the role of the Local Content Law: see White & Case, 'Acquisition financing in an era of energy transition', 2021, https://www.whitecase.com/insight-our-thinking/acquisition-financing-era-energy-transition-0.
45 BSOEC, *An Environmental Genocide.*
46 BSOEC, *An Environmental Genocide*.
47 Shell, Remediation Issues in the Niger Delta, https://www.shell.com.ng/sustainability/environment/nigeria-environmental-challenges.html
48 Shell, Remediation Issues in the Niger Delta, https://www.shell.com.ng/sustainability/environment/nigeria-environmental-challenges.html
49 LPELR-9340(SC) and LPELR-52773(CA)
50 LPELR-9340(SC) and LPELR-52773(CA)
51 R.D. Harroch, D.A. Lipkin, R.V. Smith, J. Cook, 'A Comprehensive Guide to Due Diligence Issues in Mergers and Acquisitions', Forbes, 27 Mar. 2019, https://www.forbes.com/sites/allbusiness/2019/03/27/comprehensive-guide-due-diligence-issues-mergers-and-acquisitions/; Corporate Finance Institute, 'Due Diligence: Investigation or audit of a potential deal or investment opportunity', https://corporatefinanceinstitute.com/resources/valuation/due-diligence-overview/.

52 Office of the UN High Commissioner for Human Rights, Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework, 2011, https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf; Organisation for Economic Co-operation and Development, OECD Guidelines for Multinational Enterprises on Responsible Business Conduct, 2023 edn, https://mneguidelines.oecd.org/mneguidelines/.
53 "Social licence to operate" refers to the degree of consent a company has from communities living in or close to the location of its business operations.
54 "Social licence to operate" refers to the degree of consent a company has from communities living in or close to the location of its business operations.
55 Shell, 'Divesting responsibly', Sustainability Report 2019, https://reports.shell.com/sustainability-report/2019/contribution-to-society/working-together/divesting-responsibly.html.
56 National Oil Spill Detection and Response Agency (NOSDRA), Oil Spill Monitor, https://nosdra.oilspillmonitor.ng/.
57 United Nations Environment Programme (UNEP), Environmental Assessment of Ogoniland, 2011, https://wedocs.unep.org/handle/20.500.11822/7947;jsessionid=AF1A94F7DDF65DB111DC9CCB388C31E3.
58 BSOEC, An Environmental Genocide.
59 Amnesty International, Niger Delta Negligence, 16 March, 2018, https://www.amnesty.org/en/latest/news/2018/03/niger-delta-oil-spills-decoders/; Amnesty International, 'Nigeria: Bad information'; R. Steiner, Just Transition.
60 R. Steiner, Double standard: Shell practices in Nigeria compared with international standards to prevent and control pipeline oil spills and the Deepwater Horizon oil spill, Milieudefensie, 2010, https://www.foei.org/wp-content/uploads/2014/01/20101109-rapport-Double-Standard.pdf
61 Amnesty International, 'Nigeria: Bad information: Oil spill investigations in the Niger Delta', 7 Nov. 2013, https://www.amnesty.org/en/documents/afr44/028/2013/en/.
62 Amnesty International, 'Nigeria: Bad information'; Amnesty International, *Nigeria: Petroleum, Pollution and Poverty in the Niger Delta*, 2009, https://www.amnesty.org/en/documents/afr44/017/2009/en/; Amnesty International and Centre for Environment, Human Rights and Development, Nigeria: *Clean it up: Shell's false claims about oil spill response in the Niger Delta*, 2 November 2015, https://www.amnesty.org/en/documents/afr44/2746/2015/en/; Friends of the Earth Europe, Amnesty International, ERA/Friends of the Earth Nigeria, Milieudefensie/Friends of the Earth Netherlands, *Nigeria: No Clean-Up, No Justice: An evaluation of the implementation of UNEP's environmental assessment of Ogoniland, nine years on*, June 2020, https://friendsoftheearth.eu/publication/no-clean-up-no-justice-in-the-niger-delta/; BSOEC, *An Environmental Genocide: The Human and Environmental Cost of Oil in Bayelsa, Nigeria*, 2023, https://report.bayelsacommission.org/. ERA (https://erafoen.org/) and Centre for Environment and Human Rights (https://cehrd.org.ng/) websites.
63 Source: Shell annual sustainability reports at https://www.shell.com/about-us/annual-publications/annual-reports-download-centre.html.
64 The Nigerian government body that certifies oil spill clean-up and remediation is NOSDRA, whose certification processes we discuss below.
65 E.g. in 2015 Shell reported a total of 305 sites requiring remediation at the start of the year and 133 newly identified sites (which does not correspond to its figure for new oil spills in the same year, which was 109). 184 sites were remediated, leaving 254 sites carried into 2016. But Shell reported 270 sites as needing remediation at the start of 2016 (and 73 new sites identified during the year).
66 Additionally, Amnesty International reported in 2009 that "Between 1999 and 2006, SPDC claimed to have identified 1,516 sites requiring remediation, and to have remediated 1,338. See: Amnesty International, Nigeria: Petroleum, Pollution and Poverty in the Niger Delta, 2009, https://www.amnesty.org/en/documents/afr44/017/2009/en/.
67 SOMO sent a letter dated 25 Oct. 2023 to Shell's London headquarters by email and courier. The letter set out our key findings and asked for Shell's response to several questions arising from the research. Shell responded on 8 Nov. 2023 by email. While Shell provided a response that is reflected in this report, it did not address the questions posed in our letter. Letters and emails are on file with SOMO.
68 Shell, 'Spill response and prevention in Nigeria', https://reports.shell.com/sustainability-report/2020/our-core-values/safety/spill-response-and-prevention-in-nigeria.html.
69 UNEP, Environmental Assessment of Ogoniland.
70 Amnesty International, Annual Report 1996, https://www.refworld.org/reference/annualreport/amnesty/1996/en/24017.

71 Shell, Shell in Nigeria, Briefing Notes, 2020, https://www.shell.com.ng/media/nigeria-reports-and-publications-briefing-notes/_jcr_content/par/toptasks_copy.stream/1650709492617/ea58c56d3d22ac11f793533d976a03bba4dea568/nbn-2020.pdf.
72 SDN and CEHRD, *Independent Monitoring of the Ogoniland Clean-up: Biannual Progress Report July-December 2022*, 2023, https://www.stakeholderdemocracy.org/wp-content/uploads/2023/10/Fourth-Biannual-Report-of-CSO-Monitoring-of-Clean-up.pdf.
73 UNEP, Environmental Assessment of Ogoniland; Amnesty International, 'Nigeria: Bad information'. Izoukumor, Noah, The Paradox of NOSDRA to Prevent and Quickly Respond to Oil Spills in Nigeria, American Journal of Humanities and Social Sciences, 16 October 2022.
74 SOMO letter to Shell dated 25 Oct. 2023. While Shell provided a response that is reflected in this report, it did not address the questions posed in our letter. Letters and emails on file with SOMO.
75 SDN and CEHRD, Independent Monitoring of the Ogoniland Clean-up; Dataphyte, $1bn Ogoni clean-up project: Truths, half-truths and outright lies, 29 May 2023, https://www.dataphyte.com/latest-reports/1bn-ogoni-clean-up-project-truths-half-truths-and-outright-lies/.
76 BSOEC, An Environmental Genocide.
77 UNEP, Environmental Assessment of Ogoniland.
78 SDN and CEHRD, Independent Monitoring of the Ogoniland Clean-up. July to December 2022, https://www.stakeholderdemocracy.org/wp-content/uploads/2023/10/Fourth-Biannual-Report-of-CSO-Monitoring-of-Clean-up.pdf.
79 Friends of the Earth Europe, Amnesty International, ERA/Friends of the Earth Nigeria, Milieudefensie/Friends of the Earth Netherlands, Nigeria: No Clean-Up, No Justice.
80 Sweet Crude Reports, 'Ogoni clean-up: ERA tasks NOSDRA on certification of remediated sites', 9 Aug. 2020, https://sweetcrudereports.com/ogoni-clean-up-era-tasks-nosdra-on-certification-of-remediated-sites/; Amnesty International, 'Nigeria: Bad information'. Amnesty International and Centre for Environment, Human Rights and Development, *Nigeria: Clean it up: Shell's false claims about oil spill response in the Niger Delta*, 2 November 2015, https://www.amnesty.org/en/documents/afr44/2746/2015/en/; UNEP, Environmental Assessment of Ogoniland.
81 ERA/FoEN Revisits Spill Impacted Site Not Properly Cleaned by Shell, Ikarama Community, Yenagoa Local Government Area, Bayelsa State, Date of Visit: 6 May 2022, at: https://erafoen.org/?field-report=era-foen-revisits-spill-impacted-site-not-properly-cleaned-by-shell.
82 ERA/FoEN Revisits Spill Impacted Site Not Properly Cleaned by Shell.
83 NOSDRA, 'About oil spills in Nigeria', Nigerian Oil Spill Monitor, https://nosdra.oilspillmonitor.ng/about.html.
84 Shell's defence, Okpabi et al v Royal Dutch Shell plc and the Shell Petroleum Development Company of Nigeria Ltd, UK High Court of Justice, CLAIM NO: HT- 2015-000241.
85 NOSDRA, 'About oil spills in Nigeria'.
86 SDN, Improving Oil Spill Response in Nigeria, 2016, https://www.stakeholderdemocracy.org/wp-content/uploads/2016/06/Improving-Oil-Spill-Response-in-Nigeria.pdf.
87 SDN, Improving Oil Spill Response.
88 IUCN, IUCN Niger Delta Panel: Stories of influence, 2018, https://portals.iucn.org/library/sites/library/files/documents/2018-047-En.pdf.
89 Stakeholder Democracy Network and CEHRD, Independent Monitoring of the Ogoniland Clean-up: Biannual Progress Report July-December 2021, 2022, https://www.stakeholderdemocracy.org/wp-content/uploads/2022/08/Ogoni-clean-up-biannual-report-July-Dec-2021.Report.-2021.pdf.
90 SDN and CEHRD, Independent Monitoring of the Ogoniland Clean-up.
91 Amnesty International, 'Court documents expose Shell's false claims on Nigeria oil spills', 13 November 2014, https://www.amnesty.org/en/latest/news/2014/11/court-documents-expose-shell-s-false-claims-nigeria-oil-spills/.
92 Leigh Day, 'High Court rejects Shell's attempts to block Nigerian community's legal claim over major oil spill clean-up', 12 February 2024. https://www.leighday.co.uk/news/news/2024-news/high-court-rejects-shells-attempts-to-block-nigerian-community-s-legal-claim-over-major-oil-spill-clean-up/.
93 See Cleanupoil.com, 'Worldwide Contractors', https://www.cleanupoil.com/nigeria/.
94 Shell, 'Frequently asked questions', https://www.shell.com/media/news-and-media-releases/2024/shell-agrees-to-sell-nigerian-onshore-subsidiary-spdc/spdc-sale.html.
95 Shell, 'Frequently asked questions', https://www.shell.com/media/news-and-media-releases/2024/shell-agrees-to-sell-nigerian-onshore-subsidiary-spdc/spdc-sale.html.

96 Leigh Day, 'Over 13,000 residents from the Ogale and Bille communities in Nigeria file claims against Shell for devastating oil spills', 2 Feb. 2023, https://www.leighday.co.uk/news/news/2023-news/over-13-000-residents-from-the-ogale-and-bille-communities-in-nigeria-file-claims-against-shell-for-devastating-oil-spills/.
97 FOI requests sent to NUPRC on 25 May and 6 Jun. 2023, on file with SOMO.
98 For the significance of Ogoniland, see e.g. Al Jazeera, 'Timeline: Half a century of oil spills in Nigeria's Ogoniland', Dec. 2022, https://www.aljazeera.com/features/2022/12/21/timeline-oil-spills-in-nigerias-ogoniland.
99 Phone conversation, 6 November 2023.
100 SOMO, 'Shell Games: A UK court case has big ramifications for climate justice globally', 2 Aug. 2023, https://www.somo.nl/shell-games-a-uk-court-case-has-big-ramifications-for-climate-justice-globally/.
101 Leigh Day, 'Over 13,000 residents …'.
102 Amnesty International, 'Court documents expose Shell's false claims on Nigeria oil spills', 13 Nov. 2014, https://www.amnesty.org/en/latest/news/2014/11/court-documents-expose-shell-s-false-claims-nigeria-oil-spills/.
103 Amnesty International, The True 'Tragedy': Delays and failures in tackling oil spills in the Niger Delta, 2011, https://www.amnesty.org/en/documents/afr44/018/2011/en/.
104 LN 69 of 1969. The 1969 regulations were amended in 2019 by the Petroleum (Drilling and Production) (Amendment) Regulations 2019 to "review certain fees payable under the Regulations and to introduce new fees for certain applications and approvals under the Petroleum Act".
105 EGASPIN, 2002.
106 EGASPIN, 2002, GA 3.2.
107 EGASPIN, 2002, GA 3.2.
108 PIA 2021, section 232 (7).
109 PIA 2021, section 232 (8).
110 PIA 2021, section 232 (13).
111 PIA 2021, section 233 (1).
112 PIA 2021.
113 PIA 2021, section 233 (2).
114 PIA 2021, section 233 (5).
115 PIA 2021 provisions.
116 PIA 2021, section 233 (9).
117 DPR, Guidelines and Procedures, para. 6.1.10.
118 Martin Lockman, Martin Dietrich Brauch, Esteban F. Fresno Rodríguez, and José Luis Gallardo Torres, 'Decommissioning Liability At The End Of Offshore Oil And Gas: A Review Of International Obligations, National Laws, and Contractual Approaches in Ten Jurisdictions', Sabin Center for Climate Change Law and Columbia Center on Sustainable Investment, Columbia Law School, August 2023, https://ccsi.columbia.edu/sites/default/files/content/docs/Sabin-Center-CCSI-decommissioning-liability-offshore-oil-gas.pdf.
119 Ipieca describes itself as "the global oil and gas association for advancing environmental and social performance across the energy transition": https://www.ipieca.org/about.
120 IPIECA and International Association of Oil & Gas Producers, Environmental management in the upstream oil and gas industry, 2020, https://www.ipieca.org/resources/environmental-management-in-the-upstream-oil-and-gas-industry.
121 UNEP, Environmental Assessment of Ogoniland.
122 Amnesty International, 'Nigeria: Bad information'.
123 Shell, Nigeria Briefing Notes, 2021, https://www.shell.com.ng/media/nigeria-reports-and-publications-briefing-notes/_jcr_content/par/toptasks_copy.stream/1624529072672/1c8cbb007747372e1681b0f076659c245e5b81f4/shell-nigeria-briefing-notes-2021-v2.pdf.
124 R. Steiner, Just Transition.
125 Telephone conversation with NOSDRA official, 30 Oct. 2023.
126 Reuters, 'Special Report: Millions of abandoned oil wells are leaking methane, a climate menace', 16 Jun. 2020, https://www.reuters.com/article/us-usa-drilling-abandoned-specialreport-idUSKBN23N1NL/#:~:text=But%20a%20rough%20Reuters%20calculation,weeks%20of%20U.S.%20oil%20consumption.

127 Martin Lockman, Martin Dietrich Brauch, Esteban F. Fresno Rodríguez, and José Luis Gallardo Torres, 'Decommissioning Liability At The End Of Offshore Oil And Gas: A Review Of International Obligations, National Laws, and Contractual Approaches in Ten Jurisdictions', Sabin Center for Climate Change Law and Columbia Center on Sustainable Investment, Columbia Law School, August 2023, https://ccsi.columbia.edu/sites/default/files/content/docs/Sabin-Center-CCSI-decommissioning-liability-offshore-oil-gas.pdf.
128 Kang, Mary; Brandt, A; Zheng, Z; Boutot, J; Yung, C; Peltz, A; Jackson, R. 2021. Orphaned oil and gas well stimulus – Maximizing economic and environmental benefits. Policy Bridge, Elementa.
129 Shell, 'Shell agrees to sell Nigerian onshore subsidiary'.
130 Shell, Sustainability Report 2010.
131 Africa Oil & Gas Report, 'Shell & Co Look Forward to Earning $2.5 Billion+ from Nigerian Lease Sale', 7 Feb. 2014, https://africaoilgasreport.com/2014/02/farm-in-farm-out/shell-co-look-forward-to-earning-2-5billion-from-nigerian-lease-sale/.
132 R. Steiner, Just Transition
133 Africa Oil & Gas Report, 'Eroton, Hurting, "Walks Out" of the Nembe Creek Trunk Line, Halts Delivery of Crude through Bonny Terminal', 5 Oct. 2021, https://africaoilgasreport.com/2021/10/in-the-news/eroton-hurting-walks-out-of-the-nembe-creek-trunk-line-halts-delivery-of-crude-through-bonny-terminal/.
134 Africa Oil & Gas Report, 'In 10 Months of Barging Crude, Newcross Distances itself from the "Jinx" in Eastern Nigerian Onshore's NCTL Pipeline', 26 Sept. 2023, https://africaoilgasreport.com/2023/09/in-the-news/in-10-months-of-barging-crude-newcross-distances-itself-from-the-jinx-in-eastern-nigerian-onshores-nctl-pipeline/.
135 R. Steiner, Double standard: Shell practices in Nigeria compared with international standards to prevent and control pipeline oil spills and the Deepwater Horizon oil spill, Milieudefensie, 2010, https://www.foei.org/wp-content/uploads/2014/01/20101109-rapport-Double-Standard.pdf.
136 Shell media releases, 2021, https://www.shell.com.ng/media/2013-media-releases/Bonny-forcemajeure.html and https://www.shell.com.ng/media/2013-media-releases/nctl-shutdown.html; Shell production update, 2015, https://www.shell.com.ng/media/production-updates/spdc-jv-declared-force-majeure-on-bonny-light-exports.html.
137 Shell media release, 2012, https://www.shell.com.ng/media/2012-media-releases/rising-crude-theft.html.
138 Shell media release, 2012, https://www.shell.com.ng/media/2012-media-releases/rising-crude-theft.html.
139 SOMO letter to Aiteo dated 8 Nov. 2023, delivered by courier.
140 Financing was completed in the second half of 2014; the transaction received final regulatory approval in 2015.
141 Templars, 'Templars advises Eroton on its US$1.2 billion acquisition of 45 percent interest in oil mining lease 18 from Shell, Total and Agip', 13 Apr. 2015, https://www.templars-law.com/news/templars-advises-eroton-on-its-us1-2-billion-acquisition-of-45-percent-interest-in-oil-mining-lease-18-from-shell-total-and-agip/.
142 Reuters, 'Shell completes sale of OML 18 oil field stake in Nigeria', 20 Mar. 2015, https://www.reuters.com/article/shell-nigeria-idUKL6N0WM13W20150320.
143 Templars, 'Templars advises Eroton'.
144 Eroton, 'Our Leadership', https://www.erotonep.com/our-leadership/.
145 Eroton, 'Our Leadership', https://www.erotonep.com/our-leadership/.
146 San Leon, 'Proposed OML 18 Production Arrangement', p. 28.
147 San Leon, 'Proposed OML 18 Production Arrangement', p. 28.
148 NG Check.com, 'Bilton Energy Limited', https://ng-check.com/bilton-energy-limited/2311846.html.
149 NG-Check.com, 'Martwestern Energy Limited', https://ng-check.com/martwestern-energy-limited/2311893.html.
150 NG-Check.com, 'Martwestern Energy Limited'.
151 San Leon, 'Proposed OML 18 Production Arrangement'.
152 Globe and Mail (Canada), 'Mart Resources Inc.' 13 May 2016, https://www.theglobeandmail.com/investing/markets/stocks/MAUXF/profile/; Toronto Stock Exchange, 'Mart Resources, Inc. (MMT) to Trade on Toronto Stock Exchange', 1 Apr. 2014, https://tsx.com/news/new-company-listings?id=121.
153 SunTrust Oil Company Nigeria Limited, incorporated in Nigeria with registration number RC 407706.
154 Midwestern Oil & Gas Company Limited, an independent exploration and production company based and incorporated in Nigeria with registration number RC 370639.

155 SOMO sent a letter dated 25 Oct. 2023 to Shell's London headquarters by email and courier. The letter set out our key findings and asked for Shell's response to several questions arising from the research. Shell responded on 8 Nov. 2023 by email. While Shell provided a response that is reflected in this report, it did not address the questions posed in our letter. Letters and emails on file with SOMO.
156 Midwestern, 'About', https://midwesternog.com/about/.
157 NEITI, https://bo.neiti.gov.ng/og_search#.
158 Mart, 'Company overview', https://martresources.com.ng/company-overview/.
159 Mart, https://martresources.com.ng/staff/engr-charles-odita/.
160 SunTrust Oil, 'Acquisition of Onshore Nigeria Oil Mining Lease 18 by Suntrust Oil Ltd', 26 Aug. 2016, https://suntrustoil.com/acquisition-of-onshore-nigerian-oil-mining-lease-18-by-suntrust-oil-ltd/.
161 SunTrust Oil, 'Acquisition of Onshore Nigeria Oil Mining Lease 18 by Suntrust Oil Ltd', 26 Aug. 2016, https://suntrustoil.com/acquisition-of-onshore-nigerian-oil-mining-lease-18-by-suntrust-oil-ltd/.
162 Reuters, 'UK police charge former Nigerian oil minister Alison-Madueke with bribery', 22 Aug. 2023, https://www.reuters.com/world/former-nigerian-oil-minister-alison-madueke-charged-with-bribery-by-uk-police-2023-08-22/.
163 Asharami Energy, oml 18, https://asharami-energy.com/asset/oml-18/.
164 UK Companies House, https://find-and-update.company-information.service.gov.uk/company/07243330/officers.
165 Sahara Group, 'About', https://www.sahara-group.com/about/.
166 Africa Oil & Gas Report, 'Sahara now owns 18% of OLM 18', 20 Jun. 2015, https://africaoilgasreport.com/2015/06/farm-in-farm-out/sahara-now-owns-18-of-oml-18/.
167 San Leon, 'Proposed OML 18 Production Arrangement', p. 23.
168 Proactive Investor, 'Mart Resources is acquired by Midwestern', 24 Mar. 2016, https://www.proactiveinvestors.com/companies/news/124109/mart-resources-is-acquired-by-midwestern-124109.html. See also Ostler, 'Mart Resources, Inc.', https://www.osler.com/en/expertise/deals-cases/mart-resources-inc.
169 Investopedia definition of "loan notes" at https://www.investopedia.com/terms/l/loan-note.asp.
170 San Leon, 'Proposed OML 18 Production Arrangement'.
171 Suit No: FHC/L/CS/793/2018.
172 San Leon Energy, 'The Board', https://www.sanleonenergy.com/about-us/the-board/; Midwestern, 'Board of Directors', https://midwesternog.com/leadership-team/ (noting Onegite Okoloko has resigned as chairman and a non-executive director, effective 14 July 2023); Eroton, 'Our Leadership', https://www.erotonep.com/our-leadership/. At the time of writing, Oisin Fanning and Adekolapo Ademola sat on the boards of all three companies; San Leon and Eroton shared at least one other director, Mutiu Sunmonu; and Eroton and Midwestern shared at least four other directors. Onajite Okoloko, chairman of Eroton, stepped down from being chairman of Midwestern in Jul. 2023: https://midwesternog.com/changes-to-the-board-of-directors-of-midwestern-oil-gas-company-limited; he is also chairman of Notore Chemicals, the offtaker of OML 18's extracted gas: San Leon Energy, 'Proposed OML 18 Production Arrangement'.
173 Financial Times, 'Company Announcements: San Leon Energy PLC Directorate Change', 7 Apr. 2020, https://markets.ft.com/data/announce/detail?dockey=1323-14494092-2MA3ORVVG3PASFKSV3H6LI7TI4.
174 Refinitiv Eikon, 'Eroton Exploration and Production Company Ltd, Company Deals, "Eroton Exploration & Production Co Ltd. closed USD 196 millions Revolving Credit Facility', 1 Dec. 2021: accessed 23 Nov. 2023 and no longer accessible.
175 San Leon Energy, 'Proposed Midwestern Reorganisation and proposed Further ELI Investments', 8 Jul. 2022, https://ir.q4europe.com/solutions/sanleon2019tf/4018/newsArticle.aspx?storyid=15483638.
176 San Leon Energy, 'Significant shareholders', https://www.sanleonenergy.com/investors/significant-shareholders/.
177 San Leon Energy, 'Update on investment from a strategic investor', 2 Nov. 2023, https://ir.q4europe.com/solutions/sanleon2019tf/4018/newsArticle.aspx?storyid=15919642, and 'Investment of up to US$187 million from a strategic investor and further investments into ELI', 10 Oct. 2023, https://shorturl.at/qUY79.
178 Energy Voice, 'San Leon's Eroton out as operator after NNPC move', March 2023, https://www.energyvoice.com/oilandgas/africa/ep-africa/488146/nnpc-san-leon-eroton/
179 NG Check, https://ng-check.com/aiteo-eastern-e-p-company-limited/2341927.html.

180 Premium Times, 'Aiteo loses again to Shell in London court', 26 Dec, 2022, https://www.premiumtimesng.com/business/business-news/572415-aiteo-loses-again-to-shell-in-london-court.html.
181 BNN Bloomberg, 'Shell, Nigeria's Aiteo Locked in Legal Battle Over Loan Default', 28 Mar. 2021, https://www.bnnbloomberg.ca/shell-nigeria-s-aiteo-locked-in-legal-battle-over-loan-default-1.1583357; Washington Post, 'Big Oil is selling off its polluting assets'.
182 Interview with Nembe community, Niger Delta, Jul. 2023.
183 BSOEC, An Environmental Genocide.
184 Letter to Aiteo dated 8 Nov. 2023, sent by courier.
185 BSOEC, An Environmental Genocide. The spill was widely reported and captured on video: Upstream Energy, 'VIDEO: Well-kill operations underway at disastrous Nembe Creek spill site in Niger Delta', 30 Nov. 2021, https://www.upstreamonline.com/environment/video-well-kill-operations-underway-at-disastrous-nembe-creek-spill-site-in-niger-delta/2-1-1109114.
186 Reuters, 'Oil spews from Aiteo well in Nigeria's Delta two weeks after spill, locals say', 19 Nov. 2021, https://www.reuters.com/markets/commodities/oil-spews-aiteo-well-nigerias-delta-two-weeks-after-spill-locals-say-2021-11-19/.
187 Bloomberg, 'Halliburton Unit Hired to Plug Oil Spill in Nigeria's Delta', 24 Nov. 2021, https://www.bloomberg.com/news/articles/2021-11-24/halliburton-unit-hired-to-plug-oil-spill-in-nigeria-s-delta.
188 Premium Times, 'Investigation: Aiteo, Nigerian regulators misreported Nembe oil spill that caused severe environmental damage', 31 Dec. 2021, https://www.premiumtimesng.com/news/headlines/503406-investigation-aiteo-nigerian-regulators-misreported-nembe-oil-spill-that-caused-severe-environmental-damage.html.
189 Upstream Energy, 'Out of control: oil company lambasted over failure to cap well spilling up to 20,000 bpd into Niger Delta', 24 Nov. 2021, https://www.upstreamonline.com/environment/out-of-control-oil-company-lambasted-over-failure-to-cap-well-spilling-up-to-20-000-bpd-into-niger-delta/2-1-1104763; Reuters on YouTube, '"We are sick": Oil spill blasts Nigerian community', https://www.youtube.com/watch?v=ANssSLjSXN0.
190 BSOEC, An Environmental Genocide.
191 NOSDRA, personal communication, 4 Jul. 2023.
192 R. Steiner, 'Why Nembe must catalyse new paradigm for oil responsibility in Nigeria', EnviroNews Nigeria, 27 Dec. 2021.
193 Amnesty International, 'Nigeria: Bad information'.
194 BBC News Pidgin, 'Nigerian oil spill: Santa Barbara River spoil wit weeks oil leak from AITEO OML 29 well 1', 20 Nov. 2021, https://www.bbc.com/pidgin/tori-59345863; Reuters, 'Oil gushing from Nigerian wellhead blasts hopes of those living nearby', 26 Nov. 2021, https://www.reuters.com/markets/commodities/oil-gushing-nigerian-wellhead-blasts-hopes-those-living-nearby-2021-11-26/; Niger Delta Herald, 'Santa Barbara Oil Spill: AITEO Gives Relief Materials To Affected Communities, Intensifies Effort To Contain Leak', 20 Nov. 2021, https://nigerdeltaheraldngr.com/santa-barbara-oil-spill-aiteo-gives-relief-materials-to-affected-communities-intensifies-effort-to-contain-leak/; Energy Voice, 'Aiteo mobilizing to tackle major Bayelsa oil spill', 10 Nov. 2021, https://www.energyvoice.com/oilandgas/africa/ep-africa/363447/wellhead-bayelsa-oil-aiteo/.
195 Energy Voice, 'Nigerian court orders Shell bank cash freeze', 18 Feb. 2021, https://www.energyvoice.com/oilandgas/africa/pipelines-africa/300586/nigerian-court-aiteo-nctl/.
196 Capital Markets in Africa, 'Nigerian Court Freezes Shell Accounts in Dispute over Oil Deal', https://www.capitalmarketsinafrica.com/nigerian-court-freezes-shell-accounts-in-dispute-over-oil-deal/; Bloomberg, 'Nigerian Court Freezes Shell Accounts in Dispute over Oil Deal', 19 Feb. 2021, https://www.bloomberg.com/news/articles/2021-02-19/nigerian-court-freezes-shell-accounts-in-dispute-over-oil-deal#xj4y7vzkg.
197 This Day, 'Aiteo Slams $2.5bn Suit against Shell over Sale of OML 29', https://www.thisdaylive.com/index.php/2021/10/04/aiteo-slams-2-5bn-suit-against-shell-over-sale-of-oml-29.
198 Premium Times, 'Aiteo loses again to Shell'.
199 Bloomberg, 'Aiteo's Debt to Shell, Nigeria Banks Hits $2.6 Billion', 13 Jul. 2023, https://www.bloomberg.com/news/articles/2023-07-13/shell-nigeria-banks-say-aiteo-debt-balloons-to-2-6-billion#xj4y7vzkg.
200 The terms and conditions of the financing Shell provided to Aiteo are not fully known, but either interest on repayments or some other form of benefit is assumed.
201 Heirs Energies, https://heirsenergies.com/about-us/.
202 Heirs Energies, https://heirsenergies.com/heirs-energies-celebrates-third-anniversary/.

203 Shell media release, 2021, https://www.shell.com/media/news-and-media-releases/2021/spdc-completes-sale-of-interest-in-oil-mining-lease-17-in-nigeria.html; Total Energies press release, 2021, https://totalenergies.com/media/news/press-releases/total-completes-sale-of-its-interest-in-onshore-OML-17.
204 Templars, 'TEMPLARS advises Heirsholding Oil and Gas Limited … on the acquisition and precedent-setting US$1.1 billion financing for the acquisition of Nigerian oil mining lease 17 …', 18 Jan. 2021, https://www.templars-law.com/news/templars-advises-heirsholding-oil-and-gas-limited-previously-called-tnog-oil-and-gas-limited-on-the-acquisition-and-precedent-setting-us1-1-billion-financing-for-the-acquisition-of-nigerian-oil-min/.
205 White & Case, 'Acquisition financing in an era of energy transition', 9 Nov. 2021, https://www.whitecase.com/insight-our-thinking/acquisition-financing-era-energy-transition-0.
206 The term "beneficial ownership" refers to "those who ultimately own or control an asset, for example, a property or company": UK Government, 'Factsheet: beneficial ownership', Oct. 2023, https://www.gov.uk/government/publications/economic-crime-and-corporate-transparency-bill-2022-factsheets/factsheet-beneficial-ownership.
207 Shoreline Natural Resources, http://www.shorelinenaturalresources.com/new/about-us/
208 UK Government, Employment Tribunals, Case Number 2201401/23, Oct. 2023, https://assets.publishing.service.gov.uk/media/65439c1c1f1a60000d360c9c/Mr__P__Sawczyszyn__v__Heritage__Oil___and__Gas__Ltd__.pdf.
209 Lexpert, 'Energy Investments Global acquires Heritage Oil', https://www.lexpert.ca/big-deals/energy-investments-global-acquires-heritage-oil/349125.
210 Salvic Petroleum, 'About us', http://salvicenergy.com/about-us/; Premium Times, 'Salvic Petroleum: The OML30 Success Story', 28 Apr. 2018, https://www.premiumtimesng.com/promoted/266529-salvic-petroleum-the-oml30-success-story.html.
211 Heritage Oil Limited, 'Nigeria', https://www.heritageoilltd.com/our-operations/nigeria/; Key Facts Energy, 'Company Profile: Heritage Oil', https://keyfactsenergy.com/news/7259/view/.
212 LinkedIn, 'HEOSL: setting standards for successful 3rd party operator model in Nigeria', 14 Dec. 2017, https://www.linkedin.com/pulse/heosl-setting-standards-successful-3rd-party-operator-energy-review/.
213 Sweet Crude Reports, 'Shell completes sale of Nigeria's OML 40', 3 Sep. 2012, https://sweetcrudereports.com/shell-completes-sale-of-nigerias-oml-40/.
214 Upstream Nigeria, 'Elcrest', https://upstreamnigeria.com/elcrest/.
215 Starcrest, 'Welcome to Starcrest Nigeria', https://www.starcrestng.com/.
216 Chrome Group, 'About the Chrome Group', https://www.thechromegroup.net/about-us/.
217 White & Case, 'White & Case Advises Seplat on Acquisition of Eland Oil & Gas', 16 Oct. 2019, https://www.whitecase.com/news/press-release/white-case-advises-seplat-acquisition-eland-oil-gas.
218 ND Western, 'About us', https://www.ndwestern.com/about.
219 Aradel Holdings, 'Aradel Holdings Plc Acquires Stake in Shell Petroleum Development Company Limited, Nigeria', 16 Jan. 2024, https://www.aradel.com/aradel-holdings-plc-acquires-stake-in-shell-petroleum-development-company-limited-nigeria/.
220 ACA, 'Leading Pan-African Alternative Investment Manager', https://acagp.com/.
221 Petrolin, 'About us', https://petrolingroup.com/en/.
222 Renaissance Africa Energy, https://raecafrica.com/blog/ .
223 FIRST E&P, 'Who we are', https://www.first-epdc.com/about-us/who-we-are/.
224 Waltersmith, https://waltersmithng.com/.
225 Shell, 'Shell agrees to sell Nigerian onshore subsidiary, SPDC', media release, 16 Jan. 2024, https://www.shell.com/media/news-and-media-releases/2024/shell-agrees-to-sell-nigerian-onshore-subsidiary-spdc.html.
226 Shell, 'Shell agrees to sell Nigerian onshore subsidiary'. Shell holds a 25.6% interest in NLNG.
227 Shell, 'Shell agrees to sell Nigerian onshore subsidiary'.
228 Shell, 'Shell agrees to sell Nigerian onshore subsidiary'.
229 Shell, 'Shell agrees to sell Nigerian onshore subsidiary'.
230 Shell, 'Shell agrees to sell Nigerian onshore subsidiary'.
231 The Guardian, Oil, gas assets can only be transferred in accordance with PIA – Komolafe, Feb. 3, 2024, at https://guardian.ng/news/oil-gas-assets-can-only-be-transferred-in-accordance-with-pia-komolafe/ .
232 Shell, 'Acquisitions & Divestments', https://www.shell.com/sustainability/integrating-sustainability-into-our-activities/divesting-responsibly.html.
233 Shell, 'Human rights', https://www.shell.com/sustainability/communities/human-rights.html#iframe=L3dlYmFwcHMvU3VzdGFpbmFiaWxpdHlfcmVwb3J0XzIwMTkv.

234 Based on (unless otherwise noted): SDN, *Divesting from the Delta: Implications for the Niger Delta as international oil companies exit*, 2021, https://www.stakeholderdemocracy.org/report-divestment/#:~:text=Key%20messages%3A,over%20the%20past%2060%20years.
235 Seplat, https://www.seplatenergy.com/our-company/our-business/who-we-are/history/
236 First Hydrocarbon Nigeria, https://www.fhnigeria.com/about/.
237 ND Western, https://www.ndwestern.com/about.
238 Upstream Nigeria, https://upstreamnigeria.com/neconde-energy-limited/.
239 Shoreline Natural Resources, http://www.shorelinenaturalresources.com/new/about-us/.
240 NG Check, https://ng-check.com/elcrest-exploration-and-production-nigeria-limited/1572338.html.
241 NG Check, https://ng-check.com/eroton-exploration-and-production-company-limited/2313260.html.
242 Templars, 'Templars advises Eroton on its US$1.2 billion acquisition of 45 percent interest in oil mining lease 18 from Shell, Total and Agip', 13 Apr. 2015, https://www.templars-law.com/news/templars-advises-eroton-on-its-us1-2-billion-acquisition-of-45-percent-interest-in-oil-mining-lease-18-from-shell-total-and-agip/.
243 Newcross E&P, https://newcross.com/home/newcross-exploration-and-productions-limited/
244 NG Check, https://ng-check.com/aiteo-eastern-e-p-company-limited/2341927.html
245 Premium Times, 'AITEO acquires Shell's OPL 29, Nembe Creek pipeline for $2.7 billion' 12 October 2014, https://www.premiumtimesng.com/business/169368-aiteo-acquires-shells-opl-29-nembe-creek-pipeline-for-2-7-billion.html?tztc=1.
Media reports the acquisition in 2014 but deal finalisation may be 2015.
246 Heirs Energies, https://heirsenergies.com/heirs-energies-celebrates-third-anniversary/.
247 Reuters, 'UK's SFO says ex-Afren executives sentenced for fraud, money-laundering', 29 October 2019, https://www.reuters.com/article/idUSL8N1X9542/.
248 Serious Fraud Office, Ex-Afren CEO & COO convicted of fraud and money laundering over $300 million oil business deal https://www.sfo.gov.uk/2018/10/24/ex-afren-ceo-coo-convicted-of-fraud-and-money-laundering-over-300-million-oil-business-deal/.
249 FHN, https://www.fhnigeria.com/about/who-we-are/.
250 Letter from ND Western to SOMO dated 26 January 2024.
251 Financial Times, 'Nigerian banks suffer from exposure to oil groups', 21 April 2016, https://www.ft.com/content/aed4718c-00c8-11e6-ac98-3c15a1aa2e62; The Africa Report, 'Nigeria's banks face direct hit from geared-up oil producers', 2 April 2020, https://www.theafricareport.com/25542/nigerias-banks-face-direct-hit-from-geared-up-oil-producers/; Financial Times 'Nigerian oil companies hit hardest by funding crisis', 27 November 2016, https://www.ft.com/content/56793724-923c-11e6-a72e-b428cb934b78; Dataphyte, 'Troubled oil, gas sector struggles to repay bank loans', 4 May 2023, https://www.dataphyte.com/latest-reports/troubled-oil-gas-sector-struggles-to-repay-bank-loans/.
252 SOMO letter to Shell dated 25 Oct. 2023, sent via courier and email, on file at SOMO.
253 Shell responded to SOMO by email on 8 Nov. 2023 providing comments reflected in this report but did not respond to specific questions.
254 UNGPs, Guiding principle 18.
255 R. Steiner, Just Transition.
256 National Principles for Responsible Petroleum Industry Divestment, 2023, https://www.stakeholderdemocracy.org/civil-society-proposes-principles-to-guide-the-divestment-of-international-oil-companies-who-wish-to-exit-from-the-niger-delta/.
257 EITI Principles, https://eiti.org/documents/eiti-principles.
258 NG Check, https://ng-check.com/aiteo-eastern-e-p-company-limited/2341927.html.
259 NG Check, https://ng-check.com/tempo-energy-nigeria-limited/1453795.html.
260 NG Check, https://ng-check.com/taleveras-energy-resources-limited/1666778.html.
261 Upstream Nigeria, 'Elcrest', https://upstreamnigeria.com/elcrest/.
262 White & Case, 'White & Case Advises Seplat on Acquisition of Eland Oil & Gas', 16 Oct. 2019, https://www.whitecase.com/news/press-release/white-case-advises-seplat-acquisition-eland-oil-gas.
263 Starcrest Nigeria Energy, https://www.starcrestng.com/index.php/about/our-team.
264 San Leon, document for shareholders entitled 'Proposed OML 18 Production Arrangement, Placing of 378,400,000 Placing Shares at 45p per share to raise £170.3 million. Approval of waiver of obligations under Rule 9 of the Irish Takeover Rules Admission of the Enlarged Share Capital to trading on AIM And Notice of Extraordinary General Meeting' p. 23 https://www.sanleonenergy.com/wp-content/uploads/2018/01/5-sl-admission_document_2016.pdf.

265 The Globe and Mail, Canada: https://www.theglobeandmail.com/investing/markets/stocks/MAUXF/profile/, Toronto Stock Exchange, https://tsx.com/news/new-company-listings?id=121. The history of Mart Resources is not fully clear. The company was registered on the Toronto Stock Exchange in 2014.
266 SunTrust Oil Company Nigeria Limited, a company incorporated in Nigeria with registration number RC 407706.
267 Midwestern, 'About', https://midwesternog.com/about/.
268 Asharami Energy, OML 18, https://asharami-energy.com/asset/oml-18/ https://asharami-energy.com/community-engagement/.
269 Sahara Group, 'About', https://www.sahara-group.com/about/.
270 San Leon, document for shareholders.
271 Premium Times, NNPCL replaces Eroton as new operator of OML 18, 7 March 2023. https://www.premiumtimesng.com/business/business-news/586587-nnpcl-replaces-eroton-as-new-operator-of-oml-18.html.
272 San Leon Energy, https://www.sanleonenergy.com/about-us/the-board./
273 Eroton, https://www.erotonep.com/our-leadership/brume-okoloko/ [note: elements of Eroton's website appear accessible through searches on specific names, but the main site has remained inaccessible to researchers.]
274 Eroton, https://www.erotonep.com/our-leadership/onajite-okoloko/.
275 Nigeria24, https://nigeria24.me/buwa-trading-co-ltd?utm_source=bilton-energy-limited.
276 FHN, https://www.fhnigeria.com/about/who-we-are/.
277 ND Western, 'About us', https://www.ndwestern.com/about.
278 Aradel Holdings, 'Aradel Holdings Plc Acquires Stake in Shell Petroleum Development Company Limited, Nigeria', 16 Jan. 2024, https://www.aradel.com/aradel-holdings-plc-acquires-stake-in-shell-petroleum-development-company-limited-nigeria/.
279 ACA, 'Leading Pan-African Alternative Investment Manager', https://acagp.com/.
280 Petrolin, 'About us', https://petrolingroup.com/en/.
281 Renaissance Africa Energy, https://raecafrica.com/.
282 FIRST E&P, 'Who we are', https://www.first-epdc.com/about-us/who-we-are/.
283 Waltersmith, https://waltersmithng.com/about-us/.
284 Rigzone, https://www.rigzone.com/news/oil_gas/a/113048/kulczyk_oil_completes_acquisition_of_oml_42; Also:
285 Bankier, https://www.bankier.pl/wiadomosc/KULCZYK-OIL-VENTURES-INC-Przystapienie-KOV-do-konsorcjum-Neconde-2874516.html.
286 Africa Outlook, https://www.africaoutlookmag.com/company-profiles/204-nestoil; also: https://nationalinsightnews.com/30-years-after-nestoil-continues-to-lead-innovation-in-local-content/
287 Sweet Crude Reporters, https://sweetcrudereports.com/nestoil-to-sell-part-stake-in-controversial-oml-42/.
288 Seplat: https://www.seplatenergy.com/our-company/our-business/who-we-are/history/.
289 Shoreline Natural Resources, http://www.shorelinenaturalresources.com/new/about-us/.
290 Lexpert, 'Energy Investments Global acquires Heritage Oil', https://www.lexpert.ca/big-deals/energy-investments-global-acquires-heritage-oil/349125.
291 Salvic Petroleum, 'About us', http://salvicenergy.com/about-us/; Premium Times, 'Salvic Petroleum: The OML30 Success Story', 28 Apr. 2018, https://www.premiumtimesng.com/promoted/266529-salvic-petroleum-the-oml30-success-story.html.
292 Heritage Oil Limited, 'Nigeria', https://www.heritageoilltd.com/our-operations/nigeria/; Key Facts Energy, 'Company Profile: Heritage Oil', https://keyfactsenergy.com/news/7259/view/.
293 Heirs Energies, https://heirsenergies.com/about-us/.
294 ND Western, 'About us', https://www.ndwestern.com/about.
295 Aradel Holdings, 'Aradel Holdings Plc Acquires Stake in Shell Petroleum Development Company Limited, Nigeria', 16 Jan. 2024, https://www.aradel.com/aradel-holdings-plc-acquires-stake-in-shell-petroleum-development-company-limited-nigeria/.
296 ACA, 'Leading Pan-African Alternative Investment Manager', https://acagp.com/.
297 Petrolin, 'About us', https://petrolingroup.com/en/.
298 Renaissance Africa Energy, https://raecafrica.com/b.
299 FIRST E&P, 'Who we are', https://www.first-epdc.com/about-us/who-we-are/.
300 Waltersmith, https://waltersmithng.com/.

Colophon

Selling Out Nigeria
Shell's irresponsible divestment
February 2024

Author Audrey Gaughran
Editor Miles Litvinoff
Contributions by Luis Scungio; Roberta Cowan; Sara Fleischer
Layout and graphics Frans Schupp en Leon de Korte
Cover photo The blowout at Santa Barbara Nembe (OML 29) in 2021. Modest Franco, iStock

SOMO
Stichting Onderzoek Multinationale Ondernemingen
Centre for Research on Multinational Corporations

KNSM-laan 17
1019 LA Amsterdam
The Netherlands
Tel: + 31 (20) 6391291
Email: info@somo.nl
Website: www.somo.nl

SOMO investigates multinationals. Independent, factual, critical and with a clear goal: a fair and sustainable world, in which public interests outweigh corporate interests. We conduct action-oriented research to expose the impact and unprecedented power of multinationals. Cooperating with hundreds of organisations around the world, we ensure that our information arrives where it has the most impact: from communities and courtrooms to civil society, media and politicians.