Selling out Nigeria

Executive summary

February 2024

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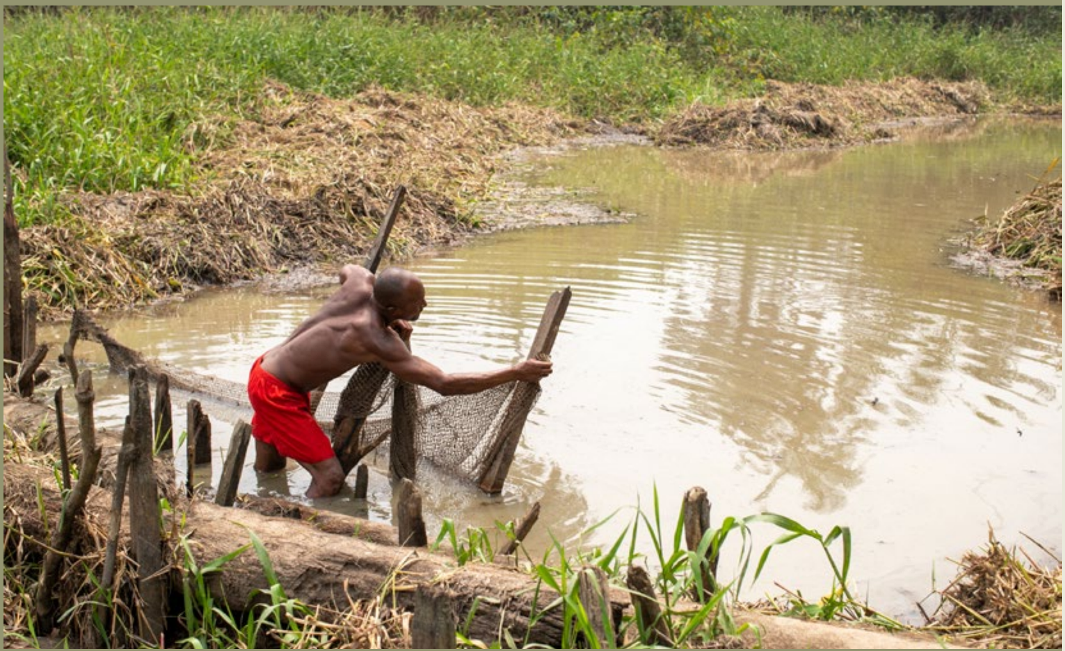
This report examines the manner, legacy, and likely future consequences of oil company Shell's exit from its onshore oil business in Nigeria's Niger Delta. While this report focuses on Shell as the international oil company (IOC) with the largest onshore presence in the Niger Delta, all of the US and European oil majors are divesting from onshore petroleum production in this part of Nigeria.



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

Major implications and long-term risks

The implications of the Shell divestment are enormous for the millions of people who live inside the oil mining lease (OML) areas of the Delta. There has long been criticism from civil society about the harmful impact of the company's operations on the environment and communities, and this criticism now extends to the manner of its exit. The way Shell has conducted the divestment has exposed the people of the Delta to serious long-term risks.

Shell has been gradually divesting from onshore oil since 2010, selling off its stake in individual OMLs. The company has held licences for multiple oil fields. In January 2024 Shell announced that it had found a buyer for its wholly owned Nigerian subsidiary, the Shell Petroleum Development Company of Nigeria (SPDC), which would bring about its complete exit from the onshore oil business. (Shell will maintain offshore oil and gas operations in Nigeria.) Shell is selling SPDC to a consortium going by the name of Renaissance Africa Energy Company. At the time of writing the sale was awaiting government approval, and signals were this would happen soon.

Renaissance Africa Energy Company is a newly created consortium, involving five companies. The announcement that Shell was completely exiting the onshore Niger Delta was expected but nonetheless is a momentous milestone in the history of oil production in Nigeria. The company that entered the onshore oil business during colonial rule and has dominated the landscape in more ways than one for over six decades is leaving.

The report highlights three intersecting features of Shell's divestment which, unless they are addressed urgently, will reverberate for generations: legacy pollution that has not been properly cleaned up; the decommissioning problem; and the maze of investors that has replaced Shell. On the current trajectory, it is likely that people born well after oil production has stopped will live with the impacts of this divestment, likely for decades.

Widespread legacy oil pollution

The Niger Delta is one of the most oil-polluted places on earth, with hundreds of oil spills occurring every year. Oil companies blame oil theft and "third-party interference" for much of the pollution, while communities and civil society groups dispute this. But when it comes to the legal obligation to clean up spills, this rests with the oil company, no matter the cause.

Shell has not cleaned up its oil pollution and is now leaving. The company has acknowledged the existence of historical spills in its "frequently asked questions" on the sale of its Nigerian subsidiary. Shell states: "SPDC will continue to be accountable for its share of commitments within the SPDC joint venture, 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."

But the "SPDC" Shell refers to will not have anything to do with Shell.

The UK oil major leaving without cleaning up is perhaps the biggest concern of the communities.

So how is it possible for Shell to simply walk away? The report notes two factors.

First, Shell relies on certification of clean-up by Nigeria's National Oil Spill Detection and Response Agency (NOSDRA). But the evidence shows NOSDRA is under-resourced and over-influenced by Shell and has certified sites as clean that independent evidence shows are not.

NOSDRA's certification process is deeply flawed and cannot be relied on. Shell has trained NOSDRA regulators on oil spill clean-up processes using its own company materials, in a staggering conflict of interest. There is also evidence that laboratories used by the regulator to assess soil and water samples fail to meet international standards.

Second, the sale of SPCD leaves the company intact. Shell is leaving, but the Shell Petroleum Development Company of Nigeria remains – an SPDC without Shell. This change is an entirely legal but insidious corporate sleight of hand. SPDC does not have to finish cleaning up before it leaves, because it is not going anywhere.

A massive decommissioning problem

While the visible and noxious pollution is top of mind for many communities, the question of who will carry out and pay for the decommissioning of the Delta's vast oil infrastructure is increasingly discussed. All oil infrastructure should be properly decommissioned at the end of its lifespan or when its use ceases. If it is not, it deteriorates, leaks, and poses ongoing risks to the environment and people's health.

Despite the risks, across the Niger Delta oil infrastructure has been visibly abandoned for years without being made safe. Scattered across the landscape are unused pipelines, wellheads, and other oil infrastructure that are potentially very dangerous. In addition to Shell's failure to properly decommission infrastructure it has abandoned prior to divestment, Nigeria is likely to face enormous future decommissioning challenges. The country is already confronting this issue as new companies abandon infrastructure.

All of Nigeria's oil infrastructure will ultimately have to be safely decommissioned as oil production winds down in the face of the energy transition. SOMO's investigations show, however, that Shell has divested to many newly created companies, some of which do not appear to have the funds or the willingness to undertake this.

Of equal concern is the massive transparency gap around the issue of funding for decommissioning. Nigeria has legal provisions requiring companies to establish funds for decommissioning. But there is no way to know how much money – if any – companies have set aside. Researchers have not found any confirmation that Shell has provided funds to cover decommissioning of the OMLs it has sold. Such information is vital for civil society and communities to understand the extent of the risks facing the country as the energy transition proceeds.

The Nembe Creek Trunk Line

Shell constructed the 97 km Nembe Creek Trunk Line (NCTL) between 2007 and 2010. Just five years later Shell sold the asset to a domestic oil company, Aiteo. By 2021 the NCTL was all but abandoned because of leaks and theft. The condition and safety of the pipeline pose serious long-term risks to the people who live along its route.

The abandonment of the NCTL also raises critical questions: Why was a relatively new pipeline not better protected against tampering and leaks, in line with international oil industry standards? Under what conditions was a high-risk asset sold to a new company? And who will now pay for the proper decommissioning of this major pipeline?

As far as SOMO can discover, Shell was not required to provide funding towards decommissioning as part of its sale to Aiteo. Aiteo is a company to which Shell loaned money and with which it became embroiled in legal action post-divestment.

If the international oil companies do not make adequate provisions for decommissioning, the burden will fall on the new buyers or the Nigerian state. Current evidence indicates that few of the new companies have the finances to deal with large-scale decommissioning. It also seems unlikely the Nigerian state will have the resources to pay to decommission the country's vast oil infrastructure.

The most likely future scenario is that much of the infrastructure will be left to disintegrate, with all this implies for the environment and human health and wellbeing.

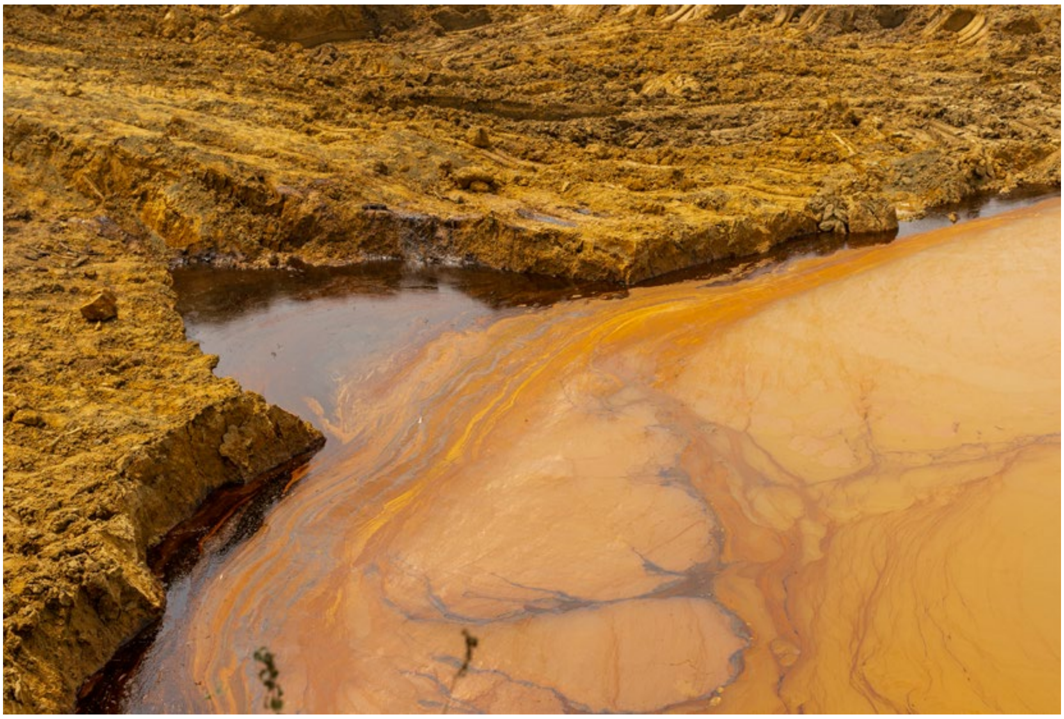
A maze of investors

Oil extraction is a dangerous industry. When it comes to the companies and entities that own and operate oil fields, competency and resources matter. This is recognised in Nigerian law and regulations and by Shell, which claims it divests responsibly and screens potential buyers of its assets. The company states:

> **"We have a well-established, systematic and assured method of assessing risk in divestments… 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."**

Based on our research, our report concludes that Shell cannot reasonably be deemed to have acted in line with its stated policy. Shell has sold its OMLs to newly created companies that in some cases have little real substance, have opaque backgrounds, or involve complex groups of domestic and foreign investors. Some of these buying entities appear to have no stability and/or face financial problems. There is a major risk that some of these companies will disappear, leaving the communities with no entity to deal with over pollution, decommissioning and other issues.

Many of the new companies were set up only just before they bought the OMLs. Several are special purpose vehicles – legal entities formed to enable others to invest, to achieve a narrow goal, and to isolate financial risk. Since Shell's divestment, Aiteo has defaulted on loan repayments. Another buying company, Eroton, appears to have complex financial difficulties and has been embroiled in questions about its operatorship. Yet another, Shoreline, has changed operators.



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

Oil Mining Lease (OML) 18 and Eroton Exploration and Production

Eroton Exploration and Production Company took over OML 18 in Rivers State from Shell in 2014. Eroton was incorporated only in 2013 as a special purpose vehicle to enable the purchase of OML 18 by a group of investors. SOMO's investigation into the divestment found a string of companies and investors behind Eroton. The two companies immediately behind Eroton were apparently also registered in 2013, shortly before Eroton itself, and one of these entities had several other corporate owners.

Despite being a "front" for multiple investors, Eroton was given operatorship of the oil lease. Operators are responsible for day-to-day extraction, dealing with oil spills, and interfacing with communities living in the OML areas.

Shortly after Eroton acquired OML 18, other new investors became involved via companies in Ireland, Mauritius, the Netherlands, and the UK. SOMO has identified that at least eight companies are now involved in OML 18, and some of these investors appear to have faced financial problems.

The deals and companies behind OML 18 are eye-wateringly complex, so this case raises a further question about Shell's due diligence. Which of these many legal entities did Shell subject to its claimed "well-established, systematic and assured method" of assessing their financial strength, operating culture, or environmental performance?

Many more such issues arise among the numerous companies that have taken over Shell's Niger Delta assets.

Although some of the new companies have longer-established parent companies, several have 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.

While Shell is not responsible for the post-divestment challenges faced by new companies – and not all the new companies have had problems – the overall picture that emerges gives little assurance that the company's due diligence has been robust, or its divestment process responsible.

One of the report's case studies is particularly concerning: that of the sale of OML 18 to Eroton.

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.

The company that entered Nigeria in the colonial period and secured privileged access to Nigeria's oil resources is now pulling off the ultimate corporate escape act. Shell is exiting its toxic assets in the Niger Delta, passing them to others (who it must know will not have the financial capacity to address the legacy), and slipping away without properly cleaning up or decommissioning.

All the burden of toxicity transfers 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.

With the energy transition now underway, many civil society groups, as well as the United Nations and others, are raising red flags about justice in the transition. The way Shell leaves the Niger Delta is crucially important for the millions of people living there. It also has a wider resonance.

How fossil fuel companies, especially major oil multinationals like Shell, divest and exit oil production is critical to a just energy transition. If the people who suffered the abuses of the fossil fuel era are left with those harms unremediated, there will be nothing just about the transition.

Recommendations

In making recommendations, SOMO joins with and amplifies the recommendations of Nigerian civil society. In December 2023, groups from across the Niger Delta agreed the *National Principles for Responsible Petroleum Industry Divestment.* These principles call on the Federal Government of Nigeria to take immediate action to prevent IOCs from divesting without addressing legacy issues and providing funding for decommissioning.

The report's recommendations also address international bodies that play a role in setting parameters for justice in the energy transition, including the United Nations and the Extractive Industries Transparency Initiative. We call on these entities to make responsible divestment by the oil industry a prominent item on their agendas, and to pay particular attention to the funds needed to safely decommission oil infrastructure.

SOMO wrote to Shell as part of the preparation of this report. The company's response to SOMO is reproduced in full as an annex to the report and is reflected in relevant sections of the report.

Sourcing for information in this Executive Executive summary can be found in the main report.

Colophon

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Cover photo The blowout at Santa Barbara Nembe (OML 29) in 2021. Modest Franco, iStock

Stichting Onderzoek Multinationale Ondernemingen (SOMO) / Centre for Research on Multinational Corporations

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