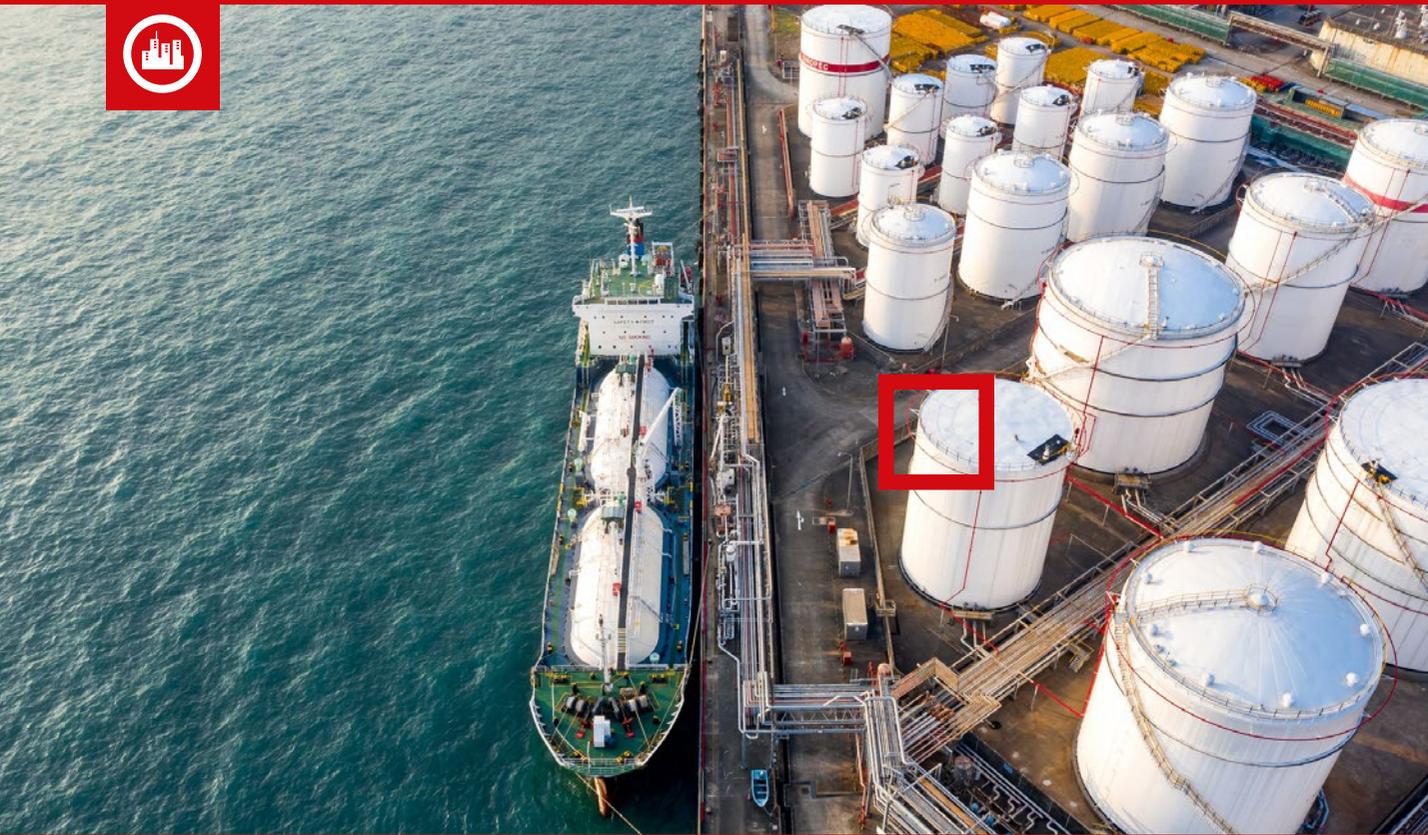


Big business, low profile

Shedding light on oil trader Vitol's operations in Nigeria



Saskia van Drunen & Ilona Hartlief & Chinedu Bassey & Ken Henshaw

Colophon

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(this picture does not show Vitol facilities)

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The Centre for Research on Multinational Corporations (SOMO) is an independent, not-for-profit research and network organisation working on social, ecological and economic issues related to sustainable development. Since 1973, the organisation investigates multinational corporations and the consequences of their activities for people and the environment around the world.



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CISLAC is a non-governmental organisation registered in Nigeria. The organisation undertakes research and advocacy for good governance, transparency and accountability in Nigeria, where legislators and policy makers (duty bearers) are safeguarding citizens' rights and welfare while citizens effectively demand accountability.

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SOMO and CISLAC

Saskia van Drunen, Ilona Hartlief, Chinedu Bassey and Ken Henshaw

Amsterdam, October 2020

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Acronyms

APC	All Progressive's Congress
BDP	Barrels Per Day
BP	British Petroleum
CAC	Corporate Affairs Commission
COMD	Crude Oil Marketing Division
CPI	Corruption Perceptions Index
DCA	Domestic Crude Allocation
DPR	Department of Petroleum Resources
DSDP	Direct Sale of crude oil and Direct Purchase of Products
EFCC	Economic and Financial Crimes Commission
EITI	Extractive Industries Transparency Initiative
ESG	Environment, Social and Governance
EU	European Union
FATF	Financial Action Task Force
FDFA	Federal Department of Foreign Affairs (Switzerland)
FIRS	Federal Inland Revenue Service
GMoU	Global Memorandum of Understanding
GNPC	Ghana's National Petroleum Corporation
HDI	Human Development Indicator
HEOSL	Heritage Energy Operational Services Ltd.
HMRC	Her Majesty's Revenue and Customs
HSE	Health, Safety and Environment
HSEC	Health, Safety, Environment and Community
IFC	International Finance Corporation
IOC	International Oil Company
JOA	Joint Operating Agreements
JMLSG	Joint Money Laundering Steering Group
KPI	Key Performance Indicator
LNG	Liquefied Natural Gas
LPG	Liquefied Petroleum Gas
LUA	Land Use Act
MNC	Multinational Corporation
MOSOP	Movement for the Survival of Ogoni People
NAPIMS	National Petroleum Investment Management Services
NDDC	Niger Delta Development Commission
NEITI	Nigeria Extractive Industries Transparency Initiative
NGO	Non-Governmental Organisation
NLNG	Nigeria Liquefied Natural Gas
NNPC	Nigerian National Petroleum Corporation
NPDC	Nigerian Petroleum Development Company
NRGI	Natural Resource Governance Institute
NUPENG	National Union of Petroleum and Natural Gas Workers
OCTP	Offshore Cape Three Points

OECD	Organisation for Economic Co-operation and Development
OECD Guidelines	OECD Guidelines on Multinational Enterprises
OML	Oil Mining Lease
OPA	Offshore Processing Agreement
OPEC	Organization of the Petroleum Exporting Countries
OPL	Oil Prospecting License
PDP	People's Democratic Party
PdVSA	Petróleos de Venezuela
PEP	Politically Exposed Person
PHCDB	Petroleum Host Communities Development Bill
PIB	Petroleum Industry Bill
PIGB	Petroleum Industry Governance Bill
PPMC	Pipelines and Product Marketing Company
PRSTF	Petroleum Revenue Special Task Force
PSC	Production Sharing Contracts
RPEA	Refined Products Exchange Agreements
SAA	Strategic Alliance Agreements
SDC	Stakeholders Democracy Network
SEC	Securities and Exchange Commission
SECO	State Secretariat for Economic Affairs (Switzerland)
SOE	State Owned Enterprise
TAM	Turn Around Maintenance
TFP	Trans Forcados Pipeline
TUC	Trade Union Congress
UAE	United Arab Emirates
UNGP	United Nations Guiding Principles on Business and Human Rights

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Executive Summary

Energy traders: missing links in the oil industry

Oil trading is generally characterised by limited transparency and challenging business environments. The weak rule of law in many oil-producing countries has contributed to violent conflicts over the control of oil production and revenues. In several of these resource-rich countries, the combination of fragile institutions, high potential gains, and the opacity surrounding actual sales, has created an environment in which corruption thrives. Alongside other players in the industry, such as state-owned enterprises and foreign public officials, oil traders have been accused of illegal practices.

Given the economic importance of oil traders to oil-producing countries, this is highly problematic. Oil trading companies engage in high-volume transactions with governments and state-owned enterprises. Proceeds from oil sales often fund a significant part of the government budget and, in some cases, are the country's largest revenue stream; this is true of Nigeria. If managed well, these huge sums can have a transformative impact in terms of providing welfare to the populace. But, if managed badly, governments can suffer significant losses in revenues, seriously impacting their ability to deliver on socio-economic rights such as health, education, clean water, and housing.

While the need for greater oversight and accountability in the oil industry has been acknowledged, and efforts have been made to promote transparency in the sector, legislation on disclosing payments of oil, gas, and mining companies to governments still falls short; the existing provisions only apply to extraction, not to trading activities. The Extractive Industries Transparency Initiative (EITI) has made progress on improving the transparency of trading activities, by developing the EITI Global Standard which is now applied in 53 countries. The voluntary character of this Standard, however, remains a limitation. Not all resource-rich countries implement the EITI Standard, including some of the most opaque ones, such as Russia, Venezuela, and Angola. Furthermore, even member countries face difficulties in implementing the Standard, particularly those with weak institutions. Thus, while the activities of oil companies involved in exploration and production are increasingly subject to public scrutiny, data on oil trading activities is still difficult to access.

In the broader debate on business and human rights, oil traders have received less public attention than oil-producing companies like Shell, which have dominated the industry for decades. While this is logical, given the high human and environmental cost of oil extraction, and the direct responsibility of the oil majors in these impacts, this does not mean that oil traders are exempt from the corporate responsibility to respect human rights. Like any other company, oil traders are expected to implement due diligence for responsible business conduct throughout their supply chain. According to the international normative framework consisting of the United Nations Guiding Principles on Business and Human Rights (UNGPs) and the OECD Guidelines on Multinational Enterprises (OECD Guidelines), due diligence for responsible business conduct means: embedding responsible business conduct into policies and management systems; identifying and assessing adverse impacts; ceasing, preventing or mitigating adverse impacts; tracking implementation and results; communicating about how these impacts are addressed; and providing for, or cooperating in, remediation when

appropriate. This framework also explicitly states that, when operating in fragile and conflict-affected settings or high-risk economic sectors, communications on how impacts are addressed should be issued formally, through publicly accessible annual reports or online updates, for example, and cover topics and indicators concerning how enterprises identify and address adverse impacts on human rights. Indeed, oil traders can become connected to adverse environmental and human rights impacts in the transportation, storage, transforming and selling phases of their operations, either through their own activities or those of their business relationships. Oil traders can also become connected to environmental and human rights impacts through buying and selling oil that has been extracted while creating adverse impacts.



Oil tanker near the Apapa wharf in Lagos, Nigeria. Photo by CISLAC.

Vitol: 'a hidden giant of the global economy'

The present report draws upon these observations and explores transparency and accountability issues in the oil trading sector by focusing on one particular company – the energy trader Vitol, and its operations in Nigeria. Vitol has been chosen because it is one of the largest energy traders in the world, with annual revenues comparable to Apple, though it is relatively unknown amongst the general public. And because Vitol is privately-owned, and therefore not publicly-listed, it has less reporting obligations so information on the company is more difficult to access. Additionally, the company operates in several so-called fragile and conflict-affected settings, including countries such as Angola and Nigeria, where there are enhanced risks of becoming connected to corruption

and adverse human rights impacts. While operating in these contexts is not unusual for oil traders, it does raise expectations about their due diligence for responsible business conduct. Like other oil traders, Vitol has in the past been associated with several controversies, including allegations of corruption and fraud. While the company refutes all allegations, and its competitive position has not been substantially affected, one would expect it to communicate more openly about its operations and associated risks.

Research aim and methodology

The research aimed to explore how much information on Vitol was available in the public domain, both on its economic activities in Nigeria and its associated human rights and environmental risks, as well as on the company's due diligence for responsible business conduct. Focusing specifically on Nigeria, where oil operations are known to have contributed both to corruption and environmental and human rights impacts and conflicts, the research explored how easy (or difficult) it is for Nigerian citizens to monitor and hold this company to account for its operations in their country.

The report is based on a literature study and database research, combined with interviews with representatives of relevant Nigerian institutions, and a field visit to the Niger Delta. A draft version of this report was reviewed by several experts, and their observations and feedback have been incorporated into the report. Additionally, as part of SOMO's internal quality assurance policies, Vitol (as the investigated party), and the Nigerian National Petroleum Corporation (NNPC) which features in different parts of the report due to its key role in the oil industry in Nigeria, were given the opportunity to respond to the research findings and share any additional information. Furthermore, the paragraph referring to Vitol's financiers was shared with the three Dutch banks mentioned in that section. The responses received were incorporated into the final report and corrections made, where relevant.

Key findings

Selective transparency

The research shows that Vitol is quite selective when it comes to transparency requirements. The company complies with national and international regulation, and has a Compliance Programme through which it assesses risks for the company. Vitol is also part of a working group of the EITI looking at how to promote greater transparency in commodity trading. However, public information on the company remains extremely limited considering its size and economic importance. Ownership of the group lies with the shareholders of the Luxembourg company, Vitol Holding II SA, the corporate group's global ultimate owner. Vitol is a private company and is owned by approximately 350 of its senior employees, none of whom own more than five per cent of the shares. The identities of these owners are not disclosed publicly. Similarly, the company chooses not to make its human rights and environmental policies public, or to publicly provide a country-by-country breakdown of activities. Furthermore, because the company is privately owned, it has less reporting obligations than publicly listed companies. Finally, while being a member of the EITI working group on transparency in commodity trading, Vitol, contrary to its competitors Glencore, Gunvor and

Trafigura, has chosen not to become a supporting company of EITI, a status that would have meant the company would have been expected to publicly disclose information on taxes and payments, along with beneficial ownership details, and to contribute financially to the initiative.

Lack of due diligence for responsible business conduct

While Vitol itself states that it has solid due diligence procedures in place, the report finds that this is not the case, or at least its communication falls short. Overall, the company does not communicate proactively and formally on how it manages human rights and environmental risks, for example by using online updates or annual reports. Vitol's website states that it conducts its business in accordance with the ten principles of the UN Global Compact, but it does not provide any further information on what this means in practice and the company does not share its policies publicly. Upon request, the company shared general information on its Compliance Programme, which seems strongly focused on corruption and the risks associated with doing business with Politically Exposed Persons (PEPs). Health, Safety, Environmental and Community (HSEC) risks are addressed through Vitol's ongoing monitoring of these issues across the companies it is invested in, but it does not specify how this monitoring is done – whether through self-reporting of these companies or through internal audits by the Compliance Department. There are no indications that the Compliance Programme goes beyond standard risk management practice and risks seem to be primarily assessed as potential damage for the company, instead of potential damage for the affected right-holders (a key element in due diligence for responsible business conduct). The limited information shared on the Compliance Programme makes it difficult to make a good assessment. The lack of disclosure on what policies and procedures are in place to deal with potential adverse human rights and environmental impacts is problematic, given the type of contexts in which Vitol operates. The Nigerian context in general, and the Nigerian oil sector in particular, certainly demand more pro-active communications from the company on what risks and impacts it has identified, how it plans to address those risks and impacts, and what the results of those efforts have been.

Nigerian oil industry: a high-risk sector

The high-risk sector and environments in which Vitol operates, require solid monitoring and addressing of impacts, along with public reporting, on the company's human rights and environmental performance throughout its supply chain. The Nigerian oil industry certainly qualifies as a high-risk sector and business environment. In Nigeria, oil dominates both the economy and the political system. Ever since oil was discovered in commercial quantities in the Niger Delta, military and civil elites have fought over control of oil wealth, and have played a key role in protecting the interests of the international oil majors that have dominated Nigerian oil production from the 1960s onwards. The Nigerian general public has received little benefit from this oil wealth. The country continues to fare badly on all development indicators and, in the Niger Delta, decades of oil extraction have created an explosive mixture of environmental impacts, poverty, and oil-related conflicts. While international oil majors have worked to improve their image since the height of these conflicts in the 1990s, the dramatic socio-environmental context resulting from decades of careless oil extraction has not substantially changed.

New, potentially adverse, human rights and environmental impacts in the context of extraction are emerging as oil majors divest themselves of assets in the Niger Delta, without cleaning up the extensive environmental damage their operations have caused. These concessions have been taken

over by small, local, independent companies, often lacking the financial and technical ability to address problems relating to obsolete infrastructure, and practices such as gas flaring, which would require major investments to transform into less polluting and damaging forms of oil extraction. These independent companies receive funding from banks and oil traders like Vitol. These financiers have a responsibility to analyse the ways in which these companies operate and, where possible, prevent, cease, and mitigate potential risks and adverse impacts.

Besides environmental and human rights impacts relating to oil extraction, corruption is another endemic problem affecting the oil industry in Nigeria. The NNPC, the state-owned enterprise that supervises all operations in the Nigerian oil industry, has been accused of corruption on several occasions. The way the NNPC organises its oil sales is overly complex and this, combined with a lack of transparency and oversight in the sector, has been conducive to fraud. Indeed, the NNPC does not provide information on how it selects buyers of crude oil, nor does it disclose the terms of the sales contracts, which makes it very difficult to properly monitor its activities. The use of intermediaries is another problematic aspect of NNPC's oil sales system. Contract holders that receive a share of NNPC's crude oil do not have to refine the oil themselves; they can sell the crude oil to other traders or refiners. This is problematic because of the lack of disclosure around the bidding process and the terms of the contracts. In the past, NNPC has allocated oil to local companies with no track record in oil trading at all, seemingly for political rather than commercial reasons. Oil traders like Vitol should be aware that dealing with local intermediaries and the NNPC requires enhanced due diligence, and formal communication, about how it addresses risks related to corruption and fraud.

In Nigeria, Vitol is involved in trade, distribution, and extraction

Vitol has been operating in Nigeria since the mid-1990s. Although Europe and the Americas are more important continents for Vitol in terms of sales and purchase, the company has steadily expanded its operations in Africa, and the continent now accounts for ten per cent of its sales by delivery location, and 11 per cent of its purchase by location. At first, Vitol mainly exported crude oil from Nigeria, and imported refined products but, since 2016, the company has expanded its activities in the country, and moved into the downstream and upstream sectors. Concretely, the research identified the following activities:

- ▣ Two joint ventures with the NNPC: Hyson and Calson. In 1994, Vitol took over Chevron's shares in Calson and Hyson. Both of these joint ventures, but particularly the one with Calson, proved highly lucrative for Vitol. In 2003, Calson was Vitol's primary source of crude oil and, in 2008, it was even classified as the most significant participating investment of the Vitol Group.
- ▣ In 2016, Vitol and its associated partner, Helios Investment Partners (Helios), an Africa-focused private equity group, acquired 49 per cent of Oando's downstream assets in Nigeria. Through this investment, Vitol acquired over 350 petrol stations along with large storage facilities. The petrol stations are operated by OVH Energy, a joint venture between Vitol, Helios, and Oando. With the acquisition of the Oando networks, Vitol and Helios became the second biggest downstream entity in Nigeria, with a market share of 12 per cent.

- In early 2018, Vitol became more involved in the upstream sector by concluding a deal with the Nigerian oil company, Shoreline Natural Resources Ltd. (Shoreline). As part of the five year agreement, Vitol, and a pool of local and international banks, provided finance worth US\$ 530m to support Shoreline, specifically to refinance Shoreline's existing debt, and to further develop the OML 30 block in the Warri area of the Niger Delta (in which Shoreline has a 45 per cent market interest). The remaining 55 per cent of OML 30 is owned by the Nigerian Petroleum Development Company (NPDC), the NNPC's operating subsidiary. In return for the loan, Vitol got preferential access to some of the 50,000 barrels of crude oil being produced on a daily basis in the oil field, specifically the Shoreline equity barrels (45 per cent of the OML 30 licence or c23,000 barrels per day (bdp)). Shoreline acquired the assets from Shell.
- Besides involvement in crude oil production, trading and distribution, Vitol, through its logistics branch VTTI, is also involved in the storage of Liquefied Petroleum Gas (LPG) in Nigeria. VTTI, in partnership with a local company, Nidogas, built two LPG (butane) spheres and recently commissioned a third sphere for propane.

Red flags and concerns regarding Vitol's activities in Nigeria

Vitol has been associated with several controversies in Nigeria. In 2010, the company allegedly struck a deal with NNPC's trading subsidiary, Calson, in which the latter sold its oil to Vitol below the market price, thereby reducing revenue to the Nigerian government. Furthermore, Vitol was named in a scandal around the misappropriation of subsidies in Nigeria in 2012. Due to a lack of refining capacity, Nigeria has to import 80 per cent of its refined products. To compensate for the high prices resulting from this, the Nigerian Government provides subsidies on the import of petroleum products. Several auditing reports concluded that these subsidies have been a major source of corruption. The main actors in this fraud were approximately 70 local companies who received subsidies from the NNPC for importing petroleum products. The companies bought these refined products from, amongst others, international oil traders, including Vitol. A parliamentary commission investigating the fraud identified links between the local companies and the international oil traders and stated that they had colluded to profit from the subsidy scheme. Vitol denies these allegations, and has claimed that until the official investigation began, it did not know about the fraud. The opacity surrounding NNPC's oil operations makes it difficult to know what happened and establish responsibilities.

The report also identifies some new red flags that Vitol should investigate, and report, in relation to its investments in the downstream and upstream sector. The Nigerian company Oando, for example, with whom Vitol and Helios manage their joint venture OVH Energy, has been accused in the media of involvement in the subsidy fraud. These accusations are not proven and Oando has not been brought to justice for its alleged involvement. Furthermore, the Nigerian Securities and Exchange Commission (SEC) accused Oando of financial irregularities, such as false disclosures, market abuses, misstatements in financial statements, and internal control failures, and consequently imposed a number of sanctions. Oando denied all the accusations and has filed a lawsuit against the Nigerian SEC, successfully overturning the sanctions. Nevertheless, these issues should be a red flag for Vitol in its enhanced due diligence, requiring a formal report on how the company intends to address the risk of becoming involved in illicit practices through its business relationships with Oando.

Other concerns have arisen about Shoreline's operations in oil field OML 30. The research shows that there have been particularly tense relations between Shoreline and NPDC's operating company, Heritage Energy Operational Services Ltd. (HEOSL), and the host-communities in the concession area. Tensions centre on poor implementation of the Global Memorandums of Understanding (GMOUs) between the communities and the operating company. Community leaders accuse the company of, amongst other things, not paying agreed scholarships, and failing to provide promised opportunities for employment. Community members protesting at HEOSL's installations were stopped by armed soldiers. The community perceive the presence of these soldiers as highly intimidating and believe there has been increased militarisation of the concession area to discourage dissent. In addition to these allegations, community leaders have raised suspicions that the company might be using gas flaring in its operations, a particularly polluting practice that has been prohibited since 1984, but is still widespread in the Niger Delta. The company has also been accused of clearing land without the consent of community members. While these allegations all require further investigation, this report states that, as a financier and buyer of Shoreline's crude oil, Vitol has a business relationship with Shoreline and therefore a responsibility to assess these matters and to cease, mitigate and, where appropriate, remediate any adverse impacts connected to its operations.

Conclusions

Vitol's due diligence for responsible business conduct is far from sufficient. The company fails to communicate how it addresses specific risks and impacts in challenging business environments and sectors like the oil industry in Nigeria. This is problematic given the company's economic importance and the fragile, high-risk contexts in which it operates. Because of the number of past controversies linked to Vitol, one would expect the company to be particularly transparent about its policies, human rights assessments, and preventative or mitigating measures to address potentially adverse impacts. The research shows that Vitol discloses very limited information about its economic activities, and nothing about its due diligence for responsible business conduct.

Vitol is not alone in this; oil traders, in general, have been reluctant to disclose details about deals they have made in their countries of operations, citing concerns about the commercial sensitivity of such data. While there are efforts to improve transparency around commodity trading data, as well as clear, international guidelines about corporate responsibilities regarding human rights and environmental impacts, both the transparency requirements and the guidelines on due diligence for responsible business conduct are voluntary. This situation allows companies to selectively disclose data.

There is an urgent need for more transparency and accountability on both topics. Furthermore, while companies like Vitol should be more transparent about their payments to governments regarding their trading activities, and how they implement due diligence for responsible business conduct, binding legislation can help make this happen when companies fail to do so. Additionally, it would help a great deal if the oil-producing countries would take their responsibility to protect human rights seriously. The recommendations are organised along these points and clustered as they apply to various actors.

Recommendations

Vitol

This report demonstrates the need for a more explicit and public commitment from Vitol on the company's responsibility to implement due diligence for responsible business conduct, including communicating formally how it addresses its risks and impacts in general, and in fragile and conflict-affected countries like Nigeria, in particular. Regarding the controversies surrounding its business partner, Oando, and the problems identified in the context of Shoreline's operations, Vitol should report formally on how it plans to investigate these issues and what action the company intends to take to cease, prevent, mitigate and, when appropriate, remediate actual adverse impacts.

The Nigerian Government

This report urges the Nigerian Government to encourage more transparency in the oil industry in general and in the context of oil sales in particular. An important step will be to pass the Petroleum Industry Bill (PIB) and ensure its correct implementation, following due process, including providing space for civil society to share concerns and ensuring these concerns are adequately addressed. Additionally, it is of crucial importance that the Government starts disclosing information about NNPC contracts in the upstream sector, and that NNPC's Crude Oil Marketing Division (COMD) ensures a more transparent bidding process, respecting the criteria set out when awarding term contracts for crude oil sales.

The Dutch Government

This report recommends the Dutch Government introduces legislation for mandatory human rights and environmental due diligence for all Dutch companies, and uses its leverage to promote such legislation at European Union (EU) level. Additionally, it should support efforts to include trading activities in the legislation on payments of oil, gas, and mining companies to governments. Furthermore, the Netherlands has been a strong supporter of EITI from its inception and became a member country in 2018. The Dutch Government should continue to support the initiative both financially and politically.

Financiers providing loans to, or with, Vitol

Several banks, including the Dutch ABN, AMRO, ING, and Rabobank, and the International Financial Corporation (IFC), provide loans to Vitol. Similarly, Vitol is involved in oil-for-loan deals, together with a syndicate of banks. It is recommended that these investors request information from Vitol on how it has performed enhanced due diligence in its operations in Nigeria, and in the other fragile and conflict-affected settings where it operates, and what it intends to do to address these impacts. Banks participating alongside Vitol in the oil-for-loan deal with Shoreline should explain how they plan to investigate the issues raised in this report regarding Shoreline's operations in OML 30, and what actions they will take to cease, prevent, mitigate and, where appropriate, remediate actual adverse impacts.

Introduction

Vitol is one of the biggest companies in the world but, despite having substantial interests in Nigeria, few Nigerian citizens probably know this energy trader by name. This contrast between Vitol's economic importance, and its lack of visibility, not only in Nigeria but worldwide, was what first caught our attention. Because Vitol is privately-owned, and not stocklisted, the company is not bound by the same transparency rules as stocklisted companies, which adds to its opacity. We also observed that Vitol operates in several fragile, and conflict-affected areas where there is an increased risk of becoming involved in corruption, human rights abuses, or other controversial matters. Some of the countries in which Vitol is currently operating, for example, such as Angola and Nigeria, are categorised as 'high warning' and 'alert' by the Fragile States Index of the Fund for Peace.¹ For an oil trader to do business in these countries might not be very surprising, as much of the world's oil reserves are found in such fragile and conflict-affected areas, but it does raise expectations about Vitol's due diligence for responsible business conduct and conflict-sensitive approach. Due diligence for responsible business conduct involves not only identifying human rights and environmental risks, but also communicating in an accessible way how the company deals with those risks. The company has been reported in the media as being allegedly involved in controversial deals and illicit practices such as corruption, and has, on a few occasions, faced regulatory actions. While these controversies have not had a negative impact on Vitol's competitive position, they have also not encouraged the company to communicate more openly about its business operations and related human rights and environmental risks.

Research questions

The observations above motivated the research in this report, and the use of Vitol as an interesting case study to explore transparency and accountability in the oil trading business in fragile and conflict-affected settings. We sought to find out how much information about a company like Vitol is in the public domain, including information on the company's due diligence for responsible business conduct, and measures taken to address human rights risks associated with its operations. The focus of the research lies specifically on Vitol's operations in Nigeria, where the oil sector is characterised by fragile institutions – affected by corruption and criminality, including oil theft – and high levels of conflict, especially in the oil-producing region of the Niger Delta. We aimed to find out more about how Vitol operates in Nigeria – its business relationships and economic interests – and what human rights and environmental risks the company has identified in relation to its business operations there, along with how it proposes to address such risks and communicate the outcomes of that process. The key questions we asked were: how does Vitol operate in a context where institutions are weak and regulation is insufficient or badly implemented? How easy is it for Nigerian citizens and civil society organisations to monitor Vitol's activities in their country? How much information about Vitol can be found on specialised databases, Vitol's own website, and the websites of official authorities relevant to the oil sector in Nigeria?

Methodology

To answer these questions, we reviewed existing publications on oil traders in general and on commodity traders in particular (including academic literature), reports by civil society organisations, and reports in the media. Additionally, we consulted Vitol's website, as well as databases such as Orbis and Thomson Reuters Eikon, for insight into Vitol's corporate structure, its business interests in Nigeria and information on which banks are investing in the company. We also used the Thomson Reuters Eikon database to track ships chartered by Vitol and loaded in West Africa, in order to estimate the volume of oil traded by Vitol in Nigeria (Chapter 3). In Nigeria, we interviewed journalists with expertise in the oil sector, and approached several other relevant institutions. We were able to speak to representatives of the Nigeria Extractive Industries Transparency Initiative (NEITI) and the Corporate Affairs Commission (CAC), the body of the Nigerian government responsible for the regulation and management of companies in Nigeria. However, attempts to speak officially to the Department of Petroleum Resources (DPR) and the Nigerian National Petroleum Corporation (NNPC) were unsuccessful. Additionally, a research team from CISLAC visited communities in the Niger Delta in March 2019. More details on this fieldwork are provided in Chapter 3. The research for this study was concluded in July 2020, so it was not possible to include new developments that took place after that date, such as the prepayment deal with NNPC backed by oil traders Vitol and Matrix Energy that was announced on 28 July 2020.²

Content of the Report

This report contains our main findings: Chapter 1 provides basic information on Vitol's corporate structure, economic importance, business strategy, and the regulatory framework that governs oil trading, including oil traders' responsibility regarding due diligence for responsible business conduct. The chapter also examines some of the controversies in which Vitol has been involved in the past. These controversies give insight into the risks involved in a business that combines limited transparency, working in the context of a regulatory framework that insufficiently addresses trading activities, often taking place in operating contexts characterised by conflict and fragility. The chapter argues that doing business in such a high-risk sector and environment, demands enhanced due diligence for responsible business conduct from oil traders like Vitol.

Chapter 2 focuses more specifically on the high-risk environment in Nigeria. The chapter highlights the governance problems affecting the oil sector, particularly how the fragility of state institutions allows practices such as corruption, and even oil theft, to thrive. It explains what human rights and environmental risks oil traders might face when doing business in Nigeria, including the risk of becoming involved in fraudulent practices or fuelling conflict in the Niger Delta.

Chapter 3 focuses on our findings on Vitol's business operations in Nigeria. The chapter demonstrates how the company has become more deeply involved in the supply chain in Nigeria over time and identifies a number of activities and business relationships that put the company at risk of becoming associated with adverse human rights and environmental impacts. The report concludes that, given the high-risk environment and sector in which Vitol operates in Nigeria, the international normative framework expects the company to report formally, and communicate externally, on what risks it has identified in Nigeria and how it is addressing such risks.

Review process

A draft version of this report was reviewed by several experts, including a political economist of the Nigerian oil and gas industry and an expert on the international normative framework on business and human rights. We are very grateful for their careful reading of the research findings and subsequent constructive comments and observations, which have significantly helped improve the final report. Additionally, as part of SOMO's internal quality assurance policies, we provided both Vitol (the investigated party) and the NNPC (a corporation featured significantly in the report due to its key role in the oil industry in Nigeria), with the opportunity to respond to the research findings and share additional information. Furthermore, the paragraph referring to Vitol's financiers was shared with the three Dutch banks mentioned in that section. ING confirmed that Vitol was a client but did not recognise the numbers quoted. ABN AMRO and Rabobank cited client confidentiality and would not confirm whether Vitol was their client. These responses were incorporated into the final report and corrections made, where relevant.

1 Vitol: the world's largest energy trader

Vitol was founded in Rotterdam, the Netherlands, in 1966 by two Dutchmen, Henk Viëtor and Jacques Detiger, who invested 10,000 Dutch guilders (about US\$ 2,800 at the time) into establishing the company.³ The company was initially involved in transporting and trading petroleum products up and down the River Rhine and, over time, became known as the world's largest energy trader,⁴ handling more than seven million barrels of crude oil and products per day and delivering energy products to countries worldwide.⁵ In 2016, *Bloomberg* estimated Vitol's trade volumes to be 'about 6.5 per cent of the world's oil'.⁶ In 2018, Vitol's turnover was more than US\$ 231bn.⁷ In 2017, analysts estimated the potential of the company's book value to be US\$ 13 - 20bn.⁸ As a global commodity trading house, it is involved in the shipping, trading, refining, and storage of crude oil and energy products around the world. It now has 40 offices worldwide and employs approximately 1,350 employees.⁹ The company co-owns six oil refineries spread over Belgium, Switzerland, Germany, United Arab Emirates (UAE), Australia, and the Netherlands, which have a combined refining capacity of 480 thousand barrels per day.¹⁰ In total, Vitol owns 16 million cubic metres of storage capacity.¹¹ In short, Vitol trades energy and bulk materials from source to customer and, in combination with its transport, refining and storage facilities, it can buy and sell when most profitable.¹² In recent years, Vitol has expanded into physical assets up and downstream of the business, such as gas production in Ghana, for example, and acquiring retail in Australia, Turkey, Brazil, and throughout Africa.

Though Vitol trades energy commodities such as natural gas, Liquefied Petroleum Gas (LPG), coal, power, carbon, methanol, and chemicals, the largest portion of its trading activities relates to oil (including transport, refining and storage). This study will therefore focus on Vitol's role as an oil trader. The following paragraphs explain Vitol's corporate structure, business model, the various controversies in which it has been involved, and some of the rules and regulations to which it is bound.

1.1 Vitol's business model: exploiting price differences

In the early 1990s, Vitol reportedly made annual earnings of approximately US\$ 70m. Under CEO, Anton Vonk, (who joined Vitol in 1967 and was a President of the Vitol Group from 1991 to 1995)¹³ Vitol expanded into so-called processing deals, in which crude oil is exchanged for fuel. In 1995, the company bought an oil refinery in the Canadian town Come by Chance for US\$ 300m, which it sold ten years later at a profit of US\$ 1bn.¹⁴ Although the company still produces and refines petroleum products, it makes most of its money through the trading of oil. Vitol buys oil from producers, refiners or traders, and then stores, transports, and processes the oil where and when it is most lucrative. The margin of profit Vitol makes, is largely determined by the difference between the price the company pays for the oil, and the amount it can charge its buyers. Vitol, therefore, does not necessarily benefit from high oil prices, but rather from the price differences between locations and markets. Price differences increase when oil prices are volatile and Vitol exploits these (temporary) differences because it is able to buy low and sell high in different markets. Typically, oil traders also

benefit when crude markets are weak for long periods. Large and well-financed oil traders like Vitol, with a global network and large storage capacity, can buy when prices are low, store the oil, and then sell when prices rise.¹⁵ This model has proven highly lucrative. In 2015, for instance, according to the *Financial Times*, a combination of favourable market conditions – the crash in commodity prices – and volatility, allowed Vitol to enjoy ‘one of its most profitable years on record’, registering a 15 per cent increase in net income. Competitors, Gunvor, Glencore and Trafigura also enjoyed strong profits that same year.¹⁶

1.2 Vitol’s use of tax-friendly commodity hubs

According to Bridge and Le Billon, authors of *Oil* published in 2017, it is common for independent oil traders, and other types of firms involved in the oil business, to pursue tax optimisation schemes.¹⁷ While this report does not go into the tax-paying practices of the company, a few elements should be highlighted as they indicate that Vitol actively seeks to keep its tax costs low:

- ❑ According to a 2016 *Bloomberg* article, Vitol settles a large part of its trades in tax-friendly commodity trading hubs like Switzerland and Singapore.¹⁸
- ❑ The company has registered its global ultimate owner in Luxembourg, famous for its tax-friendly policies, and has various subsidiaries in known tax havens such as Bermuda, the British Virgin Islands and Cyprus.¹⁹ See Figure 1 on page 20.

In 2014 Vitol faced media accusations of tax avoidance in the United Kingdom when internal sources at the company told *The Independent* ‘how Vitol arranges its business to pay a fraction of the standard UK tax rate for its hugely profitable London operations’. The newspaper gathered additional documentation from both internal and external sources, and covertly recorded conversations with UK-based executives, all of which revealed an ingenious tax optimisation scheme. The main element of the scheme was defining staff working in the London office as ‘intermediaries’ rather than ‘traders’. In this argument, the London staff served merely as ‘brokers’, acting as middlemen arranging trades on behalf of the staff in Switzerland, where the deals were confirmed. This arrangement allowed Vitol to shift the profits on trade realised in London to low-tax Switzerland. The internal source at Vitol told *The Independent*: ‘Officially, we are “brokers” but, obviously, we are traders. We make the decisions and then Geneva issues the confirmations’. One of the sources even confirmed that ‘Vitol’s peculiar UK structure was entirely due to the company’s tax agreement with HMRC (Her Majesty’s Revenue and Customs, the United Kingdom’s payments and customs authority)’. This would be against the rules of the same HMRC, which states that corporate structures should not be arranged specifically for tax purposes. Already in 2012, *The Independent* noted in the same article, Vitol had to pay HMRC to

*settle a claim for millions of pounds in taxes that its senior staff allegedly avoided through an offshore pay scheme known as an employee benefit trust. This is said to have allowed employees to avoid paying income tax and companies to avoid national insurance contributions. Vitol denied the claim, saying its pay structures were “fully compliant with local tax regulations”.*²⁰

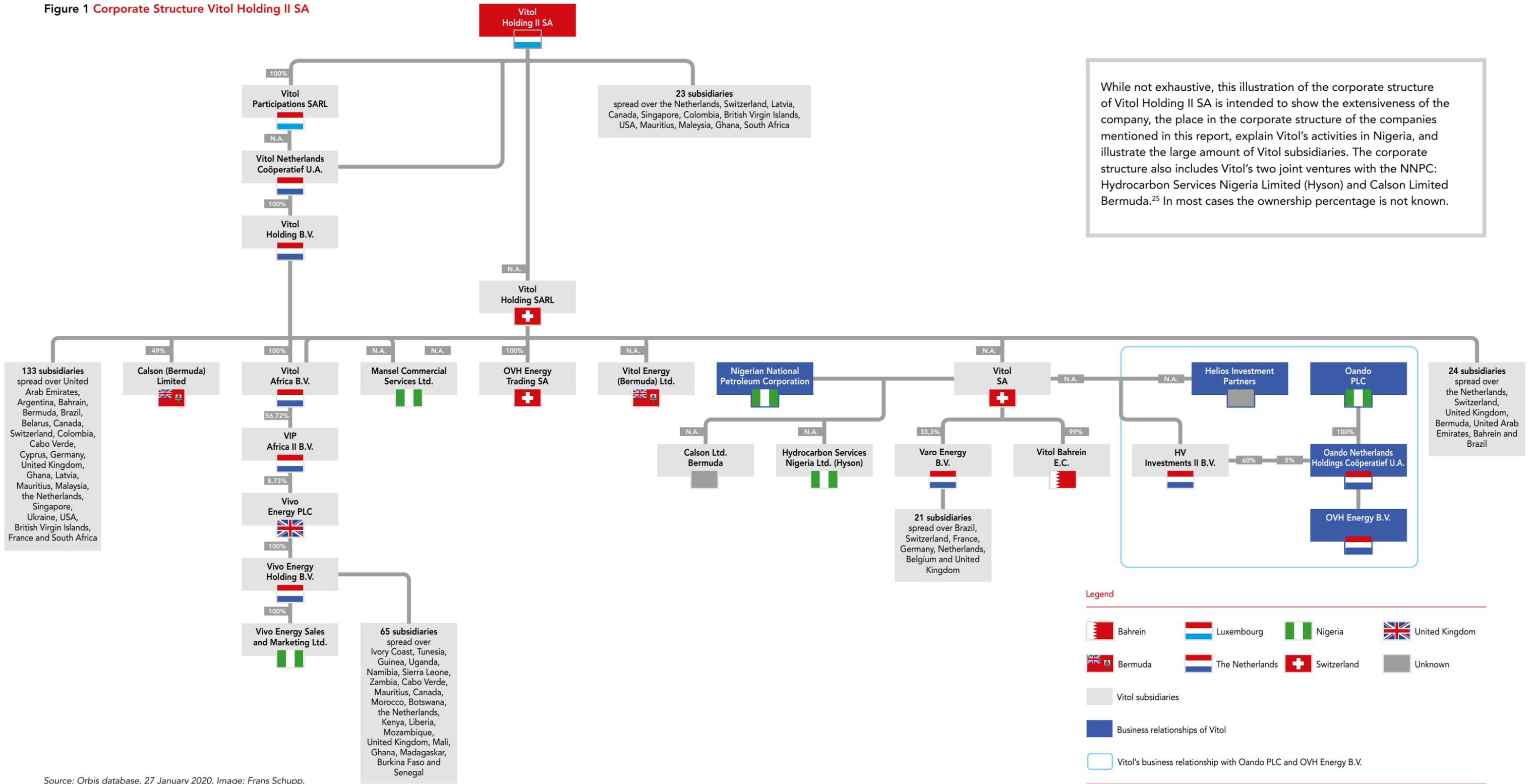
1.3 Vitol's financiers: Dutch connections

As a privately-owned company, Vitol is reliant on private sector banks for much of its capital,²¹ and the company is financed mostly through liabilities, such as bank loans or credit with suppliers. It is not uncommon for traders to depend on borrowed capital, as they often need to move vast sums of money for their deals and require the active support of one or more financial service providers to do so.²² Many of the loans made to Vitol are from Dutch banks, most prominently, Rabobank, ING, and ABN AMRO. In the 1990s, when Vitol acquired its current shareholding structure (see next paragraph), what was then ABN provided the company with a loan to buy out the founder and seven other partners.²³ A search in the Thomson Reuters Eikon databaseⁱ reveals that between 2016 and 2019 these three banks, in different constellations and together with different partners provided large amounts of finance to Vitol. ABN AMRO and Rabobank were involved in syndicated loans to Vitol and its subsidiaries with a total value of US\$ 42.1 and US\$ 38.1bn, respectively. In 2016, 2017, 2018, and 2019 ING Group has been the most prominent Dutch lender for Vitol, having been involved in syndicated loans totalling approximately US\$ 45.5bn.ⁱⁱ

Additionally, the International Finance Corporation (IFC), the private lending arm of the World Bank provided finance to Vitol when it invested US\$ 300m (US\$ 235 as a loan and US\$ 65 through a managed portfolio program) in Vitol Ghana, a subsidiary of Vitol, to support the Sankofa Gas Project which aims to develop offshore natural gas located in deep water, 60km offshore of Western Ghana. This Project is part of a wider complex called the Offshore Cape Three Points (OCTP), which includes an oil field explored by the same private investors of the Sankofa Gas Project. These private investors are Vitol (35.56 per cent), Eni (the operating company, 44.44 per cent) and Ghana's National Petroleum Corporation (GNPC, 20 per cent). The IFC financing is part of a US\$ 1.35bn loan facility provided by commercial banks including HSBC, Société Générale, Standard Chartered, and the Dutch ING. As part of the OCTP financing, the Multilateral Investment Guarantee Agency (MIGA), another member organisation of the World Bank Group, has provided political risk guarantees up to US\$ 217m to the commercial lenders.²⁴

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- i We searched the Thomson Reuters Eikon database for loans between 2016, 2017, 2018 and 2019. We first looked for loans that the parent company in Luxemburg, Vitol Holding II SA received, and then turned to the loans received by Vitol Holding B.V. This last one was selected because of its location in the Netherlands, as we were particularly interested in exploring the involvement of Dutch banks. We also searched loans for Vitol Africa B.V. but couldn't find any information in the database. The data retrieved from the database are not exhaustive, but do give an indication of the extent to which Dutch banks are financing Vitol Holding B.V.'s group of companies. For the Vitol Ghana project (discussed in more details below), we also looked at the involvement of Dutch banks in syndicate loans to Vitol Offshore Cape Three Points (OTCP).
- ii The three banks in question will have provided only part of this total sum of syndicated loans, with the other banks in the syndicate providing the rest. Information regarding the size of financial contributions by ABN AMRO, Rabobank and ING Group to each individual syndicated loan was not available in this case. Thomson Reuters Eikon database. *Vitol Holding B.V., company deals*. Retrieved on 17 July 2020; Thomson Reuters Eikon database, *Vitol Offshore Cape Three Points (OTCP), loans*. Retrieved on 3 January 2019.

Figure 1 Corporate Structure Vitol Holding II SA



Source: Orbis database, 27 January 2020. Image: Frans Schupp.

Table 1 Overview of syndicate credit facilities provided to Vitol's group of companies in 2015-2019 which were participated by the Dutch ING, ABN AMRO and Rabobank²⁶

Figures are approximated at one decimal

Signing date of the syndicate	Final maturity	Amounts (US\$)	Number of banks in the syndicate	ING Group	ABN AMRO Bank	Cooperatieve Rabobank
4/28/2016	4/27/2017	1.4bn	20 including:	x		
6/29/2016	6/28/2018	1.1bn	11 including:	x	x	x
6/29/2016	6/28/2018	340m	11 including:	x	x	x
9/22/2016	N/A	4bn	14 including:	x	x	
10/4/2016	10/13/2020	7.1bn	53 including:	x	x	x
10/4/2016	10/11/2020	924m	53 including:	x	x	x
12/14/2016	12/14/2026	470m	8 including:	x		
12/14/2016	12/14/2026	180m	7 including:	x		
Participation in total syndicate loans received by the Vitol Group in 2016				US\$ 15.5bn	US\$ 13.5bn	US\$ 9.5bn
5/29/2017	5/29/2022	500m	14 including:	x		
5/29/2017	5/29/2019	201.4m	14 including:	x		
6/6/2017	6/6/2019	204.9m	12 including:	x		
6/6/2017	6/6/2022	500m	12 including:	x		
6/16/2017	6/16/2018	1.1bn	8 including:	x	x	x
10/2/2017	10/1/2018	766.5m	55 including:	x	x	x
10/2/2017	10/1/2020	7.2bn	55 including:	x	x	x
10/31/2017	10/31/2022	650m	14 including:	x	x	x
Participation in total syndicate loans received by the Vitol Group in 2017				US\$ 11.2bn	US\$ 9.8bn	US\$ 9.8bn
10/3/2018	10/2/2019	785m	57 including:	x	x	x
10/3/2018	10/3/2021	8.6bn	57 including:	x	x	x
Participation in total syndicate loans received by the Vitol Group in 2018				US\$ 9.4bn	US\$ 9.4bn	US\$ 9.4bn
10/1/2019	9/30/2020	860m	59 including:	x	x	x
10/1/2019	10/1/2022	8.6bn	59 including:	x	x	x
Participation in total syndicate loans received by the Vitol Group in 2019				US\$ 9.5bn	US\$ 9.5bn	US\$ 9.5bn
TOTAL						
Participation in total syndicate loans received by the Vitol Group in 2016-2019				US\$ 45.5bn	US\$ 42.1bn	US\$ 38.1bn

1.4 Vitol's ownership structure

Originally a Dutch company, Vitol has its headquarters in Geneva, Switzerland, with other major offices in London, Singapore, and Houston.²⁷ Ownership of the company, however, lies with the shareholders of the Luxembourg company Vitol Holding II SA, the corporate group's global ultimate owner. Vitol is a private company and reported to be owned by about 350 of its senior staff members²⁸ though none of these shareholders owns more than five per cent of shares.²⁹ This shareholder scheme was adopted after the eight partners sold the company to 40 employees in 1990, financed by what was then the Dutch bank ABN.³⁰ As the group has expanded worldwide, the number of shareholding employees has increased and now approximately 350 Vitol senior staff members are rewarded with huge sums. According to corporate filings, these staff members have received a total of US\$ 7.5bn in payouts over the last decade.³¹ This scheme enhances these employee-shareholders' loyalty to the company. In an interview with *de Volkskrant* in 2012, Vitol's then Director of Corporate Affairs in Rotterdam, Mark Ware, explained:

*the shares are in the hands of 360 of our employees. That is good for the company: we are all in the same boat. We will not easily have problems with traders that take too much risk. It is your own money, and the money of your friends – not anonymous money. If you leave, it takes about five to 10 years before you get your money. We see this shared ownership as a nice way to attract and keep good employees. It is evenly distributed. Nobody gets more than five per cent of the shares.*³²

Vitol's former CEO, Ian Taylor, believed that the scheme – and especially the fact that no single shareholder controls more than five per cent of the company – has created a 'we' culture which is the cornerstone of Vitol's success. Or, in the words of Christian Bake, another Vitol top executive: 'If anyone thinks they are bigger or better than the sum of the entity, he tends to get indirectly smacked down'.³³

The identity of the 350 shareholders has not been publicly disclosed, indicative of Vitol's general tendency to operate discreetly, and reflected in its private unlisted status. As a private company, Vitol has less reporting obligations than a publicly listed company; which is required to publish the documents which inform its shareholders; private companies like Vitol however, generally inform their shareholders directly and, depending on where they are based, may be required to file their annual accounts with the Chamber of Commerce, which may or may not make them accessible to the public. In general terms, Vitol is publicity-shy. The contrast between Vitol's economic importance and its lack of visibility has led *Bloomberg* to describe the company as 'a hidden giant of the global economy'.³⁴

1.5 Ian Taylor, the man behind Vitol's growth

In March 2018, Russel Hardy, a long-time employee of the company, became the group's new CEO. Hardy began his career working at BP as an oil trader, and joined Vitol in 1993. At Vitol he held a number of trading and management roles in both Singapore and London, and has been a member of Vitol's executive committee since 2007. In 2017, he was named CEO of the Europe, Middle East and Africa region before taking over from former CEO, Ian Taylor, in March of 2018.³⁵

Ian Taylor passed away in June 2020 but is generally regarded as the person who helped Vitol become the world's biggest energy trader.³⁶ His work for the company made him one of England's wealthiest, and most influential, businesspeople. He was also a philanthropist, Chair of the Board of Trustees of the Royal Opera House, a donor to the arts, and actively involved in politics. He made donations to the UK Conservative Party as well as significant financial contributions to the 2014 Better Together campaign against Scottish independence, and the EU Remain Campaign in 2016.³⁷ Ian Taylor began working for Vitol in 1985, having previously worked for Shell in Venezuela and Singapore. His first task at Vitol was to set up the company's crude oil trading operation in Singapore. The timing of the operation was favourable for oil traders, coinciding with the break-up of the Soviet Union, the emergence of new national oil and gas suppliers such as Kazakhstan, and the rise of fast-growing economies like China, India, and Brazil.³⁸

Under Ian Taylor's leadership, Vitol became a key player in the industry, alongside other oil traders such as Glencore, Gunvor, Mercuria and Trafigura. Other industry competitors include the in-house trading arms of big oil companies, such as BP, Shell, Total, and increasingly, state-owned Chinese oil companies. According to a *Bloomberg* article on Vitol: 'During his [Ian Taylor's] time as CEO, Vitol has increased its equity value \$3,500 per cent, from \$278m to almost \$10bn in 2015'.³⁹ When Ian Taylor joined the company, they were small in comparison to the biggest oil traders at that time, Phibro and Marc Rich + Co. The Vitol that would become one of the biggest oil traders in the world began to take shape in 1990, when one of its founders, Detiger, along with seven other partners sold the company for between US\$ 100 – 200m (the actual figure wasn't disclosed) to a group of about 40 employees, including Taylor. It was then that the shareholding scheme, mentioned above, that has proven so important for Vitol's expansion, was implemented.⁴⁰

1.6 Controversies involving Vitol

An important characteristic of the oil trading business is the need to secure deals in oil-producing countries. These deals preferably involve procuring cheap 'contract oil' via long-term contracts which is then sold at higher, shortlived spot prices.⁴¹ To secure these deals, oil traders need to know the right people and maintain good relations with them. Thus, according to the *Bloomberg* article on Vitol: 'The commodities business is still ruled by the centuries-old pledge of "my word is my bond". Face-to-face meetings are imperative'. Taylor himself acknowledged this: 'You need to have relationships'.⁴² The search for favourable deals, however, can easily lead a company to becoming involved in controversies, especially as many oil-producing countries are high-risk environments characterised by conflict, fragility, and a lack of democratic governance. In addition, these countries often do not have the technical knowledge and stability to refine the oil they produce, making them highly dependent on oil traders who fulfil a double role both as exporters of crude oil, and importers of refined products.⁴³

Vitol doesn't seem to shun risky environments or deals with controversial actors. As one oil analyst observed in 2011: 'They sail as close to the wind as they possibly can legally. That's the nature of their business'.⁴⁴ While this way of operating is highly profitable, it has also meant the company has been repeatedly associated with scandals and controversies. In most cases, there have been no formal accusations and the company has pleaded guilty on only one occasion.

Controversial deals and business partners

One such controversial episode was a 2011 deal made, in the midst of the Libyan civil war, with the rebels fighting the regime of Colonel Muammar Qaddafi.⁴⁵ According to an article in *Bloomberg* which included a detailed account of these events, the rebels had just founded their own government, having taken the city of Benghazi, and needed fuel. They asked Vitol to supply it. According to the *Bloomberg* article, Vitol had only four hours to reply and responded immediately that the company was in for it. A few weeks later, Ian Taylor flew to Benghazi to make the deal. Because the rebels had no money, Vitol agreed to be paid in crude oil. The deal, Taylor later recognised, 'could have gone wrong, terribly wrong'.⁴⁶ The country was still at war, the rebels had not yet brought Qaddafi down, so there was no certainty that Vitol would receive its payment of crude oil. Nevertheless, Vitol did stick to its part of the bargain and provided the rebel forces with fuel. According to Abdeljalil Mayuf, an official at rebel-controlled Arabian Gulf Oil in Benghazi, 'the fuel from Vitol was very important for the military'.⁴⁷ In the end, it seems that Vitol made the right bet because, following the regime change, the company obtained a huge role in the export of crude oil from Libya.⁴⁸ Vitol denies this account of events, stating that it 'liaised extensively with relevant international authorities before entering into any commitments'.⁴⁹ The company also insists that its role in the export of crude oil after the war was not because of the deal it made with the rebels but, after receiving its crude oil in lieu of cash payment for the products it supplied, Vitol competed in open tenders on equal terms with other market participants.⁵⁰

Regardless of the exact circumstances in which the deal was made, it is revealing of both Vitol's capacity to seize opportunities and its willingness to operate in risky environments, even when it means potentially becoming a party in a conflict. On other occasions, Vitol executives have recognised the opportunistic character of the company's business. For example, Russel Hardy, Vitol's current CEO, stated in 2016 that 'opportunity is defined externally', and that 'the job of the company's traders is to find ways to profit from these opportunities'.⁵¹ Vitol's role in the Libyan conflict illustrates that the company is not afraid of operating on the edges of the law. Dealing with Libya's national oil corporation was illegal at a time when sanctions targeted Gaddafi and it was possible that firms controlled by the rebel forces might still be legally linked to the corporation. The US Treasury ultimately authorised the Vitol transactions.⁵²

This is not the only time that Vitol has been accused in the media of engaging in activities that might have violated sanctions. In 2012, Reuters claimed that Vitol had violated an EU sanction placed on Iran by buying and selling the country's oil. Using a subsidiary from Bahrain, Vitol allegedly bought two million barrels from the National Iranian Tanker Company, using a ship-to-ship transfer off the coast of Malaysia. Vitol later sold the cargo to Chinese traders.⁵³ Vitol denies wrongdoing: 'Vitol's actions were fully compliant with international sanctions: the transaction was executed (with a non-Iranian counterpart) prior to the signing of Executive Order 13622 which came into effect on the 30th of July 2012'.⁵⁴

More recently, Vitol has been accused by the Swiss NGO, Public Eye, of securing the lion's share of the market in Kazakhstan, thereby obtaining strategic access to the biggest oil fields in the country, through a discrete venture – Ingma Holding BV – with politically exposed persons (PEPs).ⁱⁱⁱ According to Public Eye, this partnership has enabled Vitol to market huge volumes of Kazakh crude oil, directly benefiting the company's shareholders and indirectly benefiting the President's son in law, Timur Kulibayev.⁵⁵ Vitol recognises its association with PEPs, stating that this is 'appropriate and often necessary', and that the company performs 'enhanced due diligence checks [...] on any transaction involving a PEP'.⁵⁶ However, the company firmly denies that Timur Kulibayev has been a beneficiary of Ingma.⁵⁷

Additionally, Vitol has also made headlines for tax avoidance^{iv}, unfair trading practices in Mozambique, and exporting dangerous fuels on the African continent. In 2016, Vitol was involved in a conflict with the Mozambican state-controlled fuel import company, Imopetro, over accusations that Vitol used 'highly complicated pricing methods which bamboozled the country into overpaying'.⁵⁸ Imopetro is reportedly demanding a refund from Vitol of US\$ 80m, the amount the country believes Vitol was paid between 2014 and 2015 as a result of this complicated scheme. Mozambique is one of the poorest countries in the world. When a new government took power in 2015, it questioned the prices that the country was paying to Vitol, and shifted the supply contract to Vitol's competitor, Trafigura.⁵⁹ According to Vitol, the situation 'has been settled to the satisfaction of both parties. Throughout its dealings with Imopetro, Vitol was transparent in respect of pricing structures'.⁶⁰ However, Vitol was unable to provide evidence to support this claim as the company's dealings with customers are confidential.⁶¹ In 2016, Public Eye reported that Vitol and Trafigura were among companies exporting highly toxic fuels – referred to as 'African Quality' – to African countries, and taking advantage of weak legislation to maximise their profits. When 'African Quality' fuel is burned, it releases dangerous sulphur chemicals which can cause respiratory diseases.⁶² Responding to these allegations, Vitol insisted that oil traders have limited influence in determining the quality of fuels sold at the pump.^v

iii There is no single definition of a PEP. The Financial Action Task Force (FATF) uses the following definition: 'Individuals who are or have been entrusted with prominent public functions in a foreign country, for example Heads of State or of government, senior politicians, senior government, judicial or military officials, senior executives of state owned corporations, important political party officials' (FATF Recommendation 6). The EU Third Anti-Money Laundering Directive defines PEP's as follows: 'Natural persons who are or have been entrusted with prominent political functions and immediate family members or persons known to be close associates of such persons'. (Article 3 (8)).

iv See paragraph 1.2.

v Thus the company states that 'where the market is regulated any cargo will be comingled with other cargoes, it is therefore impossible for any one trader to influence the quality of the product at the pump in a regulated market as the international trader will not control the flow of product from vessel to pump'. Vitol (2020, March 3). Company review, pp. 9. The argumentation in Vitol's company review for our report is more detailed than this quote. Vitol had already shared these same arguments in its response to the Public Eye report. See, for both Vitol's argument and Public Eye's reply: Public Eye (2016, October 11). Public Eye's reply to Vitol's response to the Dirty Diesel report. Retrieved from <https://www.business-human-rights.org/sites/default/files/documents/Public-Eye-reply-Vitol-response-11-Oct-2016.pdf> on 26 March 2020. Additionally, Vitol has reiterated its critique when responding to a report by BankTrack that takes the Dirty Diesel report as a starting point. Vitol's response was included in the report as an annex and is followed by a commentary from BankTrack and Public Eye. See: BankTrack (2017, May). Human Rights Impact Briefing: Banks and Dirty Diesel – Appendices May 2017, pp.7-13. Retrieved from https://www.banktrack.org/download/human_rights_impact_briefing_banks_and_dirty_diesel_appendices/170523_hrib_iii_banks_and_dirty_diesel_annex.pdf on 26 March 2020.

Allegations of involvement in corruption

In most cases, controversy has been limited to critical reports and media attention. Only on a few occasions has the company faced regulatory actions, mainly for alleged involvement in corruption. In 2007, Vitol pleaded guilty in the Supreme Court of New York, to grand larceny, and admitted paying US\$ 13m to the Iraqi state oil company during Saddam Hussein's regime, in exchange for oil supply contracts under the UN Oil-for-Food programme. The company was fined US\$ 17.5m in legal charges and restitution.⁶³ The UN set up the Oil-for-Food programme in 1995 to help Saddam Hussein's Iraq sell oil in order to buy humanitarian supplies such as medicines and food. Iraq was, at the time, under UN sanctions following its invasion of Kuwait in 1990. The programme ran from 1996 to 2003.⁶⁴ Ten years after the programme started, a UN report revealed that in order to obtain contracts to buy oil and distribute humanitarian goods, companies had been bribing Iraqi functionaries on a very large scale.⁶⁵ According to the UN report, Vitol was involved in these practices, even setting up a fictional subsidiary, Vitol France, with diplomat Serge Boidevaix, the 'President', negotiating deals with the Iraqi Prime Minister, Tariq Aziz.^{vi} Vitol pleaded guilty but argued that the monies paid were not bribes or kickbacks, and were not paid to individual officials, but to the Iraqi state oil company.⁶⁶ Reflecting on the episode in *The Guardian*, Ian Taylor insisted that 'the payments were surcharges demanded by the state oil company of Iraq from all lifters [oil traders], and were paid on the account of the national Iraqi oil company. They were neither bribes nor kickbacks'⁶⁷. He also claimed that the UN programme 'was chaos'.⁶⁸ While the episode certainly caused damage to Vitol's reputation, it did not hurt its relations with Iraq. In 2003, following the end of the war, Vitol became the first company to supply gasoline to the Ministry of Energy, and it is both a buyer of Iraqi crude oil and a supplier of refined products.⁶⁹

Vitol has also recently faced regulatory action for alleged involvement in corruption in two further cases. One of these cases was dismissed and the other is still ongoing. In 2018, Petróleos de Venezuela (PdVSA) Litigation Trust filed a complaint in the Miami Federal Court accusing Vitol, along with Lukoil, Glencore and Trafigura, of paying bribes to fix oil bids, a scheme, the complainant alleged, that cost the Venezuelan public more than US\$ 5bn in lost revenues.⁷⁰ Swiss prosecutors arrested executives at Helsing, the oil trading company accused of being a central actor in the scheme and of providing inside information to other trading firms, including Vitol S.A. amongst others.⁷¹ In April 2018, PdVSA Litigation Trust was declared unconstitutional by the Venezuelan National Assembly.⁷² The case was also subsequently dismissed by the Miami Court in March 2019 because, it was argued, the Trust did not have standing to pursue the claims.⁷³ Also in 2018, the Brazilian federal police investigated Vitol, Trafigura and Glencore for paying US\$ 31m in bribes to Petrobras between 2011 and 2014. According to *Bloomberg*, 'police gathered evidence, including messages from executives of the three companies negotiating bribe payments for Petrobras employees through an intermediary company. [...] The goal, according to prosecutors, was to obtain

vi Volcker, P.A., Goldstone, R.J., and Pieth, M. (2005, October 27). Independent Inquiry Committee into the United Nations Oil-for-Food Programme. Manipulation of the Oil-for-Food Programme by the Iraqi Regime, pp. 67-74. Retrieved from <https://www.files.ethz.ch/isn/13894/ManipulationReport.pdf> on 28 January 2020. Iraq preferred to sell its oil to countries that were perceived as 'friendly' to the country, and, 'in particular, if they were permanent members of the Security Council in a position potentially to ease the restrictions of sanctions'. France was perceived as such a 'friendly' country and French companies were the second largest purchaser of oil under the Programme (pp. 9).

advantages, get more favourable prices, and carry out contracts with greater frequency.’⁷⁴ Vitol refrained from commenting on this case as the investigation is ongoing but the company insists that it has a ‘zero tolerance policy in respect of bribery and corruption and is continuing to cooperate with the relevant authorities’.⁷⁵

1.7 Legal, regulatory, and normative framework governing the oil trade

The controversies described in the previous paragraph are not unique for Vitol. Indeed, in many of the cases, Vitol was only one of several oil traders accused of involvement in controversial practices. The oil trade has generally been characterised by limited transparency and complex business environments and, in many producer countries, the rule of law is weak. These factors, combined with the players involved (state-owned enterprises, foreign public officials), the very high potential gains in the sector, and the opacity surrounding actual sales, have proved to be an explosive combination conducive to corruption.⁷⁶ In a 2016 report offering practical guidance on corruption in the extractive value chain, the Organisation for Economic Co-operation and Development (OECD) cited bribery or extortion and kickback schemes to secure deals – as existed in the UN Oil-for-Food programme – as one of the modalities through which corruption took place in commodity trading. The report also identified other schemes which enabled corruption, such as the misappropriation of revenues generated by commodity sales, and bribery related to commodity trade mispricing. The latter scheme consisted of ‘under-reporting volume or under-invoicing the value of the resource sold, allowing its purchase to resell it at an inflated margin. A share of the windfall usually serves to pay bribes’.⁷⁷ The OECD report cited several characteristics of oil trading conducive to corruption: a lack of transparency around commodity trading (how buyers are selected and prices set, for example), and the ownership and governance structure of key organisations and companies (including the locations of trading subsidiaries), along with poor due diligence and compliance procedures in relation to commodity-trading-related data (break down of sales and revenues figures in relation to projects, countries etc.).⁷⁸

With the growing international recognition of the commodity trade as a high-risk sector, steps have been taken to regulate it. Most efforts so far have been directed at improving transparency, guided by the assumption that increased transparency will promote good governance. The need for greater oversight and accountability becomes all the more important when considering the economic importance of commodity traders. Companies like Vitol, Glencore and Trafigura bring in annual revenues comparable to those of major companies like Apple.⁷⁹ Furthermore, they engage in high-volume transactions with governments or state-owned companies. The trading of natural resources (for instance oil cargoes purchased by traders) provide sales proceeds for national oil companies or the government directly which, to a larger or smaller degree, fund the government budget.⁸⁰ Sometimes, the sale proceeds represent the country’s largest revenue stream; according to the Natural Resource Governance Institute (NRGI), ‘in countries like Iraq, Nigeria, Libya and Angola, the majority of total government revenues come from crude oil sales, and many of the trades are made with the UK, and other EU, US or Swiss companies’.⁸¹ As Fredrik Reinfeldt, the Chairman of the EITI, puts it:

In a number of developing countries, the revenues from trading far exceed the amounts received in development assistance and from the extractive industries. [...] If managed well, the trillions of dollars flowing from the traders to national governments can have a transformative impact. But if managed poorly, it can mean lost revenues for citizens.⁸²

However, as demonstrated in the next paragraph, while important steps have been taken towards improving transparency in the oil industry in general, trading activities have not been sufficiently addressed.

Transparency requirements for oil, gas, and mining companies

Most legislative efforts in the last ten years have been directed at promoting disclosure of the payments that oil, gas, and mining (extractive industry) companies make to governments. This has resulted in binding legislation in several countries:

- ❑ In the US, Section 1504 of the 2010 Dodd-Frank Act, also known as the Cardin-Lugar anti-corruption provision, requires extractive companies listed in the US to publish their payments to governments wherever they operate in the world.⁸³ While currently under attack in the US,^{vii} the Cardin-Lugar provision was introduced in 2010, and inspired the EU, Canada, and Norway to adopt matching laws.⁸⁴
- ❑ In June 2013, the EU passed Accounting Directive 2013/34/EU, requiring oil, mining and logging companies based or listed in the EU to publish their payments to governments. The Accounting Directive obliged all 28 EU Member States to introduce legislation that required disclosure of payments on a project-by-project basis in all countries.⁸⁵ All member states, including the Netherlands, European Economic Area members such as Norway, and former EU member the United Kingdom,⁸⁶ have translated this directive into national legislation, and reports on payments began to be published in 2015.
- ❑ Canada's Extractive Sector Transparency Measures Act was passed in December 2014 and has similar requirements to those in the EU/EEA/UK.⁸⁷

A centralised repository of reporting by these companies is maintained by NRGJ at www.resourceprojects.org.

vii The law has been under attack of the US Congress and a small number of big oil companies acting through the American Petroleum Institute, see: Global Witness (2017, January 30). *Revenue disclosure laws – Cardin-Lugar and the Global Transparency Standard*. Retrieved from <https://www.globalwitness.org/en/campaigns/oil-gas-and-mining/turn-towards-transparency/> on 7 October 2020. According to a recent analysis by Global Witness, the newest proposal of Section 1504 of the Dodd-Frank Act, published on 18 December 2019, contains many loopholes. It eliminates meaningful reporting at the level of individual projects, and as such, falls far below the global standard. See: Global Witness (2019, December 19). *Proposed US oil anti-corruption rule would fail to deter corruption*. Retrieved from <https://www.globalwitness.org/en/press-releases/proposed-us-oil-anti-corruption-rule-would-fail-deter-corruption/> on 28 March 2020.

An important limitation of this binding legislation, however, is that the existing provisions only apply to extraction, and not to trading activities. This means that a company like Vitol, mainly a trader but also involved in extraction, must disclose figures on its extractive activities, but does not have to share information on more significant money transfers made to governments in relation to trading activities.⁸⁸ The EU has also been reviewing its accounting and transparency directives throughout 2018. Civil society organisations have grasped this opportunity to advocate for including the trading of commodities, thereby obliging companies to disclose what they purchase from state-owned companies.⁸⁹ The outcome of these efforts is unclear because the EU accounting directive is still under review.

In 2016 at the London Anti-Corruption Summit, a number of countries did make encouraging commitments to 'enhance company disclosure regarding payments to government for the sale of oil, gas and minerals'. Among these countries were trading hubs where companies that purchase oil and gas from national oil companies are registered or listed. Key trading hubs included the Netherlands, Switzerland, and the United Kingdom, as well as the European Commission.⁹⁰ The most promising step to date has been taken by the Swiss parliament, which adopted a new law on 19 June 2020 requiring Swiss extractive companies to disclose the payments they make to governments around the world. Though this law, like transparency laws in other countries, only covers payments made for the right to explore for, and extract, oil, gas and minerals, it also includes a clause that enables the Swiss Federal Council to quickly include commodity trading related payments within its own upcoming extractives transparency law as part of an internationally agreed process where other major trading hubs make a similar move.⁹¹

While the binding legislation on payments to governments in the extractive industry still falls short when it comes to commodity trading, the voluntary EITI, launched in 2002 to promote open and accountable management of extractive resources (oil, gas, and mineral resources) has made some progress. The EITI has developed an EITI Global Standard⁹² which is being applied in 53 implementing countries. 52 companies from the extractive industries (oil, gas, and minerals) have joined EITI as 'supporting companies' and, as such, have agreed to disclose their payments to governments. EITI supporting companies are expected to publicly declare support for the EITI Principles, by publicly disclosing taxes, payments, and beneficial owners, and contributing financially to the initiative.⁹³ Vitol is not an EITI supporting company so has no disclosure expectation on its payments to governments for trading and other activities. Vitol's competitors such as Glencore, Gunvor and Trafigura are EITI supporting companies and do disclose payments made to EITI countries for the purchase of commodities.⁹⁴

While initially the focus of EITI was solely on payments and revenues regarding the extraction of oil, gas, and minerals – rather than the trading of these resources – EITI has, since 2013, added requirement 4.2, which specifically addresses commodity trading. This requirement was modified in 2019 as part of the 2019 EITI Standard revision.⁹⁵ As well as adding a requirement on governments and state-owned enterprises to report commodity sales (and a corresponding encouragement for buying companies to make similar disclosures), the EITI also assisted a number of countries, including Nigeria, to improve their reporting on commodity trading under the EITI framework. Additionally, the EITI formed a Working Group on Transparency in Commodity Trading, a multistakeholder platform, to develop a practical approach on how to improve transparency in commodity trading.⁹⁶

One of the deliverables of the Working Group has been a guidance document (Guidance Note 26) to inform implementation of reporting on commodity trading under the EITI framework. Vitol has been a member of this Working Group. Buying guidelines for companies are currently being finalised by the Working Group.

The EITI Standard also encourages disclosure on two other important aspects relating to corruption risks. The first is the requirement for implementing countries to disclose information on the buyer selection process (Requirement 4.2 b).⁹⁷ This will play an important part in improving transparency of contracts in the extractives sector. Risk of corruption in commodity trading is particularly high during the process of selecting the buyer (the trading company), and in the terms of the contract itself.⁹⁸ The EITI also encourages disclosure of the contracts signed and concessions awarded to the exploitation of natural resources (EITI Standard 2.4), though this does not (yet) include contracts relating to the sales of commodities by state-owned enterprises.⁹⁹ The second method of preventing corruption is the disclosure of beneficial ownership of companies. The use of legal structures like shell companies, trusts etc. to conceal the real beneficial owners of illegal assets is a recurring feature of financial crime and illicit business practices. Requirement 2.5 addresses this issue, and requires implementing countries to disclose beneficial ownership information as from 1 January 2020, with the limitation that it is only a requirement for exploration and production. This requirement is in line with similar binding regulation adopted in the EU regarding the disclosure of beneficial ownership of companies. The fifth EU Anti-Money Laundering Directive, which came into force on 9 July 2018, requests EU member states to disclose their national commercial registers by 10 January 2020, making it possible to obtain information on beneficial ownership of companies in all EU member states.¹⁰⁰

While the efforts of the EITI to promote transparency in commodity trading are significant, and could also help pave the way for provisions on trading activities to be included in the existing legislation, it is important to note that its voluntary character remains a limitation. Because of this, not all resource rich countries have become a member, limiting the reach of the EITI, and with some of the most opaque countries, such as Venezuela, Russia and Angola, choosing not to implement EITI. Furthermore, it remains difficult, even in member countries, to monitor the industry and effectively implement the EITI process, especially in those countries where state institutions are weak.¹⁰¹

Oil traders and due diligence for responsible business conduct

Much attention in the debate on regulating the oil (and other extractive commodities) trade has been on enhancing transparency to address the risks of corruption in the extractive sector. But oil traders might also become more directly associated with human rights abuses and environmental damage taking place in their supply chain during, for example, the transportation, storage, transforming and selling phases of their operations. Abuses and damage that can occur in all these phases include: unsafe road transportation; unfair labour standards; careless storage of products (causing surrounding land to be contaminated by oil); abuses by public/private security forces which infringe worker's rights; unsafe working conditions in the refineries; and forced resettlement of communities in order to build transforming facilities. Similarly, the selling of products where their improper transformation, or use, might contribute to serious health problems, could implicate

a commodity trader in adverse human rights impacts.¹⁰² Furthermore, oil traders might become associated with human rights abuses and environmental damage by trading oil extracted under problematic conditions.

The international normative framework, consisting of the United Nations Guiding Principles on Business and Human Rights (UNGP) and the OECD Guidelines on Multinational Enterprises (OECD Guidelines), requires all enterprises – regardless of their size, sector, operational context, ownership, and structure – to systematically assess the risks associated with their business operations from a human rights and environmental perspective.¹⁰³ Thus, UNGP 17 states 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.*¹⁰⁴

UNGP 17(a) clarifies a company's supply chain responsibility by stating that human rights due diligence: 'Should cover adverse human rights impacts that the business enterprise may cause or contribute to through its own activities, or which may be directly linked to its operations, products or services by its business relationships'.¹⁰⁵

The OECD Guidelines are aligned with the UNGP, but have a broader scope and also include aspects such as environmental impacts, bribery, and corruption, disclosure and consumer interests. The OECD Guidelines speak of due diligence for responsible business conduct, a process that involves six steps: embed responsible business conduct into policies and management systems (step 1); identify and assess adverse impacts (step 2); cease, prevent or mitigate adverse impacts (step 3); track implementation and results (step 4); communicate how these impacts are being addressed (step 5); and provide for, or cooperate in, remediation when appropriate (step 6).¹⁰⁶ Step 6 is important as it highlights that, while due diligence for responsible business conduct is preventative, it also includes addressing actual adverse impacts that a company might have caused or contributed to, by providing or cooperating with remediation. This aspect is also covered in the UNGP through UNGP 22, which states that where 'business enterprises identify that they have caused or contributed to adverse impacts, they should provide for or cooperate in their remediation through legitimate processes'.¹⁰⁷

UNGP 21 furthermore specifies that when business is conducted in high-risk environments such as fragile and conflict-affected settings, communication on how impacts are being addressed should be done formally:

*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.*¹⁰⁸

The commentary clarifying UNGP 21 explains what formal reporting means:

Formal reporting is itself evolving, from traditional annual reports and corporate responsibility/ sustainability reports, to include online updates and integrated financial and non-financial reports. Formal reporting by enterprises is expected where risks of several human rights impacts exist, whether this is due to the nature of the business operations or operating contexts. The reporting should cover topics and indicators concerning how enterprises identify and address adverse impacts on human rights. Independent verification of human rights reporting can strengthen its content and credibility. Sector-specific indicators can provide helpful additional detail.¹⁰⁹

What this means, when translated to oil traders' operations, is that these companies have a responsibility to, not only assess human rights and environmental risks during the transportation, storage, transforming and selling phases of their operations, but also assess the conditions under which the crude oil they trade was extracted and produced. Furthermore, given the high-risk nature of their business operations, and the environments in which they often operate, companies should formally communicate the risks they have identified, the measures being undertaken to cease, prevent or mitigate those risks, and the results of implementation of those measures. This can be done through traditional annual reports, corporate or sustainability reports, online updates and integrated financial and non-financial reports.

While the UNGP and OECD guidelines are not legally binding, there has, in recent years, been an important trend towards legally binding due diligence requirements worldwide. Several EU member states, the US and Australia have, for example, adopted legislation to regulate the sourcing of tin, tantalum, tungsten, and gold minerals from conflict-affected or high-risk areas around the world.^{viii} Similarly, the EU Timber Regulation requires traders placing timber orders in the EU market to exercise due diligence. In the Netherlands, a child labour due diligence law was adopted in May 2019, which requires companies to identify, prevent, and assess the issue of child labour in their supply chains. In France, the 'duty of vigilance law', adopted by parliament in 2017, mandates large French companies to publish and implement a vigilance plan to identify and prevent human rights risks related to their activities. In a wide range of EU member states, including the Netherlands, civil society organisations are now pushing for broad mandatory due diligence legislation.¹¹⁰ Such mandatory due diligence could help prevent adverse human rights impacts with regard to oil trading, and ensure that trading companies take their due diligence obligations seriously, and assess the human rights risks of their own activities as well as those of their suppliers of crude oil and other related products.

viii In the US the Congress passed the 'conflict-minerals' provision, Section 1502 of the Dodd Frank Act in 2010. This provision requires U.S. publicly-listed companies to assess whether their supply chains include tin, tungsten, tantalum and gold minerals that might originate in the DRC or neighbouring countries, take steps to address any risks identified, and to report their effort to the U.S. Securities and Exchange Commission (SEC). In the EU the European Commission adopted a regulation in June 2017 requiring companies importing tin, tantalum, tungsten and gold into the EU to carry out supply chain checks, regardless of where in the world they source from. These rules will become binding in 2021. See: Global Witness (2017, November 15). US Conflict Minerals Law. Section 1502 of U.S. Dodd Frank Act: the landmark US law requiring responsible minerals sourcing. Retrieved from <https://www.globalwitness.org/en/campaigns/conflict-minerals/dodd-frank-act-section-1502/> on 31 March 2020.

1.8 Vitol's due diligence for responsible business conduct

A first scan of Vitol's website provides relatively little insight into the policies and procedures that the company has in place to identify and address human rights and environmental risks in its operations. The website does share the company's Code of Conduct, in which Vitol explains how it behaves as an organisation, and how it expects its employees and suppliers to act. The Code of Conduct states that Vitol conducts its business in line with the ten principles of the UN Global Compact, but does not go into more detail. It also states that Vitol appreciates 'the risks involved in the energy and commodities sector' and takes its 'responsibility towards health, safety and the environment extremely seriously. Furthermore, we are aware that our actions could impact a broader stakeholder group, including the communities in which we operate and we seek to mitigate impact and risks where possible'.¹¹¹ Nevertheless, it does not provide details on the ways in which such risks are identified and mitigated and mostly includes statements about the standards to which the company has committed itself ('All asset based companies which are part of the Vitol Group have high international HSE [Health, Safety and Environment] standards and the appropriate HSE procedures and policies in place, and comply with relevant regulation').¹¹²

The company insists in its Code of Conduct that it is compliant with 'all applicable laws and regulations',¹¹³ and that it has 'rigorous anti-bribery policies and corruption policies and procedures in place, in accordance with all relevant legislation'.¹¹⁴ Vitol also states on its website that some entities within the company are subject to the UK Anti-Slavery Act, which obliges companies to set out the steps they have taken to ensure that modern slavery or human trafficking is not taking place within its business.^{ix} Vitol doesn't specify which particular entities it is referring to, but its anti-slavery policy states that the company conducts due diligence on all new suppliers and customers before entering into any transaction, including an online search to ensure they have never been convicted of offences relating to modern slavery.¹¹⁵

We could not find any information on Vitol's website as to how the company identifies, prevents, mitigates, and accounts for the ways it addresses adverse human rights and environmental impacts, and what, if any, due diligence policies and procedures it has in place for this purpose (UNGP 17). Given the absence of information on the website, we requested more information from Vitol through the company review process. Vitol responded that it 'does not make its policies public'¹¹⁶ but the company did supply more general information on its Compliance Programme, the primary programme through which it addresses the risks of being associated with human rights abuses and manages the risks of operating in fragile and conflict-affected areas. Furthermore, after completion of the company review process (April 2020), Vitol uploaded its Health, Safety, Environment, Human Rights and Communities (HSEC) Framework onto its website. The Framework sets out the company's beliefs and requirements on HSEC and provides details on the standards it expects from the companies in which it has a shareholding.¹¹⁷

ix The policy statement on modern slavery does not specify which ones. See: Vitol (2019). Modern slavery policy statement for financial year 2018/19. Retrieved from <https://3wy4t48t53n2zjure2oko7k3-wpengine.netdna-ssl.com/wp-content/uploads/2020/08/Modern-Slavery-Statement-201819.pdf> on 14 October 2020.

Compliance Programme

The Compliance Programme seems to have a strong focus on preventing corruption and bribery, both of which are considered to be major risks when doing business with PEPs and state-owned enterprises, especially in fragile and conflict-affected areas. These robust due diligence and anti-bribery procedures are also a requirement of the UK Bribery Act 2010 and the EU's 5th Anti-Money Laundering Directive that both apply to Vitol's activities.¹¹⁸ Concretely, the Compliance Programme deals with the risks related to PEPs by ensuring that their involvement in Vitol's counterparties are correctly identified. Vitol insists that, in this, it goes beyond the Joint Money Laundering Steering Group (JMLSG) Guidelines¹¹⁹ and requires 100 per cent identification of the beneficial ownership of counterparties. Specifically, in countries considered 'high risk', Vitol states that enhanced due diligence is applied, 'when appropriate, including the provision of personal information in relation to owners or offices of the company'.¹²⁰

HSEC risks are mostly addressed through Vitol's ongoing monitoring of these issues across the companies it is invested in. However, Vitol does not specify how this monitoring is done, whether through self-reporting or internal audits by the Compliance Department, and if internal audits are announced, or unannounced. In addition to this ongoing monitoring, Vitol employees are expected to raise any concerns on these issues to the Compliance Department or a member of senior management. To emphasise the importance the company attributes to these issues, Vitol states that the Compliance Department and the ESG Committee, both 'benefit from having senior management [...] demonstrating the importance that the company gives to such matters'.¹²¹

Communication about due diligence for responsible business conduct

With regard to its business operations in Nigeria, Vitol does not report formally on what human rights and environmental risks it has identified in that country or how it addresses any such risks. The answer to our question about human rights risks identified in Nigeria was generic:

*In respect of Nigeria, the risks will vary depending on the entity Vitol, or its relevant subsidiary, is interacting with. In relation to Vitol's dealings with PEPs and SOEs [state-owned enterprises], bribery and corruption are the primary risks and we have addressed how these are dealt with above [referring to the Compliance Programme]. If you wish to inquire about Vitol's management of other risks, please clarify which specific risks you would like to know more about.*¹²²

The answer is too general to give much insight into how Vitol has applied due diligence for responsible business conduct in Nigeria. Has it, for example, identified any concrete human rights and environmental risks? How does it monitor risks and communicate them publicly? While we appreciate Vitol's invitation to ask more questions, it is difficult to assess the extent to which the company has been applying due diligence for responsible business conduct in Nigeria, when the company does not publicly comment on this process. Vitol insists that, generally, its activities are governed by 'multiple rules and regulations and that it is accountable to relevant authorities in all jurisdictions in which it operates'.¹²³ However, it must be remembered that, in countries like Nigeria, fragile institutions and poor implementation of the law have been recurrent phenomena

(see next chapter for more substantiated arguments on this issue). The UNGP are explicit on dealing with business operations in these contexts and one of the foundational principles of the corporate responsibility to respect human rights is that it 'exists independently from States' abilities and/or willingness to fulfil their own human rights obligations, and does not diminish those obligations. And it exists over and above compliance with national laws and regulations protecting human rights'.¹²⁴ In some cases, being accountable to relevant authorities in the jurisdictions in which Vitol operates is not enough.

1.9 Conclusion

This chapter has described some of Vitol's main characteristics – ownership, structure, financiers, etc. – as well as how its business model is based on exploiting price differences between locations and markets, identifying opportunities for making profitable deals. The latter requires networking, knowing the right people and maintaining good relations, so as to be able to make the right deal at the right moment. This way of operating has led the company to grasp opportunities in countries either at war, or where conflict and fragility has affected the working of their institutions. The combination of profit maximisation and operating in complicated settings, has led Vitol to become associated with several controversies. Thus, in the last ten years, Vitol has been accused in the media of making risky deals with rebels, and being involved in corruption and tax avoidance schemes. While the list of controversies is long, only on one occasion, in the case of the UN Oil-for-Food scandal, did regulatory action against the company result in a fine. One investigation against the company, on alleged involvement in corruption in Brazil, is still ongoing.

Vitol is not a unique case in the oil trading business. Indeed, Vitol is only one of a larger group of oil traders accused of controversial practices. The high potential gains in the oil (and other extractives) sector, together with the opacity surrounding actual sales, and the players involved (state-owned enterprises, foreign public officials) create an explosive combination conducive for corruption. In recent years, there has been much emphasis on improving transparency in the extractives sector at large, including binding regulation requiring extracting companies to declare payments to governments. However, this binding regulation has, until now, focused solely on extraction and has not taken into account commodity sales. The EITI has begun to address transparency in commodity trading, but these efforts are recent and the voluntary nature of the initiative is a limitation.

In general, while the strong focus on improving transparency in the sector at large and in commodities trading in particular is important, it should not overshadow any awareness of the responsibilities that commodity traders have regarding the human rights and environmental risks associated with their business. The international normative framework on business and human rights clearly states that all companies should carry out due diligence for responsible business conduct. In working environments affected by fragility and conflict, the risk of becoming associated with adverse human rights and environmental impacts is even greater. Due diligence for responsible business conduct means identifying human rights and environmental risks in the supply chain, preventing and mitigating adverse impact, providing remediation when adverse impacts occur, and communicating in an accessible way about these impacts and the measures taken to address them.

From our review of the information Vitol shares on its website, in its annual reports and, following requests made through the company review, Vitol does not explicitly communicate on its due diligence for responsible business conduct, not in general and not on Nigeria specifically. The information that we received on Vitol's Compliance Programme suggests a strong focus on the risks associated with doing business with PEPs and state-owned enterprises. Furthermore, these risks seem to be understood primarily as potential damage for the company, instead of as potential damage for affected right-holders, a key element of due diligence for responsible business conduct. The next chapter argues that the Nigerian oil sector presents a number of risks for oil traders, beyond corruption and bribery (though these remain major risks), including human rights and environmental risks which require careful measures to prevent or mitigate them.

2 The Nigerian oil industry: a high-risk sector

The discovery, in 1956, of oil in commercial quantities in Oloibiri in the Delta State of Nigeria, marked a turning point in the nation's economy. Oil became the dominant economic activity, and overtook agriculture in foreign exchange earnings in subsequent decades.¹²⁵ Today, Nigeria, with the largest population in Africa (over 200 million people), is one of the biggest oil producers on the continent and the sixth largest oil producer in the world. According to a 2017 study, the country 'holds reserves of some 37 billion barrels of oil and produces around two million barrels per day. Earnings from oil constitute approximately 90 per cent of total foreign exchange earnings and over 70 per cent of government revenues'.¹²⁶ Nevertheless, like many countries that have hoped to turn oil wealth into broad and lasting social development, it has proven a massive challenge.¹²⁷ Indeed, on all key development indicators, Nigeria fares badly. Nigeria's Human Development Indicator (HDI) value for 2018 was 0.532, putting the country 157 out of 189 countries and territories. The life expectancy of a Nigerian, at birth, is 53.9 years, one of the lowest in the world.¹²⁸ According to a 2019 report, Nigeria also accounts for one in five out-of-school children globally, amounting to about 10.5 million children between the ages of five and 14 not in school.¹²⁹ In 2019, Nigeria also ranked 14th out of 178 countries in the Fund for Peace's Fragile States Index, because of concerns over internal conflicts and fragility.¹³⁰ The country is prone to religious violence and, since 2009, has witnessed the rise of Boko Haram jihadism, especially in north-eastern areas of the country.

Nowhere is 'the paradox of poverty in the midst of plenty'¹³¹ as visible as in the Niger Delta, the region that hosts Nigeria's oil and gas industry. The Niger Delta is richly endowed with natural resources, and yet, 'hopelessly poor'.¹³² The huge revenues generated by oil and gas have not found their way back into the region, which remains one of the least developed parts of the country. As a result, the region has experienced protracted violent conflicts for more than two decades.

Poor governance and the politics of oil wealth distribution are generally thought to be the causes of the very unequal distribution of wealth in the country. Thus, while the economy is expanding, the benefits of this expansion hardly reach the Nigerian people. Furthermore, this inequality is increasing. According to a recent study by Oxfam, 'in one day, the richest Nigerian man can earn from his wealth 8,000 times more than the poorest 10 per cent of Nigerians spend on average in one year for their basic consumption'.¹³³ Government behaviour contributing to this situation includes elite capture, cronyism, and favouritism. And a lack of transparency and accountability also helps pave the way for high levels of corruption. Politics are used to pursue individual and group interests, which may also include wealth redistribution to particular ethnic groups. This is partly a result of what prominent Nigerian scholar, Peter Ekeh, has called the distinction between the first (civic) and second (primordial) publics in the African context, a historical configuration with its roots in the experience of colonialism in Africa.¹³⁴ As a result, when a particular ethnic group comes to power, by allocating state resources to benefit its people, it is denying a share of these resources to other ethnicities. Oil plays a central role in these practices, as the quest for oil wealth is a driving force behind the attempts of the country's elites – both military and civilian – to capture political power at central

Map 1 Map of Nigeria



Image: Frans Schupp.

and state levels.* In this sense, oil has come to influence and shape the course and nature of politics, and development of the country.¹³⁵ This chapter elaborates on the political economy of oil in Nigeria, describing how the oil sector is organised, the main actors and institutions, the legal and regulatory framework ruling the sector, attempts to increase its transparency, and the endemic problems that affect the sector. The chapter discusses how the problem of so-called 'oil bunkering' or oil theft has plagued the Nigerian oil and gas sector for years, with many critics arguing that opaque and illicit trading arrangements, on a large and small scale, have led to the loss of billions of dollars in

x Ibaba, S.I., Ukaga, O., and Ukiwo, U.O. (2012). Introduction: Natural Resource, Conflict, and Sustainable Development in the Niger Delta. In: Ibaba, S.I., Ukabga, O., and Ukiwo, U.O. (eds.). *Natural Resources, Conflict, and Sustainable Development. Lessons from the Niger Delta* (pp. 1-21, here pp. 4-6). New York and London: Routledge. In its review of a draft of this report, NNPC refuted this point stating that: 'In awarding contracts relating to Nigerian crude oil, Gas and products, NNPC achieves compliance with laid down rules and procedures by regulatory authorities such as the Bureau of Public Procurement in a transparent manner, without regard to tribe or ethnic sentiments'. NNPC (2020, June 29). Company review, pp. 2.

revenues.^{xi} These contextual elements are important because they provide a clear argument for increased levels of transparency and accountability for any international actor – including oil traders like Vitol – operating in this sector.

2.1 Institutions and laws governing the oil sector in Nigeria

The Nigerian oil sector is divided into upstream, midstream, and downstream activities, all of which are made up of a mix of public and private actors. Upstream activities centre around production of crude oil and gas, and represent the highest source of income for the country. This sector is largely export-focused and strongly dominated by international oil companies.¹³⁶ The Nigerian state however, does have a participatory interest in most of the upstream activities, and is also a major player through its operating company, the Nigerian Petroleum Development Company (NPDC). There is also local participation in the marginal and independent fields managed by locally owned operators.^{xii} The midstream sector facilitates the relationship between upstream and downstream. Characteristically, it includes activities such as the processing, storage, and transportation of crude oil and gas through pipelines, barges, and oil tankers. Like all sectors, the midstream sector has a mixture of public and private actors but, in common with the downstream sector, it is increasingly dominated by indigenous players.¹³⁷ The downstream sector involves activities associated with refining crude oil and delivering the end products to consumers. This sector faces many problems and refining crude oil into much needed products is a challenge for Nigeria, despite the existence of four refineries with an output capacity of 445,000 barrels per day.¹³⁸ As a consequence, while Nigeria is one of the major oil producers on the African continent, it still has to import over 80 per cent of the refined products it consumes, from petrol to kerosene and fuel oil.¹³⁹

The Nigerian Constitution grants the government of the Federal Republic of Nigeria ownership over the country's mineral resources, including oil and gas, and confers it exclusive powers to make laws and regulations for the governance of the industry.¹⁴⁰ The Federal Government's Ministry of Petroleum Resources is responsible for implementing policies, as well as providing direction to other agencies operating in the oil and gas ecosystem. It also has the ability to award, renew, and revoke licenses.¹⁴¹ The role of the government as both regulator and participant in the oil industry is enacted through the country's national oil company, the NNPC (established in 1977), and the Department of Petroleum Resources (DPR).^{xiii} The NNPC supervises all operations in the upstream, midstream, and downstream sectors. It owns over a dozen subsidiaries which operate at all levels of the supply chain, from production to distribution. Any company wanting to produce, export, or import crude oil or petroleum products to and from Nigeria has to pass through the NNPC.¹⁴² The DPR is an arm of the Ministry of Petroleum Resources and is primarily responsible for ensuring compliance with established regulations in the industry, as well as enforcing environmental regulations, processing

xi In a policy brief titled 'Stemming the Increasing Cost of Oil Theft to Nigeria' NEITI stated that between 2009 and 2018 crude oil and refined products worth US\$ 42bn had been stolen from the country. See: NEITI (2019). News. NEITI: \$42B Lost to Crude Oil and Products Theft in Ten Years. Retrieved from <https://neiti.gov.ng/index.php/media-center/news/487-neiti-42b-lost-to-crude-oil-and-products-theft-in-ten-years> on 18 February 2020.

xii This is discussed more in detail in paragraph 2.2. and 2.6.

xiii See figure 3 for an overview of the formal institutions governing the sector.

Figure 2 Structure of oil industry operations

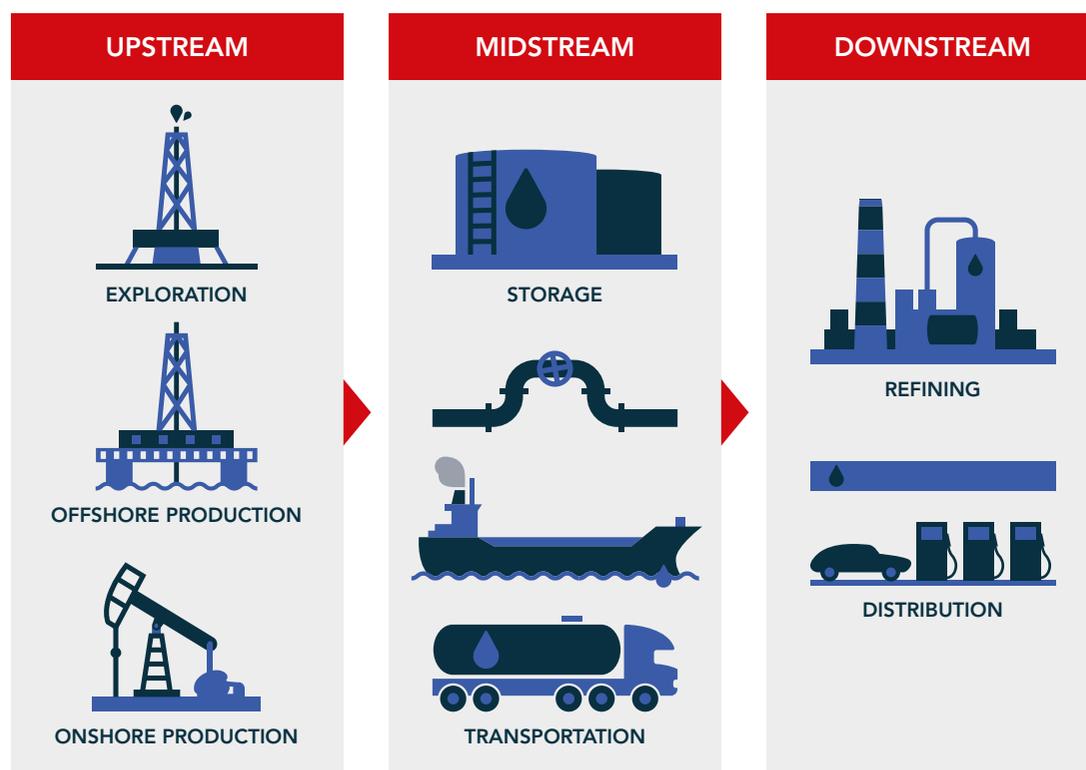
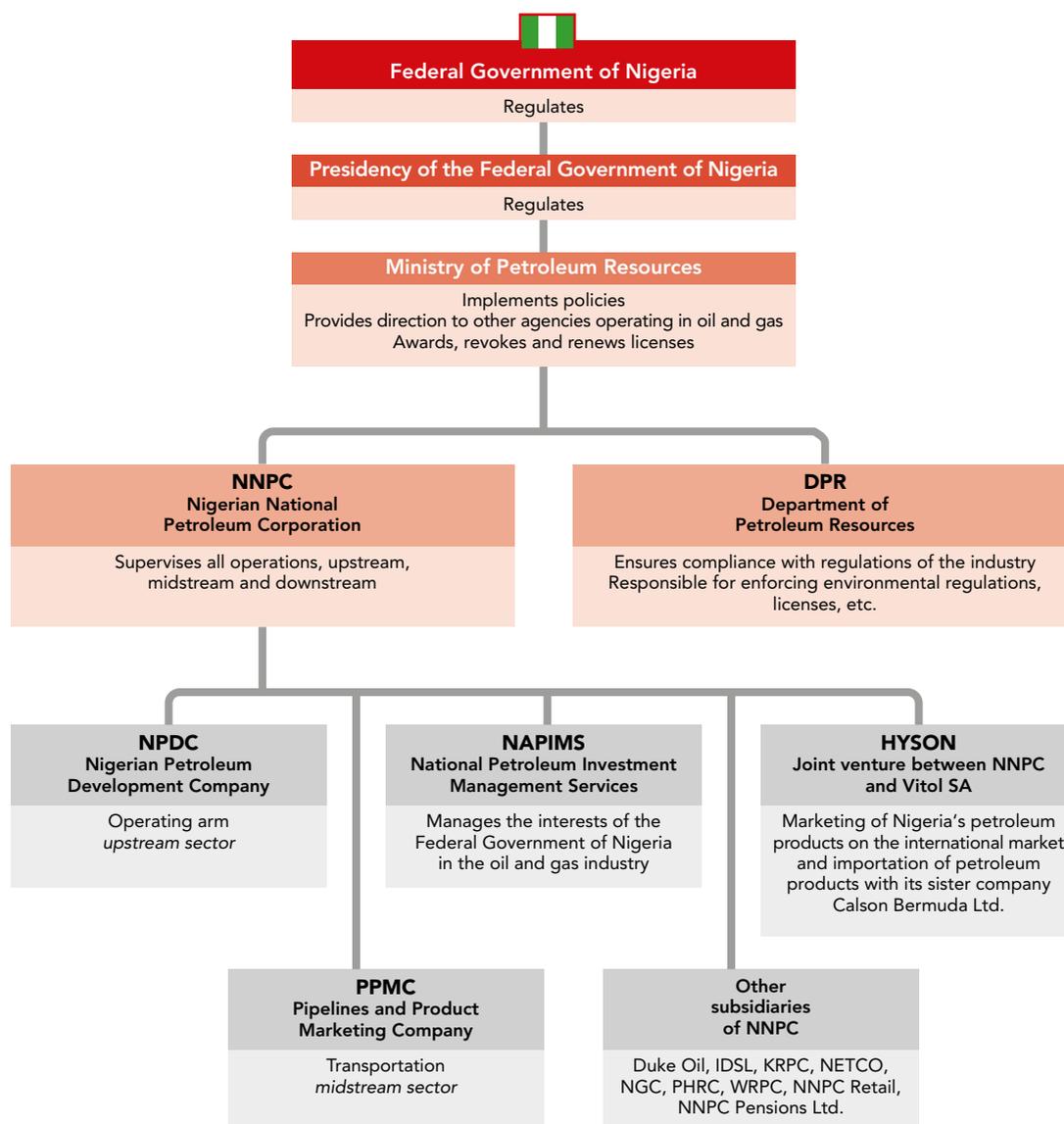


Image: Frans Schupp.

leases and licenses etc.¹⁴³ Leases and licenses grant companies the right to carry out exploration or production activities in specifically designated areas (commonly referred to as ‘blocks’). The Oil Prospecting License (OPL) grants exploration rights, and the Oil Mining Lease (OML) grants a company production rights. Companies can also obtain these rights by acquiring the interest of another company that already owns them. All awarded licenses and leases are disclosed in the DPR’s annual reports on the oil and gas industry.¹⁴⁴

A large number of acts regulate these institutions (see Table 2 for details). In April 2000, an omnibus law proposal known as the Petroleum Industry Bill (PIB) came into being, with the aim of harmonising all the legislation regulating the oil and gas industry, and significantly restructuring the industry. It was supposed to eliminate overlaps in the functions of the various regulatory agencies.¹⁴⁵ However, since its first development, the Bill has undergone numerous revisions and debates, and faced several obstacles, which have prevented its passage. In 2015, the Buhari administration proposed to pass the bill in four separate bills to expedite its passage: the Petroleum Industry Governance Bill (PIGB), the Fiscal Regime Bill, the Upstream and Midstream Administration Bill, and the Petroleum Host Communities Development Bill (PHCDB). Priority was given to the PIGB, which was finally passed at the Senate in May 2017 and by the House of Representatives on 15 January 2018.

Figure 3 Formal institutions governing the Nigerian oil sector^{xiv}



xiv This overview is not exhaustive, we have only included the institutions that are most relevant for this report.

Table 2 Acts regulating the oil industry in Nigeria^{xv}

Act	What is it about?
The Petroleum Act	Stipulates the processes for granting licenses to different players in the sector
The Petroleum Profits Tax Act	Provides frameworks for the government to generate revenues from the sector
The Deep Offshore and Inland Basin Production Sharing Contracts Act	Provides certain fiscal incentives to oil and gas companies operating in the Deep Offshore and Inland Basin areas under production sharing contracts
The Associated Gas (Reinjection) Act	Compels oil and gas producing companies to submit detailed plans showing how they will implement gas re-injection
The Nigerian National Petroleum Corporation Act	Establishes the NNPC as Nigeria's leading oil sector player and empowers it to participate directly in petroleum operations on behalf of the Nigerian people
The Environmental Impact Assessment (EIA) Act	Stipulates frameworks for assessing and mitigating the impact of hydrocarbon industry activities on the environment
The Federal Inland Revenue Service (FIRS) Establishment Act 2007	Empowers the agency to collect all taxes, royalty fees and fines due to the government, including penalties for gas flaring, etc.
The Education Tax Act	Stipulates an annual two per cent tax on assessable profits on oil and gas companies, targeted at the development of Nigeria's education sector
The Niger Delta Development Commission (NDDC) (Establishment) Act	Requires oil companies to pay a commission of three per cent of their annual budget to the NDDC for the development of the Niger Delta region
The Nigerian Oil and Gas Industry Content Development Act 2010	Establishes an agenda for promoting the participation of Nigerians in the oil and gas sector
The Nigerian Extractive Industries Transparency Initiative Act 2007	Establishes guidelines for the promotion of transparency and accountability in the oil and gas sector
The Oil Pipelines Act	Makes provisions for licences to be granted for the establishment and maintenance of pipelines incidental, and supplementary to, oilfields and oil mining, and for purposes ancillary to such pipelines
The Oil in Navigable Waters Act	Implements the terms of the International Convention for the Prevention of Pollution of the Sea by Oil, and makes provisions for such prevention in the navigable waters of Nigeria

xv It is important to note that this list is not complete, we have only highlighted the most relevant acts in the context of this report. Thus, the regulatory structure surrounding oil pollution is not highlighted here because it is beyond the remit of this report. The table is based on: Aye, I., et al. (2019, October). The Oil and Gas Law Review – Edition 7. Nigeria. *The Law Reviews*. Retrieved from <https://thelawreviews.co.uk/edition/the-oil-and-gas-law-review-edition-4/1140339/nigeria> on 6 December 2019; see also: International Centre for Nigerian Law (ICFNL). Oil Pipelines Act. Retrieved from <http://www.nigeria-law.org/Oil%20Pipelines%20Act.htm> on 6 December 2019 and ECOLEX (no date). *Oil in Navigable Waters Act*. Retrieved from <https://www.ecolex.org/details/legislation/oil-in-navigable-waters-act-lex-faoc018389/> on 6 December 2019.

But at the time of writing, the Bill is still waiting for presidential assent to be translated into an Act.¹⁴⁶ While the PIB should improve transparency and accountability in the sector, civil society organisations have highlighted its limitations and argue that there is still room for improvement. The PIGB has, for example, been criticised for providing insufficient protection of the environment in the Niger Delta, from the impact of oil production and transportation.¹⁴⁷ Likewise, the PHCDB, which addresses the relationship between oil companies and host communities, has also been criticised for containing a number of provisions detrimental to host communities.¹⁴⁸ The debate on what is needed to reform the sector is still ongoing.

In 2003, Nigeria signed up to the EITI, which led to the creation of the Nigeria Extractive Industries Transparency Initiative (NEITI). The NEITI Act, which enforced the implementation of the initiative in Nigeria, was enacted in May 2007, making Nigeria the first country in the EITI to implement such legislation. NEITI is now both an integral part of the EITI and a national agency established by law, monitored and supervised by the Office of the President of Nigeria.¹⁴⁹ The NEITI has been conducting oil and gas audit cycles covering the period 1999-2016, and the reports from these audits are available on its website. NEITI reports typically include detailed information on the sector, such as data on the NNPC's first trades,^{xvi} records of cargo-by-cargo lifting of crude oil, bills of loading dates and trading companies, etc. In 2019, as part of the implementation of Requirement 4.2. of the 2016 EITI Standard, the NEITI issued a report focusing on commodity trading, which disclosed information on the volumes traded and the revenues from sales of the state's share of oil, gas and other petroleum products in 2017.¹⁵⁰ While the NEITI reports have significantly contributed to improving the transparency of the sector, limitations still exist when it comes to trading data from companies. Such data is important to reconcile the records between the trading companies and the NNPC, but is not easy to obtain, as companies often fail to disclose this information. In the 2019 report on commodity trading, for example, 66 of the 73 companies selected for the reconciliation exercise, did not submit their reporting templates. According to NEITI, this shows a 'lack of involvement and collaboration of some reporting entities in the commodity trading data process'.¹⁵¹

2.2 Contractual arrangements governing the sector

Contracts are another important component ruling the sector. NRGJ has provided an extensive overview of the type of contractual arrangements that exist in the upstream sector, the midstream sector, and the downstream sector. The following paragraphs are based on this overview.

xvi EITI defines first trade in the following way: "First trade" describes a situation where a state (or a state-owned enterprise) sells its share of physical resources from its oil, gas and mining sector, usually to commodity trading companies'. EITI (2019, June). Transparency in the first trade, pp. 3. Retrieved from https://eiti.org/files/documents/eiti_commodity_trading_transparency_may2019_web_0.pdf on 11 October 2020.

Upstream sector

Contracts in the upstream sector cover important public issues such as government revenue (both in cash and oil), employment and business linkages, and environmental and social impacts. Each contract usually includes a wide range of annexes, amendments, and other associated documents. Contracts also detail how operations proceed within licenses and leases.¹⁵² Despite calls for disclosure, these contracts are not publicly available. Notably, many government officials and legislators are unable to access these contracts, even though they contain important information on the rules governing oil extraction, production, and trading. The lack of disclosure makes it difficult for government officials, legislators, and the wider public to determine whether a company is acting in compliance with its obligations. According to NRG: ‘given that petroleum resources are public assets, all citizens – both inside and outside the government – should be able to access the rules by which they are governed’.¹⁵³ It pleads for full disclosure of petroleum contracts in Nigeria, as in many other African countries.^{xvii}

Most of Nigeria’s oil is produced through joint operating agreements (JOA), unincorporated joint ventures agreed between NNPC and international oil companies. In the 1970s and 80s this field was dominated by Shell, Chevron, Mobil, Agip, Elf, and Texaco. Six JOAs were signed with these companies, covering multiple areas. Later, several JOA blocks were sold to indigenous (Nigerian owned), independent companies,^{xviii} as well as to the NNPCs’ operating arm, the NPDC. Now NNPC has JOA relations with over a dozen companies, covering about 60 blocks. Under each of the larger JOAs signed with international oil companies, the company generally acts as an operator, with the NNPC holding the majority participatory interest share (between 55 and 60 per cent). A subsidiary of the NNPC, the National Petroleum Investment Management Services (NAPIMS), manages this share. The international oil company and the NNPC fund operations jointly as per their interest share through annual cash calls, and the same ratio is used to share proceeds. The NNPCs’ share is remitted directly to Nigeria’s Federation Account, a central bank account. Over time, however the NNPC found it increasingly difficult to meet its cash call obligations – its share of operation costs – and was unable to make payments in the 1990s. This resulted in negotiations with operators and third-party financiers, which altered the proportion of petroleum the NNPC received, and created increasingly complex JOA agreements.¹⁵⁴

xvii Thus, according to NRG, ‘While contract secrecy may be common practice in Nigeria, industry practice in the rest of the world is changing. Over 40 countries have disclosed extractive industry contracts and 22 countries have laws requiring disclosure. Currently, 11 African countries disclose either petroleum or mining contracts, including the Democratic Republic of Congo, Ghana, Guinea, Liberia, Mozambique, São Tomé and Príncipe, Senegal, Mali and Mauritania’. See: Pitman, R. and Chinweze, A. (2018, March). *The Case for Publishing Petroleum Contracts in Nigeria*. Natural Resource Governance Institute (NRGI), pp. 5. Retrieved from: <https://resourcegovernance.org/sites/default/files/documents/the-case-for-publishing-petroleum-contracts-in-nigeria.pdf> on 12 December 2019.

xviii An independent oil and gas company focuses on one segment of the oil and gas industry. This as opposed to integrated companies, like the oil majors, which are involved in the entire value chain of the oil industry, including exploration and drilling, transportation via trucks, tankers or pipelines, refineries, and even gas and petrol stations. See: Chen, J. (2020, February 14). *Integrated Oil and Gas Company*. Retrieved from <https://www.investopedia.com/terms/i/integrated-oil-gas-company.asp> on 17 June 2020.

From the 1990s onwards, another type of contractual arrangement became more common in the upstream sector alongside the JOAs: the production sharing contracts (PSC). PSCs offer an alternative to the problematic cash call requirements of the JOAs. Under a PSC, the NNPC does not have a contractual financial obligation to aid exploration and exploitation of oil blocks. The full financial responsibility for the project lies with the contracting company.¹⁵⁵ NRG I describes PSCs as follows:

PSCs are used in over 70 blocks, which have been signed with IOCs [International Oil Companies] and independents, such as Addax, Shell, ExxonMobil, Total and Chevron, several national oil companies including CNODC, KNOC and Statoil, and a number of indigenous companies. Under the PSC arrangement, the contracted company does not own any petroleum until it is taken out of the ground. A royalty and certain taxes are then paid, after which the company is allowed to recoup certain costs in oil. The remaining production is then shared between the company and NNPC on the basis of an agreed production share.¹⁵⁶

Other contractual arrangements in the upstream sector include service contracts, sole risk contracts, and marginal field agreements. Under service contract arrangements, the contracted company doesn't own the oil produced, but instead is paid a fee (in cash or petroleum) by the government to operate the field on its behalf. In sole risk contracts, the company assumes all the risk of exploration and production, but keeps all of the oil produced for itself, and is responsible for making statutory payments in cash, including royalties and taxes, to the government. Marginal field agreements involve undeveloped fields owned by international oil companies. In a marginal field arrangement, the companies can surrender these marginal fields within their producing blocks to indigenous concession holders on a sole risk basis.^{xix}

Midstream and downstream sectors

The midstream and downstream sectors are concerned with the storage and transportation, marketing, distribution, and refining of petroleum. Contracts in these sectors explain the terms by which NNPC and its affiliates sell the petroleum they receive from their participation in the upstream sector. According to NRG I: 'the significance of these deals cannot be overstated: between 2004 and 2014, NNPC received between 41 and 53 per cent of total Nigerian crude and condensates produced each year, and revenue from these trades is usually the largest single source of government revenue'.¹⁵⁷ Crude oil sales in Nigeria can be divided into two types: 1) Export sales and 2) Domestic Crude Allocation (DCA):

xix Pitman, R. and Chinweze, A. (2018, March). The Case for Publishing Petroleum Contracts in Nigeria. Natural Resource Governance Institute (NRGI), pp. 8-9. The government of Nigeria introduced the concept of marginal field in 2001 to encourage the development of indigenous petroleum companies and promote their access to oil fields. See: Intergovernmental Forum on Mining, Minerals, Metals and Sustainable Development (IG) (2018). Nigeria: National Capacity. Retrieved from <https://www.iisd.org/sites/default/files/publications/case-study-nigeria-national-capacity.pdf> on 20 April 2020.

- ❑ **Export sales:** NNPC's Crude Oil Marketing Division (COMD) allocates most of Nigeria's crude oil for export.
- ❑ **Domestic Crude Allocation (DCA):** The oil not allocated for export – roughly 445,000 barrels per day (in 2013 this comprised 35 per cent of total NNPC sales) – is assigned to DCA. In theory, DCA is supposed to be sold on an inter-company basis to the Pipelines and Product Marketing Company (PPMC), NNPC's main downstream subsidiary. The PPMC is then supposed to process this oil in the country's four NNPC-owned domestic refineries. However, due to chronic financial and operational challenges in the domestic refineries, DCA crude oil ends up going in three different directions:
 - **Supply to refineries:** this is the oil that actually ends up in the refineries. In July 2017 it comprised 10 per cent of the DCA.
 - **Oil-for-refined product swaps:** according to NRG1 (2018): 'up to 50 per cent of the DCA is allocated to complex oil-for-product swaps between NNPC and (mostly) international trading companies'.¹⁵⁸
 - **Export sales of non-refined 'domestic crude':** the remaining crude is sold to some of its term customers, on terms similar to regular export sales.¹⁵⁹

The COMD structures the transactions described above, through a variety of contractual arrangements. While the COMD has executed one-off transactions for individual cargoes of crude, called 'spot sales',^{xx} most of the sales are governed by longer-term sales agreements, called 'term contracts'. Typically, these term contracts last one year, and COMD tends to award one batch of term contracts each year, though sometimes more. COMD also rolls over the prior year's contracts, extending them beyond the initial expiration date. Each month, NNPC divides its share of the available oil into cargoes and allocates these to the companies that hold the term contract; these companies then sell the oil on to other buyers. A typical cargo size is 950,000 barrels.¹⁶⁰ In November 2016, for example, COMD received 224 bids for contracts and, in January 2017, awarded 39 term contracts. Most of the contract holders were to receive approximately 32,000 barrels per day.¹⁶¹

COMD puts out a request for applications, usually in local newspapers, several months before it awards contracts. The newspaper advertisement lists some award criteria such as, for example, a minimum annual turnover, but these criteria are not always followed in bid evaluations. According to NRG1: 'overall, the term contract award process is more a discretionary selection than an open, competitive tender'.¹⁶² Most contract holders are international and national trading companies, with a few foreign governments. These trading companies buy the oil from NNPC but do not refine it themselves. Instead, they sell it, through intermediaries, to other companies, who refine it; this is a distinctive feature of Nigeria's oil industry. The group of trading companies holding contracts

xx In its review of this report, NNPC insisted that 'COMD does not award spot sales contracts for Crude oil. NNPC crude oil, gas and product contracts are based on Term Contracts'. See: NNPC (2020, June 29). Company review, pp. 3. Our information is based on the report of the NRG1 'Inside NNPC's Oil Sales'. When referring to these spot sales, the authors already mention in a footnote that 'NNPC has said publicly that it does not sell any oil through spot sales'. However, the authors also mention having reviewed internal NNPC oil sale records, and that this review found individual cargoes sold to companies not on the corporation's annual term contract lists. See: Sayne, A., Gillies, A., and Katsouris, C. (2015, August). Inside NNPC Oil Sales. A Case for Reform in Nigeria. Natural Resource Governance Institute, pp. 17. Retrieved from https://resourcegovernance.org/sites/default/files/NRGI_InsideNNPCoilSales_CompleteReport.pdf on 11 December 2019.

is diverse and includes international traders such as Vitol, Glencore, Trafigura, Arcadia, Mercuria, Addax and Gunvor, as well as experienced Nigerian trading companies such as Sahara and Taleveras, NNPC oil trading companies, and so-called 'briefcase companies'. Briefcase companies are a 'small entity that routinely re-sells the cargoes it gets to another intermediary, for example a larger, more experienced commodities trading firm, which then re-sells the cargo to a third party buyer'.¹⁶³ Briefcase companies are often inexperienced and lacking financial and commercial capacity. NRGI has analysed this phenomenon in Nigeria extensively and argues that these briefcase companies appear to be more politically motivated than commercially driven.¹⁶⁴

NRGI has been critical of how the NNPC organises its crude oil sales, and has repeatedly advocated for reform. It has criticised the system of selling oil to intermediaries who can earn significant margins, but add little or no value to NNPC, especially when the buyers are unqualified, such as the so-called briefcase companies.¹⁶⁵ Similarly, a Chatham House report of 2013 on oil theft in Nigeria, stated that the NNPC contract system 'attracts many shadowy middlemen and "politically exposed persons"'. This in turn, creates a crowded, confusing, high-risk marketplace'.¹⁶⁶ NRGI has also criticised the NNPC distinction between export sales and the DCA, which does not reflect practice. Thus, while DCA was designed to feed Nigeria's refineries, the NNPC exports three quarters of the oil allocated as domestic crude. According to NRGI, DCA has led to a 'growing complexity, with more oil and revenue flowing in more directions through higher numbers of non-transparent accounts and byzantine deals that few outside NNPC understand. These makeshift systems, the roots of which lie in NNPCs broader structural and financial difficulties are particularly prone to abuse'.¹⁶⁷ The NRGI pleads for eliminating DCA altogether, urges for more transparency, and has established a case for publishing petroleum contracts and reform of the NNPCs oil system in general.¹⁶⁸

2.3 A sector affected by corruption, elite capture, and identity politics

The NRGI is not the only institution pleading for reform. The NEITI has also been highlighting in reports for a long time, significant leakages in the sector, particularly with regard to transfers within government and relating to crude oil sales. The NEITI has advocated bold reforms to improve the accountability and transparency of the sector. While NEITI has been successful in some areas, its efforts to enhance transparency have met with strong resistance from key players in the industry.¹⁶⁹ Indeed, despite efforts to reform the sector, the Nigerian oil industry continues to be plagued by ineffectiveness and maladministration, with corruption a recurrent problem. Poor governance is not only a problem of the oil sector, but characterises the Nigerian federal public service at large. According to Transparency International's Corruption Perceptions Index (CPI), in 2019, Nigeria ranked 146 out of 198 countries and its public sector, with an overall score of 26 out of 100, is perceived as highly corrupt.^{xxi} As well as a lack of accountability and transparency, both

xxi Transparency International (2019). Corruption Perceptions Index. Retrieved from <https://www.transparency.org/en/cpi/2019> on 4 June 2020. Transparency International's CPI gives an indication of how experts and business executives perceive the public sector in a given country. The data are based on surveys and assessments of corruption.

conducive to corruption, the Nigerian civil service is also extremely politicised. Many top officials, and even junior employees, openly support different political parties and criticise public policies. The expression of religious, ethnic, and regional sentiments is not unusual in these politics. Senior officials are also often appointed on the basis of class affiliation, ethnic cleavages, religion, and inter-personal relations.¹⁷⁰

Oil theft

Because of the inefficiency, mismanagement, and corruption that affects the sector, Nigeria has no clear idea of how much crude oil it actually produces. This was made apparent and public in NEITI's maiden report, released in 2006, which covered the period 1999 to 2004.¹⁷¹ The report stated that Nigeria focuses on metering the quantity of crude oil exported through export terminals, and not what is extracted at different wellheads. This practice continues¹⁷², even when it is evident that major losses in the sector occur between the wellheads where the oil is extracted, and the terminals, where it is exported. These losses are put down to the activities of oil thieves. Evidence shows that, as early as 2009, the Norwegian government offered to help the Nigerian Ministry of Petroleum solve its metering problem.¹⁷³ Officially, the offer was never taken up and, according to some oil sector experts, it was even resisted, fuelling long held suspicions that oil theft may be the 'side business' of top-ranking state officials including those at the apex of the oil industry.¹⁷⁴

Oil theft has been a recurring problem in Nigeria, and continues to cost the public treasury huge financial resources that could otherwise be channelled into development efforts. The lack of metering not only means that Nigeria is left to guess the actual quantity of crude oil it produces, but also means that there is no way of knowing exactly what quantity of the product is stolen. According to Chatham House research:

*Nigerian crude oil is being stolen on an industrial scale. Some of this stolen oil – it is not entirely clear how much – is exported. Proceeds are then laundered through world financial centres and used to buy assets in Nigeria and abroad. In Nigeria, politicians, government security forces, militants, oil industry personnel, oil traders and community members benefit to varying degrees, along with organized criminal networks. The trade in stolen oil also supports the spread of other transnational organized crimes in the Gulf of Guinea.*¹⁷⁵

Oil is not only being stolen from pipelines, but also from tank farms, export terminals, refinery storage tanks, jetties, ports, and wellheads. The Chatham House report of 2013 revealed an ingenious architecture of oil theft made up of a partnership of international business concerns, money laundering through foreign banks, usage of ocean going vessels and the collaboration of public officials, military personnel, and top-ranking members of the government. Indeed, some industry experts and analysts hold the view that the 'business' of oil theft has become a well-organised international crime which requires the services of many other highly placed and influential collaborators to function as efficiently as it currently does.¹⁷⁶

Lack of refining capacity

The governance problems become visible in the refinement process of crude oil for domestic consumption. Nigeria has four refineries with a total installed refining capacity of 445,000 barrels a day. Unfortunately, all four refineries can only currently operate at about 14 per cent of their combined installed capacity.¹⁷⁷ This restriction creates the paradox for Nigeria of being a major oil producer forced to import most of the refined products it needs.¹⁷⁸ In 2014, Nigeria's former Minister of Petroleum, Diezani Alison-Madueke, explained that the country was in this situation because its refining facilities were in a state of deterioration, and had become so obsolete, that some broken parts could not be fixed because they could no longer be sourced in the market.¹⁷⁹ According to the Minister, the refineries had not been maintained for at least 20 years. Surprisingly, the NNPC itself later disclosed that, between 1998 and 2008, it had awarded huge contracts for Turn Around Maintenance (TAM) of the four refineries. An industry source cited in the newspaper *This Day*, however, stated that the last two comprehensive TAMs of the refineries were in 1995 and 2000. And, according to this source, 'what has happened over the years was that the authorities set up shell firms that win contracts for the repairs that were never carried out at the end of the day'.¹⁸⁰ The refusal of the NNPC to disclose the identities of the contractors and the firms that carried out the TAMs has stoked allegations of corruption among top industry officials.

Overly complex oil sales arrangements

Corruption continues to heavily affect the sector, and the NNPC has repeatedly been accused of both participating in, and facilitating, corruption. In its 2015 study on NNPC oil sales, NRGi stated that between 2010 and 2015, the management of NNPC's oil sales had worsened, becoming 'overly discretionary and complex, as political and patronage agendas surpassed the importance of maximising returns'.¹⁸¹ Several cases of corruption implicating the NNPC have been reported in the media over the years. In 2014, a huge controversy broke out when Mr Lamido Sanusi, the Governor of the Central Bank of Nigeria, presented a six-page memo to the then President Goodluck Jonathan. In the letter, Sanusi reported that, between January 2012 and July 2013, '76 per cent of the value of the oil lifted by the NNPC^{xii} had not been remitted to the government's central bank account, known as the Federation Account, "in gross violation of the law"'.¹⁸² In a statement to the Nigerian Senate, Sanusi detailed a number of mechanisms he held responsible for this situation, particularly the so-called Strategic Alliance Agreements (SAAs) that the NNPC's subsidiary, the NPDC, had entered into with a number of Nigerian companies. The SAAs were introduced in 2010 by the then Minister of Petroleum, Diezani Alison-Madueke, as a means to bring Nigerian

xxii In its feedback on this report NNPC questioned this number stating that: 'The government initiated forensic audit did not indict NNPC of this figure and NNPC also made public statements to address this allegation'. NNPC (2020, June 29). Company review, pp. 4.

private sector capital into the Nigerian oil industry.^{xxiii} Sanusi calculated that ‘the amount that had been “illegally and unconstitutionally withheld, diverted or spent by NNPC” was closer to US\$ 20 billion’.¹⁸³ Of this, Sanusi estimated that some US\$ 7bn of lost revenues were down to SAAs.

The SAAs are but one example of the complex and opaque constructions used by the NNPC that can easily lead to abuses. In his memo to parliament, Sanusi also criticised the oil-for-product swaps that the NNPC started using in 2010/11.¹⁸⁴ As discussed previously (paragraph 2.2), in oil-for-swap deals the NNPC allocated crude oil to other parties (mostly international and national traders) in exchange for imported fuel (kerosene, gasoline, etc.). This scheme, introduced under President Goodluck Jonathan (2010-2015), aimed to address the problem of fuel shortages and staggering debts to fuel importers, but became highly controversial. Under President Goodluck Jonathan, two types of oil-for-product swaps were used: the refined products exchange agreements (RPEA) and the offshore processing agreements (OPA). The OPAs, in particular, have been widely criticised. Since Nigeria has been unable to pay cash for fuel, the oil-for-swap deals have helped the NNPC to keep gasoline and kerosene flowing into the country, but they have absorbed huge amounts of the crude oil that Nigeria had to sell, resulting in less revenues to federal accounts. Additionally, the deals have been characterised by opacity and a lack of oversight. Some of these deals proved controversial because the contract winners lacked basic trading capabilities, as in the case of briefcase companies (see paragraph 2.2), and there are persistent, unanswered questions as to whether these companies have supplied enough products. Furthermore, according to NRGI, the contracts themselves, especially in the case of the OPAs, contained ‘provisions that lower the returns for Nigeria, as well as underspecified terms and undue complexity. They were not operated in accordance with their design, and failed to target the supply of the products needed most by Nigeria’.¹⁸⁵

Since 2016, the controversial OPAs have been replaced with a new type of swap: the direct sale of crude oil and direct purchase of products (DSDP). These have been designed to address flaws in the OPAs and appear to be based on more balanced contracts that are less conducive to abuse. However, some elements already problematic in OPAs, such as the lack of transparency regarding the bidding process and the continued use of intermediaries (the terms of the contract don’t require

xxiii The SAAs were introduced in 2010 by the then Minister of Petroleum Diezani Alison-Madueke as a means to bring Nigerian private sector capital into the Nigerian oil industry. Whereas before 2010 the NNPC operated individual oil fields in joint partnership with the subsidiary of an international oil company, after 2010 the NNPC retained 55 per cent of its ownership but assigned its financing and operating role to its subsidiary, the NPDC. However, ‘the NPDC lacked the in-house financial resources and technical expertise to fulfil its role, and therefore entered into SAAs with third parties, who, in theory, should be able to provide the requisite finance and operating experience. In return, the SAA partners were entitled to recoup their costs by selling a portion of the oil or gas they lifted. The remaining profits – after costs had been recouped – were then split between the SAA contractor and the NPDC. The SAAs were signed exclusively for fields in which international oil companies (notably Shell) had divested their 45 per cent interest to Nigerian oil companies; and the programme was justified on the basis of indigenizing production’. Sanusi criticised the SAAs arguing that the role of the NPDC was unclear. The NNPC subsidiary lacked a financial or operational role, so why was it even involved? His answer was that the NPDC was being used ‘for the purpose of acquiring assets belonging to the [Federal Republic of Nigeria] and transferring the income to private hands’. He argued that the SAAs were illegal and unconstitutional. It was not the first time that the SAAs were criticised, but the fact that the criticism came from a top banker gave it additional weight. See: Hildyard, N. (2018, October). The World Bank, red flags and the looting of Nigeria’s oil revenues. The IFC’s investment in Seven Energy: What would have been your call? The Corner House, Global Witness, Human & Environmental Development Agenda, Re:common, pp. 4-5. Retrieved from: <http://www.thecornerhouse.org.uk/resource/world-bank-red-flags-and-looting-nigerias-oil-revenues> on 12 December 2019.

the winners to refine the crude they receive, meaning that the deals are still open to traders without refining capacity) have not substantially changed. Allowing contract holders to trade the crude they receive is not in itself problematic, but it can become so, as NRG puts it, ‘when intermediaries are chosen for political or patronage reasons, as has been common in the past. The key is being clear about how allocation decisions are made’.¹⁸⁶ What remains problematic is the lack of explanation from the NNPC as to how it selects the contract winners from among over a hundred submissions usually received in each bidding round. Furthermore, NNPC does not publicly share information on whether the contract holders have supplied enough fuel, and the terms of DSDP contracts remain undisclosed. This has led one analyst to state that ‘NNPC and the DSDP contractors still control the flows of information and accountability around these large and valuable niche deals’.¹⁸⁷

2.4 Oil: a source of tensions and conflicts in the Niger Delta

The governance problems that affect institutions in the oil sector in Nigeria have everything to do with the tremendous wealth that comes with the oil industry. Ever since oil was discovered in commercial quantities in Nigeria, the country’s elite – both military and civilian – have struggled to capture political power at a central and state level so that, according to one observer, ‘they could have their share of the national cake’.¹⁸⁸ This situation has not only bred corruption, but also fuelled tensions in the country, especially in the Niger Delta. The military interventions that have been chronic in Nigeria between 1966 and 1999 were mainly aimed at strengthening control over oil revenues but were at the expense of the Niger Delta. Civilian governments that have acted in between various military governments have not been very different.^{xxiv}

Both military and civilian governments have tightened their control over oil revenues and, in doing so, have fuelled discontent in the region. While the conflict in the Niger Delta has a longer history of struggles of self-determination and local autonomy, going back to the time when Nigeria was still a British protectorate, these struggles became more intense in the 1960s when oil became the main source of revenue and export earnings. Both the military and the civilian governments gradually centralised control over oil. Particularly important in this context was the adoption in 1969 of the Petroleum Decree (now an Act of Parliament), enacted by the military regime of Yakubu Gowon, and through which the federal government took control of oil in the region. The Petroleum Act expropriated oil from the Niger Delta, by granting the Federal Minister of Petroleum ‘the sole right to grant oil mining leases to oil companies’.¹⁸⁹ This went against the will of the Niger Delta people who had hoped that the states in the region would own the oil within their territories. The grievances of the people were further inflamed by the Land Use Act (LUA) of 1979, which placed all land in the country under the control of the federal government. While some customary claims to community land are still recognised in the Act, the state government can acquire such land if it can argue that it is ‘in the public interest’. In practice, in the Niger Delta, the Act has led to a loss of power over oil-rich land for local people, and a loss of compensation for the trees, crops, or properties on those lands.¹⁹⁰

In addition to legal measures, the way in which successive governments have dealt with the derivation principle of revenue allocation has further deepened the feelings of exclusion, disposses-

xxiv For a chronological overview of the successive Nigerian governments since independence, see Annex 1.

sion, and disappointment that have dominated the region. In Nigeria, oil revenues from the Niger Delta are distributed through the 'derivation formula'.¹⁹¹ The derivation formula was created in the 1950s, in pre-independence Nigeria, in an attempt to convince northern Nigeria to join the confederation. The derivation formula, as established in the constitution at that time, returned 100 per cent of regional revenues to the north, west, and eastern regions. However, as oil became the economic mainstay in the late 1960s – displacing agriculture – the elites' interests shifted, and derivation was decreased to 50 per cent. This was later further decreased to 20 per cent, and then again to 1.5 per cent. After strong pressure from the Niger Delta state, the derivation increased to 13 per cent under the 1999 Constitution. Despite this, the Niger Delta states are not guaranteed to receive this percentage of accrued oil revenues, as there is no systematic monitoring of the derivation budget. According to Zalik (author of 'The Niger Delta: "Petro Violence" and "Partnership Development"'), this situation has contributed to 'popular resentment to derivation of oil industry profits', which 'has manifest itself in anger towards Nigerians from other parts of the country, particularly the ruling ethnic minorities: Yoruba (South-West), Hausa-Fulani (North) and Igbo (East)'.¹⁹² As we will see, international oil companies operating in the Niger Delta have also played their part in the conflicts surrounding oil production and oil revenues.

2.5 Oil production in the Niger Delta: human rights and environmental impacts

Since the discovery of oil, the Nigerian state has claimed control over the sector and the NNPC still holds the majority of shares in both onshore and offshore ventures. However, according to Zalik, operationally 'foreign companies have run the industry – Shell in particular – with the protection of the Nigerian military'.¹⁹³ Shell also has the longest standing presence in the country. Oil explorations started under British colonial rule. The history of oil exploration can be traced back to the first decade of the twentieth century, when the Nigerian Bitumen Corporation, a Nigerian subsidiary of a German company, began major exploratory work between 1907 and 1914. In 1914, however, the First World War forced the company to withdraw from Nigeria. After the end of the war, the company was not allowed to resume operations because the British colonial authorities gave preference to oil exploration by British companies.¹⁹⁴ In 1938, the Anglo-Dutch consortium Shell D'Arcy was awarded the sole concession rights covering the whole territory of Nigeria and started exploration activities. Later, in 1956, Shell-BP (before it became Shell in 1979) discovered oil in commercial quantities in Oloibiri in the Niger Delta, and began exporting in 1958.¹⁹⁵ This discovery soon attracted other foreign oil majors and by the early 1960s, all six oil majors – Shell, Mobil, Chevron, Elf, Agip, and Texaco – had a presence in the country and, by 1971, were all producing.¹⁹⁶

Environmental and human rights impacts of oil extraction

Given their dominance in oil production, much of the discontent in the Niger Delta has been directed at these international oil companies. According to Obi and Rustad, editors of the book *Oil and Insurgency in the Niger Delta: Managing the Complex Politics of Petro-Violence*, 'While the federal government is seen as neglecting and slowly "killing the goose with the golden eggs",

the oil MNCs [Multinational Companies] are seen as its partner and the visible and actual perpetrators of neglect and exploitation of the region's resources, and the pollution of its lands and waters'.¹⁹⁷ The Petroleum Act and the Land Use Act precluded the people in the Niger Delta from the oil industry and the right to decide about their lands. Exercising the Land Use Act, international oil companies could bypass communities and get oil and gas leases directly from the government. The Petroleum Act also failed to make sufficient provisions for the environment, with devastating impact.¹⁹⁸ Indeed, oil extraction in the Niger Delta has come at a high environmental and human cost, with recurrent oil spills dramatically polluting farmlands and fishing waters. Gas flaring has polluted oil creeks and produced acid rain. These different forms of oil contamination have caused a loss of habitat and biodiversity, and dramatically affected the health and livelihoods of local communities that have traditionally been highly dependent on fishing and farming.¹⁹⁹ Oil contamination has affected the farmland on which people grow their food, it has polluted the water they drink and fish in, and the air they breathe. Such changes have had complex health implications for those living near extraction sites; one report has described the situation as 'a silent health crisis'.²⁰⁰

Oil-related conflicts and repression

Adverse environmental and human rights impacts caused by oil extraction in the Niger Delta have resulted in oil-related conflicts from the 1970s onwards, between the oil producing communities and the international oil companies. Particularly well known internationally has been the struggle of the Ogoni people – one of the smallest ethnic groups in the Niger Delta – against Shell during the 1980s and 1990s. Represented by the Movement for the Survival of Ogoni People (MOSOP) they demanded local autonomy, the right to control Ogoni resources (oil), and compensation for oil pollution and the exploitation of oil. In 1990, they presented their claims to the Federal Government in the Ogoni Bill of Rights and, when the government failed to respond, mounted an international campaign which targeted Shell as the largest and oldest operator in the country. The combination of peaceful local protest and global campaigning placed the Nigerian Government and Shell under tremendous pressure for their human rights abuses, pollution, and exploitation. Shell was eventually forced to stop its operations in Ogoniland.²⁰¹

The struggle of the Ogoni people became particularly famous in the 1990s because of the heavy repression they experienced, repression which revealed how far the Nigerian Government was prepared to go to defend its own interests and those of the international oil companies: Ogoni activists were systematically persecuted; Ogoni villages suffered military raids; suspected MOSOP members and sympathisers were arrested. This repression culminated in the execution, by the military regime, of the 'Ogoni nine', which included writer and Ogoni ethnic minority rights activist, Ken Saro Wiwa, who had been coordinating the international campaign against Shell. The execution of the 'Ogoni nine' in a Port Harcourt prison on 10 November 1995 was followed by a wave of state terror against Ogoniland, with the aim of crushing any further MOSOP protest.²⁰² These violent tactics, however, only made the civilian protests more violent as well. Youth movements, especially from the Ijaw ethnic minority, challenged both the state and oil companies about social accountability and environmental damages. Violent standoffs against these companies, especially Shell and Chevron, took place throughout the Niger Delta and, in December 1998, the Ijaw youth movement issued the Kaiama Declaration, urging the oil companies to leave Ijaw territory unless they, and the

Nigerian state, met the demands for compensation and derivation. The Government responded with a state of emergency and by killing numerous protestors. Oil installations were placed under military guard and Ijawland suffered heavy repression. Houses were burnt and many people were injured, displaced, arrested, and threatened. The protection of oil installations by the military, demonstrated the direct relationship between oil industry practices and inter-community conflicts. An internal Shell report leaked in 2004, further confirmed this relationship, describing how 'Shell companies in Nigeria contribute to violence through an overlapping web of relations between its own staff, contractors, community members and government agents'.²⁰³

Current situation: no significant changes

Responding to criticism, international oil companies in Nigeria have tried to improve their image. Shell, for instance, has highlighted its engagement in social welfare activities in the Delta since the 1950s through school scholarships and an agricultural extension programme. In the 1990s, Shell shifted to a community development approach, which they presented as a move towards participatory, non-hierarchical development and empowerment. However, through successive community development models, including the contemporary GMoU model, the international oil companies have actively promoted a shift from grievances directed at the international oil companies, to directing attention toward 'internal conflicts'. As one of the civil society organisations that received funding from Shell for conflict resolution, explained: 'our project is to assist the communities to shift their focus away from Shell and external problems and to look inwards, to their own internal conflicts'.²⁰⁴ This approach has succeeded, not just for Shell but for other international companies like Chevron. By shifting attention away from the behaviours of these companies to the difficult working environment of the Niger Delta, both Shell and Chevron have seen their image improve significantly since the 1990s. Oil companies in the Niger Delta have even received awards for their corporate social responsibility and environmental practice.²⁰⁵

The improved image of the oil majors in the Niger Delta does not, however, mean that the socio-environmental context of violence surrounding the oil operations has significantly changed. The impacts of environmental degradation and the loss of livelihood continue to affect the lives of local communities. A 2019 report by the Bayelsa State Oil & Environmental Commission documented the ways in which the people of Bayelsa State in the Niger Delta suffer from oil pollution. In the report's introduction, the authors point out that the 'cost in terms of environmental degradation and human suffering has been vast. And it is rising every day'.²⁰⁶ Recent years have also seen the spreading of illegal 'artisanal' refineries that depend on stolen oil and are extremely damaging for the environment. Adding to the existing pollution resulting from the recklessness of the oil majors, the crude technology applied in these artisanal refineries, and their unregulated character, pose a huge threat to the living environment and to the health and safety of the people living close to them.²⁰⁷ Amongst those working at the illegal refineries are large groups of unemployed youths, as well as demobilised Niger Delta insurgents. For both these groups, the illegal bunkering activities provide an alternative livelihood, now traditional activities such as fishing and agriculture have been destroyed after decades of pollution by the oil industry of land and water.²⁰⁸ While the human and environmental costs of oil production in the Niger Delta are high, it is very difficult for affected individuals and communities to get redress for their suffering. According to the Bayelsa State Oil

& Environmental Commission report: 'the oil companies have not done enough to put right the damage that has been caused and the cost and process involved have prevented communities from pursuing legal action'.²⁰⁹ The environmental degradation and human suffering in the oil producing communities of the Niger Delta continues unabatedly and should be a matter of concern for any company buying oil produced in the Niger Delta.

2.6 Changes in the Nigerian oil industry: new actors and red flags

Globally, Vitol and its competitors stepped into the trading business during the 1960s and 1970s, at a time when the major oil producers that controlled long-term contracts began breaking apart. This break-up occurred as a consequence of oil-producing countries joining the Organization of the Petroleum Exporting Countries (OPEC). OPEC, created in 1960 in Baghdad, encouraged nationalisation which significantly restructured the oil industry worldwide and allowed the oil-producing countries to end the system of concessions that had permitted the seven Anglo-American oil-producing companies to dominate the market.^{xxv} Previously, these companies owned not only the oil reserves discovered in their concession areas, but also the production plants, the pipelines, and the tanker fleets, as well as the refineries and the networks of petrol stations. This changed, however, when countries began nationalising their concessions and establishing national oil companies to promote indigenisation of the petroleum sector. The OPEC countries became key players in the oil trade, particularly in the aftermath of the 1973 oil embargo.²¹⁰ The collapse of the virtual monopoly of the integrated companies created space for oil traders to step in and secure favourable deals with the state-controlled oil companies in the OPEC countries. These companies, usually without distribution channels of their own, sold their oil to large companies, independent refiners or traders, who in turn would sell it on to smaller companies and independent refineries.²¹¹

In Nigeria, however, joining OPEC did not end the dominance of the international oil companies in the upstream and downstream sectors. Nigeria joined OPEC in 1971, following the civil war. The NNPC's predecessor, the Nigerian National Oil Corporation (NNOC), was created that same year to promote Nigeria's indigenisation policy in the petroleum sector. The lack of adequate technology and capacity, however, obliged the NNOC to enter into joint ventures with international oil exploration and production companies, allowing the dominance of international oil companies in the Nigerian oil industry to continue, especially in the upstream and downstream sectors. The replacement of the NNOC by the NNPC in 1977 did not substantially change the situation because there was still inadequate local capacity and technology available to operate the fields. It was not until the late 1990s, as a result of the government's proactive indigenisation measures and readiness to grant licenses to newcomers, that the upstream sector was opened up to indigenous private companies. Even then, the rise of indigenous oil companies did not threaten the dominance of the international oil companies because the indigenous companies lacked the technical and financial capabilities to conduct operations. As a result, Nigerian companies partnered with small, foreign, independent oil companies that had more technical capacity. These partnerships increased the penetration of foreign companies into the Nigerian market as opposed to the hoped for

xxv Jersey (now Exxon), Soconoy-Vacuum (Mobil), Standard of California (Chevron), Texaco, Gulf, Royal Dutch Shell and British Petroleum, also referred to as the 'Seven Sisters'.

indigenisation. The slow progress on indigenisation led to the passing of the Nigerian Oil and Gas Industry Content Development Act 2010, also known as Nigeria's local content law.²¹² The law put pressure on international oil companies to do business with Nigerian firms.²¹³

Oil majors divest from Niger Delta assets

Since the turn of the millennium, the group of companies involved in the Nigerian oil industry has become more diverse and now includes both indigenous companies – especially in the upstream sector- and international oil traders, in the mid- and downstream sectors. An important development in this context has been the divestment of international companies from some onshore (including shallow waters offshore) assets in the Niger Delta. The divestment of oil majors such as Shell, Eni, and Total from onshore assets started at the end of the first decade of the 2000s, when a combination of production, financial, and sociopolitical factors made the onshore fields in the Niger Delta less attractive to multinational oil companies.²¹⁴ Oil analysts have cited security concerns, including the problem of oil theft and pipeline vandalism, which have caused financial losses, along with long delays and uncertainty over the passing of the PIB, as reasons for the divestment. Other reasons include portfolio diversification, moving to more lucrative regions, and increasing offshore investment portfolios.²¹⁵ Crude oil fields in Nigeria are generally classified into either onshore or offshore fields. Onshore fields are located on land and in shallow waters less than approximately 100 metres deep, which are mainly mangrove swamps. While crude oil production in Nigeria started onshore, offshore oil production has steadily increased from the late 1970s onwards, going from approximately 25 per cent of the total oil production in the 1970s to approximately 75 per cent in the 2000s. The divestment of oil majors from onshore oil field assets to invest into offshore fields projects is part of this development.²¹⁶

The fields from which the international oil companies have divested have been acquired by independent oil companies, many of them Nigerian. Former Minister of Petroleum Resources, Mrs Diezani Alison-Madueke, has presented the wave of divestments as an (unexpected) success of the previous government's local content policy in the upstream sector.²¹⁷ However, there is also reason for concern. Overall, most of the assets sold since the end of the 2000s were mature onshore assets in the Niger Delta region. Much of the onshore field infrastructure, such as the pipeline and flowline networks, were installed in the late 1950s and 1960s. These facilities are becoming old and, in some cases, in need of an upgrade or change-out. To do this, however, requires both capital and technology unavailable to the local or small independent companies that acquired them, which are not as financially robust as the international oil companies. They may also not have as significant a corporate environmental reputation to uphold as the oil majors.²¹⁸ This combination increases concerns for how they might handle environmental risks arising from obsolete infrastructure.

These environmental concerns only grow as the Nigerian onshore oilfields start to show signs of decreasing production. This might indicate a new phase in the petroleum business cycle – decommissioning and abandonment – which occurs when a field becomes unprofitable for

production. The responsible decommissioning^{xxvi} of oil fields is a costly endeavour, and there is a real risk that the small independent companies, lacking sufficient resources, will choose to abandon the fields without proper decommissioning. Such actions could cause serious environmental degradation. This risk is even bigger in Nigeria where there has been limited efforts to develop a sustainable decommissioning policy framework for the onshore fields in the country. The government does not break down its crude oil production into onshore and offshore production. Therefore, the decline in crude oil production is not apparent to the public, which might explain why there has been limited effort to develop a policy framework.²¹⁹ The selling-off of Niger Delta assets by the oil majors to less well-known international and Nigerian companies, a process that has accelerated in recent years, is also significant as it effectively allows oil majors to disengage from their responsibility for clean-up and for remediation of decades of toxic pollution and sticky conflicts with communities.^{xxvii}

Oil majors pull out of the downstream sector

Parallel to divestment from onshore facilities in the upstream sector, oil majors have also started to pull out of the downstream sector, selling off their downstream facilities, not only in Nigeria but also in the rest of West Africa. Exxon Mobil was the first to pull out of the downstream sector in West Africa in 2008, closely followed the same year by Chevron. In 2010, Shell and BP sold most of their Sub-Saharan networks. Total remained an exception, increasing its retail assets rather than selling them. In 2005, Total bought ExxonMobil's network of petrol stations in 14 African countries. Pulling out of the downstream sector was part of a restructuring of the business, as oil majors divested themselves of activities such as the downstream facilities which yielded lower margins and chose instead to focus on their core business of exploration and production.²²⁰ The withdrawal of the oil majors, however, has in the words of PFC Energy, a leading provider of oil and gas information, 'permitted smaller, opportunistic and aggressive operators to penetrate the downstream sector or consolidate their existing operations'.²²¹ Indeed, as happened when oil majors divested from some of their onshore oil facilities in the Niger Delta, the selling off of downstream facilities also created opportunities for other, less publicly known companies to enter into the Nigerian downstream sector.

Several international trading companies, including Vitol, were amongst those acquiring networks of petrol stations and storage facilities sold by the oil majors. Swiss commodity trader, Trafigura, bought the assets from BP through its downstream arm, Puma Energy, which is also building new petrol stations. Vivo Energy, a consortium composed of Vitol and African-focused private equity group Helios Investments Partners, bought Shell's assets. In the same period, other Swiss traders, Addax and Oryx Group, also expanded their retail networks in several countries. Public Eye explains the shift in strategy by stating that the operating landscape has significantly changed for oil traders, obliging them to reassess their strategy. They quote Vitol's former CEO, Ian Taylor, who explained

xxvi Decommissioning refers to the 'dismantling, decontamination, and removal of process equipment and facility structures at the end of a field's economic life'. While the terms abandonment and dismantling are often used interchangeably, 'industry operators prefer to use decommissioning, which does not connote voluntary relinquishment in the way abandonment does'. See: Aferoho, E-O U. et.al. (2017). From declared asset retirement obligations to a decommissioning cost estimate for onshore crude oil fields in Nigeria. *Journal of Environmental Management*, 204, pp.207-220, here pp. 208.

xxvii We would like to thank one of our reviewers for pointing this out to us.

the trend was caused by shrinking margins: 'I do expect to see a continuation of trading companies buying select assets to try to increase their optimisation possibilities'.²²² According to Public Eye, taking over downstream assets is part of a broader development that started in the 2000s, and in which trading companies have been 'expanding along the supply chain, purchasing physical assets, such as oilfields, storage tanks and refineries'.²²³ The acquisition of petrol stations is part of that same phenomenon, and has permitted some of these oil traders to control the entire supply chain.

These developments are important when considering the due diligence responsibilities for responsible business conduct of these oil traders, including Vitol. Like the upstream sector, the downstream sector presents a number of environmental and human rights risks, such as inadequate working conditions at the petrol stations, the hiring of security companies with a track record of human rights abuses to protect a storage facility, problems with the storage of products which might lead to contamination, or selling products whose improper transformation can contribute to health related harms to people. The latter is particularly a matter of concern in Nigeria, as research has shown that weak fuel standards in African countries, such as Nigeria, have facilitated the production, delivery, and sale of diesel and gasoline containing high levels of sulphur damaging for people's health. While some of these findings were shared by Public Eye as early as 2016, a recent report (2020) by the Stakeholders Democracy Network (SDN) shows that high levels of sulphur concentration in the fuel sold at both official, and unofficial, fuel supplies are still a matter of concern, at least in the Niger Delta. The report states that:

levels recorded at in official fuels are significantly above the maximum levels of sulphur that vehicle emission reduction technologies can function at. Therefore, even the latest vehicles are likely to be very high emitters of pollutants as a result of the fuel they are consuming [...] For official fuel, this seems to substantiate allegations from a Public Eye investigation in 2016²²⁴ and a Dutch Government report in 2018²²⁵, that international refineries and commodity brokers are selling dirty fuel containing very high levels of sulphur into unregulated West African markets causing significant particulate pollution, infrastructure damage, and adverse health impacts for local populations.^{xxviii}

Oil traders that have become increasingly involved in the downstream sector in Nigeria should include the risks related to the poor quality of the fuel sold at Nigerian petrol stations in their human rights impact assessment and mitigation plans.

xxviii SDN (2020). Dirty fuel. An analysis of official and unofficial petroleum products in the Niger Delta. Retrieved from <https://www.stakeholderdemocracy.org/wp-content/uploads/2020/05/Dirty-fuel.-Report.-2020-DIGITAL.pdf> on 11 June 2020. The research compared 'differences in the standards of, and emissions from, official fuels [gasoline, diesel and kerosene] in licenced filling stations, and unofficial fuels produced by artisanal oil refineries across Bayelsa and Rivers states' (pp. 3). Samples of official fuels were collected in Lagos as control samples. The research found very high levels of sulphur concentrations across both unofficial and official fuel supplies in the Niger Delta. The samples analysed 'suggest a low standard of fuel is on offer in the Niger Delta, likely leading to high levels of emission, serious health impacts, and increased vehicle and generator maintenance costs to consumers', pp. 3. Surprisingly, 'official fuels collected in Lagos had the highest sulphur content, while unofficial fuels in the Niger Delta had the least. Additional research is needed to understand why official Niger Delta samples had a lower sulphur content than Lagos – it could be a result of higher quality imports or due to blending with lower sulphur unofficial products' (pp. 5).

2.7 Conclusion

This chapter has described in detail why the Nigerian oil industry is a high-risk sector; this is the context in which Vitol has been actively involved since the 1990s. In Nigeria, oil is the dominant economic activity, with earnings from the oil industry constituting over 70 per cent of the government's revenues. These oil revenues have, however, not improved wealth distribution in the country, which fares badly on all development indicators. Poor governance in the oil industry and the politics of oil wealth distribution are key drivers behind this situation. Ever since oil was discovered in commercial quantities in the Niger Delta, political and military elites have been struggling to capture sufficient political power, at central and state levels, to control the oil industry and its revenues. Much of this elite capture has occurred along identity lines that only fuels conflict. Military interventions were specifically aimed at strengthening control over oil revenues, at the expense of the Niger Delta States, where most of Nigeria's crude oil is extracted. The Nigerian military have also played a key role in protecting the operations of a handful of international oil companies that have come to dominate oil production in the Niger Delta since the 1960s. Oil extraction in the Niger Delta has come at a high human and environmental cost, dramatically affecting the living environment and livelihoods of local communities. The pollution of the region's land and waters has led to a series of oil-related conflicts between the international oil companies held responsible for the damage, and the oil-producing communities.

Even though, since the 1990s, the oil majors have successfully managed to improve their image by redirecting attention towards internal conflicts within the community rather than to their own responsibility in these conflicts, the socio-economic context and the violence surrounding oil extraction in the Niger Delta has not substantially changed. Additionally, the divestment of these oil majors from some onshore assets in the Niger Delta, could be seen as a way for these companies to get out of sticky conflicts with host communities and leave the area before paying for the high costs of decommissioning the oil facilities, now that some of these fields show signs of decreasing oil production. That these assets have been bought by smaller independent companies, which often lack the capacity and financial means to deal effectively with the upgrade or change-out that some of this obsolete infrastructure needs, raises new concerns regarding human rights and environmental impacts. The move from oil majors to smaller operating firms has also created space for oil traders to move further into the supply chain, dabbling in extraction by establishing partnerships with the new operators, and into the downstream by buying petrol stations and storage facilities being sold off by the oil majors.

These developments have implications for oil traders' responsible business conduct due diligence policy and practice, as both the upstream and downstream sectors present specific human rights and environmental risks. In the upstream sector, human rights and environmental risks for oil traders operating in Nigeria arise from buying or selling oil that has been historically produced in heavily contaminating circumstances, which have affected people's health and livelihoods, and caused high levels of company-community conflicts as well as intra-community conflicts and violence. Historical grievances remain without redress as the oil companies have failed to address these effectively, and because individuals and communities have little access to justice due to the high costs involved in pursuing legal action. The downstream sector presents risks related to the quality of fuel being sold at the pump; poor quality fuel can dramatically affect people's health and pollute the environment.

Additionally, the Nigerian oil industry presents enhanced risks for oil traders of becoming complicit with fraud and corruption. This chapter described how the Nigerian oil sector has been significantly affected by mismanagement and inefficiency, with the NNPC at the centre of several allegations of clientelism and corruption. The way the NNPC has organised its oil sales is particularly complex. This, combined with a general lack of transparency and oversight in the sector, has been conducive to fraud. Nigerian and international oil traders play a prominent role in Nigerian oil sales; NNPC sells most of its oil through these intermediaries. The heavy reliance on intermediaries has proven to be problematic in the past. The deals themselves are overly complex and not transparent. The NNPC does not provide information on how it has selected the contract holders for longer term contract agreements and the terms of the contract are not disclosed either. This increases the risk of fraudulent and clientelist practices. Indeed, this has happened in the past, as several contract winners lacked basic trading capabilities and appeared to be more politically motivated than commercially driven. More generally, the way the sales system is organised, combined with a badly managed NNPC, should be a red flag for international oil traders buying and selling Nigeria's crude oil.

Overall, operating in the Nigerian oil industry presents a number of environmental, human rights, and corruption risks that, according to the international normative framework, need to be identified, prevented or mitigated, and accounted for:

- ❑ Oil traders can become connected to human rights and environmental impacts associated with their business relationships, for example through buying and selling oil that involves adverse human rights and environmental impacts at the point of production or during transportation. In Nigeria, oil extraction takes place at a high environmental and human cost and there are no signs of substantial improvement in this respect.
- ❑ Oil traders can become connected to adverse environmental and human rights impacts in the downstream sector as well. In Nigeria, several reports have shown that official fuels sold in licensed filling stations are of insufficient quality, and contain high levels of sulphur damaging to individuals and the environment. International oil traders involved in the downstream sector in Nigeria should take these reports seriously and explore how they might become linked to the adverse impacts caused by these poor quality fuels, through their business activities and relationships.
- ❑ Finally, oil traders can become connected to corruption through their dealings with highly corrupt government entities, state-owned enterprises, or PEPs. Corruption impacts on a broad range of human rights, as it deprives governments of money to invest in health, education, clean water, housing, and other rights.²²⁶ In Nigeria, oil sales have been managed by the NNPC and its relevant subsidiaries through complex and opaque deals that have been conducive to fraud and corruption. Even when companies do not necessarily participate in corruption themselves, they might still benefit from such corruption or related abuses.

In such a high risk context, the normative framework expects companies to actively and formally report on what they do about each one of the (potentially) adverse impacts that they have identified, and the progress they make.

3 Vitol's operations in Nigeria: main activities and red flags

While Europe and the Americas are more important trading continents for Vitol, Africa still accounts for 10 per cent of Vitol's sales by delivery location, and 11 per cent of its purchase by location^{xxix} and the company has been steadily expanding its physical presence in a number of African countries, especially Ghana and Nigeria.²²⁷ Over the years, Nigeria has turned into an important country of operations for Vitol in Sub-Saharan Africa, in the beginning primarily as an exporter of crude oil and an importer of refined products, supplying Nigerian importers with petroleum products necessary for domestic consumption.^{xxx} More recently, Vitol has also been diversifying its investments in the country. Through OVH Energy, a company established by Vitol along with Helios Investment Partners, and the Nigerian Oando PLC (one of Nigeria's largest downstream operators, hereafter Oando), Vitol has invested in what was Oando's downstream business.²²⁸ Vitol also invested in Nigeria's upstream sector through an oil-for-loan deal with Nigerian Shoreline to develop Oil Mining Lease (OML) 30 in the Niger Delta. The financing arrangement with Shoreline gave the company preferential access to Shoreline equity barrels, which represent 45 per cent of the OML 30 lease or c23,000 bpd.^{xxxi} While a deal to buy Nigerian oil fields from the Brazilian Petrobras was recently called-off, the existence of these plans suggest that Vitol is interested in expanding its investments in the upstream sector.²²⁹ However, Vitol is also moving beyond oil and, in 2019, signed a 10-year deal with Nigeria Liquefied Natural Gas (NLNG) to buy 500,000 tonnes of LNG per year, significantly expanding its long-term presence on the market.²³⁰ Yet, while Vitol, like other international (especially Swiss) oil traders is an important player in the Nigerian oil industry, the majority of Nigerians have probably never heard of this company. The importance of the company for the Nigerian economy, however, justifies further scrutiny.

This chapter shares findings on Vitol's operations in Nigeria, and identifies a number of activities that would require enhanced due diligence for responsible business conduct from the company, including reporting in more formal ways about the risks to human rights and the environment, and what the company has done to mitigate them. The general opacity surrounding Vitol's operations makes it difficult to obtain information on the company's interests in the country. This chapter is based on what could be discovered about the company, based on what is in the public domain, and therefore

xxix In comparison, the Americas represent 36 per cent of Vitol's sales by delivery location and 37 per cent of its purchases by location. For Europe these numbers are 24 per cent and 30 per cent respectively. Vitol (2020, March 3). Company review, pp. 9.

xxx In the report on Swiss oil traders in Nigeria, Berne Declaration states that besides exporting crude oil from Nigeria, Swiss traders also play an important role in importing refined products to Nigeria, supplying Nigerian importers with petroleum products necessary for domestic consumption. However, the report also points out that 'it is difficult to know their market share, because the Nigerian authorities do not attribute their imports to the Swiss traders, but rather to local operators who act as intermediaries, and whose transactions are often performed outside Nigeria'. See: Berne Declaration (2013). Swiss traders' opaque deals in Nigeria, pp. 3. Retrieved from https://www.publiceye.ch/fileadmin/doc/Rohstoffe/2013_PublicEye_Swiss_Traders_opaque_deals_in_Nigeria_Report.pdf on 5 December 2019.

xxxi Vitol (2020, March 3). Company review, pp. 9-10. Equity crude is crude produced by an oil company that owns a concession jointly with a host government, in this case Shoreline and the NPDC, NNPC's operating company, own the concession together (45 per cent for Shoreline and 55 per cent for the NPDC).

does not necessarily provide the full picture of Vitol's operations in the country. The chapter also shows that Vitol has been involved in several controversies in Nigeria since it first started operating there, though none of these allegations have made it to court. Nevertheless, these controversies, in combination with the general opacity surrounding crude oil sales and the high-conflict circumstances in which much of Nigeria's crude oil is extracted, would certainly justify pro-active and formal reporting from the company on how it deals with corruption, human rights and environmental risks. All risks should be seen from the perspective of right-holders, not Vitol. This chapter provides basic information on what can be found about the company's activities in Nigeria, and then examines two controversies in which Vitol has been involved, both of which have been widely discussed in the media and in NGO reports. Finally, the chapter discusses two (potentially) problematic business relationships the company has, that deserve further scrutiny.

3.1 Vitol's presence in Nigeria: main findings

Joint ventures with NNPC: Calson and Hyson

One of the first known actions of Vitol in Nigeria was on 1 January 1994 when Vitol Energy (Bermuda) Ltd. bought 40 per cent of Chevron's shares in Hyson (Nigeria) Ltd (hereafter Hyson).^{xxxii} It is assumed that it was also at this time that Vitol became a 49 per cent shareholder in Hyson's sister company Calson (Bermuda) Ltd. (hereafter Calson), the rest of the company remaining in the hands of the NNPC. Hyson and Calson were both created in August 1988 as joint ventures between NNPC and Chevron, with the objective of becoming international companies 'trading in oil, focused on West and Central Africa'.²³¹ With Vitol Energy owning shares in both companies, Vitol effectively established an oil trading joint venture partnership with the NNPC. Both Hyson and Calson played a key role in trading Nigerian crude oil and importing petroleum products.²³² There is limited public information on the close relationship between Calson and the NNPC. On the NNPC website, Calson is referred to only as a sister company of Hyson. At the end of 2019, however, we retrieved a list of directors of Calson from the Bermuda Government. Although this list is unfortunately no longer available online and, therefore, perhaps outdated, it does show that some of Calson's directors have positions within Vitol or the NNPC, revealing how both Vitol and the NNPC are involved in Calson (see Table 3). Both joint ventures, but especially the one with Calson, proved highly lucrative for Vitol; in 2003 the joint venture with Calson constituted Vitol's primary source of crude oil, and, in 2008, it was classified as one of the 'most significant' participating investments of the Vitol group.²³³

xxxii In the Orbis Database that we used to elaborate Vitol's corporate structure (see Figure 1), Calson now falls under the ownership of Vitol Holding B.V. (located in the Netherlands), instead of Vitol Energy Bermuda Ltd. Furthermore, we could not find actual information on the relation between Vitol and Hyson. However, on the Vitol website, Hyson is still mentioned as one of the locations where Vitol holds office, both in Abuja and in Lagos. Vitol (2020). *Nigeria*. Retrieved from <https://www.vitol.com/locations/nigeria/> on 12 February 2020.

Table 3 Overview of directors Calson (Bermuda) Limited^{xxxiii}

Director Name	Address on website of government of Bermuda	Roles
Pierre Barbe	28 Boulevard du Pont d'Arve, Geneva, Switzerland	Pierre Barbe was, for at least one year (2016), the Head of Africa for Vitol. ²³⁴
Maikanti Kacalla Baru	c/o Nigerian National Petroleum Corporation NNPC Towers, Central Business District Herbert Macaulay Way Garki, Abuja, Nigeria	Former (18 th) Group Managing Director at the NNPC. ²³⁵
Marc Ducrest	28 Boulevard du Pont d'Arve, Geneva, Switzerland	On an attendance list of the African Refiners Association (ARA) week in 2016, Marc Ducrest was listed as a trader for Vitol. ²³⁶
David B. Fransen	28 Boulevard du Pont d'Arve Geneva, Switzerland	Fransen currently holds 33 roles in 31 companies. His most important position is certainly Managing Director of Vitol S.A. but several other roles are also directly related to Vitol (among others Vitol S.A., OVH Energy Trading S.A., and Vitol Holding B.V.). The companies that were registered at Boulevard du Pont d'Arve 28 are currently dissolved or in liquidation.
Mele Kyari	c/o Nigerian National Petroleum Corporation NNPC Towers, Central Business District Herbert Macaulay Way Garki, Abuja, Nigeria	Current (19 th) Group Managing Director at the NNPC. ²³⁷
Umma Ayuba	c/o Nigerian National Petroleum Corporation NNPC Towers, Central Business District Herbert Macaulay Way Garki, Abuja, Nigeria	Former General Manager, HR & Admin services of Duke Oil, NNPC's trading arm. ²³⁸
Duncan R.J. Silver	Magnolia Towers 15 Parliament Street Hamilton, Bermuda	Magnolia Towers 15 is the address where all Vitol's offices in Bermuda are located: - Vitol Energy (Bermuda) Ltd. - Rembrandt Insurance Company, Ltd. - Vitol Capital Management Ltd. - Calson (Bermuda) Ltd. - Teilinger Capital Ltd. ²³⁹

Dabbling in the downstream sector: OVH Energy

In 2016, Vitol and its associate Helios Investment Partners, an Africa-focused private equity group, dabbled in the downstream sector in Nigeria by acquiring 49 per cent of Oando's downstream assets in Nigeria. As a result of this investment, the company acquired over 350 petrol stations and supporting infrastructure, including large storage capacity. The petrol stations are operated by OVH Energy, a joint venture between Vitol, Helios, and Oando.²⁴⁰ Earlier, in 2010, Vitol and Helios had already expanded their presence in the downstream sector on the African continent by each buying a 40 per cent share in Shell's distribution networks in 15 countries in Sub-Saharan Africa. Shell kept both the remaining 20 per cent along with assets in four African countries: Botswana, Namibia, Tanzania, and Togo.²⁴¹ The Shell petrol stations acquired by Vitol and Helios are operated

xxxiii The names of the directors of Calson were retrieved from the website of the Government of Bermuda, and information on their roles was retrieved from other sources (see references below). We left out the following names that appeared on the website of Bermuda but for whom we could not find sufficient sources to elaborate upon their roles: Isiaka Abdulrazaq, Louai Halloway, Ikemefuna Chukwuma Obih, and Ibrahim Inuwa Waya. See: Government of Bermuda (2019). *Calson (Bermuda) Limited 13727*. Retrieved from <https://www.gov.bm/13727/calson-bermuda-limited-pierre-barbe-13727> on 20 December 2019. Unfortunately, the website is no longer available, but SOMO made a copy of that specific page.

by Vivo Energy but, as they still display the Shell logo, most consumers have probably never heard of Vivo Energy. Similarly, as the petrol stations operated by OVH Energy still display the Oando logo, OVH Energy remains invisible to the customers. The choice to stay with the Shell or Oando brands is based on the effective use of assets. According to Vitol, the brand strength of Oando and Shell was one of the reasons for investing in the companies and it would have made no business sense to rebrand all the service stations.²⁴² However, while it might make business sense, it has contributed to Vitol's investments going largely unnoticed amongst local consumers, even though these investments are significant. In fact, according to Public Eye, with the acquisition of the Oando networks in 2016, Vitol and Helios became the 'second biggest downstream entity in Nigeria after Total, with a market share of 12 per cent'.²⁴³

Upstream activities: oil-for-loan deal with Shoreline

In early 2018, Vitol also engaged in the upstream sector by concluding a deal with the Nigerian oil company, Shoreline Natural Resources Ltd (hereafter Shoreline). This five-year agreement allowed Vitol and a pool of local and international banks (asset manager Farallon Capital Management and a syndicate of Nigerian banks – Union bank, Ecobank, FCMB, and Fidelity Bank) to provide financing worth US\$ 530m to support Shoreline by refinancing the company's existing debt and developing the OML 30 block in the Warri area of the Niger Delta, in which Shoreline has a 45 per cent interest (the remainder is owned by the NPDC, NNPC's operating company). The *Financial Times* reported: 'Shoreline gained access to OML 30 as international oil majors sold off assets at huge costs to local companies as part of an indigenisation programme under the previous government', the earlier mentioned SAAs (see Chapter 2).²⁴⁴ In return for the financial support to Shoreline, Vitol was granted preferential access to some of the 50,000 barrels of crude oil being produced on a daily basis in the oil field,²⁴⁵ specifically the Shoreline equity barrels (45 per cent of the OML 30 licence or c23,000 bpd).²⁴⁶ Vitol, and other commodity traders like Glencore and Trafigura, have previously used this type of pre-financing deals in countries such as Kazakhstan, Russia, and semi-autonomous Iraqi Kurdistan.²⁴⁷ Vitol is usually involved in this type of prefinancing arrangements alongside other banks.²⁴⁸

In Vitol's 2018 Annual Report, the company anticipated that it was about to close a transaction to acquire offshore oil producing assets from the semi-public Brazilian Petroleum Corporation (Petrobras Oil and Gas B.V.). The deal would have given Vitol partial interests in oil fields responsible for producing around 20 per cent of Nigeria's total oil production.²⁴⁹ The deal was called off in November 2019 because, according to a source close to the company, it was taking too long, partly due to the wait for the necessary clearances from Brazilian and Nigerian officials.²⁵⁰ However, Vitol's attempts to purchase a stake in two Nigerian oil fields owned by Petrobras does suggest that the company's intention is to strengthen its foothold in oil production in the country. This is consistent with Vitol's investments elsewhere on the continent, where the company has been acquiring stakes in production assets, particularly in the Sankofa and Gye Nyame oil fields located in the OCTP block in the Gulf Guinea, approximately 60 km south of the village of Sanzuele in Ghana.^{xxxiv}

xxxiv See for details on Vitol's stakes in Ghana paragraph 1.3, 'Vitol's financiers'.

Logistics branch VTTI: storage of LPG

Besides involving itself in crude oil production, trading, and distribution, Vitol – through its logistics branch VTTI – is also involved in the storage of LPG in Nigeria. LPG is a by-product of crude oil production (associated gas) and natural gas production (non associated gas). It is also a by-product of the refinery process, and transported mainly in pressurised vessels. LPG is a fundamental building block in the petrochemical process, but is also used globally for domestic purposes, either for home heating or as a cooking gas. LPG is also sometimes used as fuel for cars (known as autogas).²⁵¹ Vitol founded VTTI in 2006. VTTI owns and operates terminals, storage banks and pipelines in 14 countries on five continents, with a total capacity of 9.2 million cubic metres.²⁵² In Nigeria, VTTI, in partnership with a local company, Nidogas, built two LPG (butane) spheres and recently commissioned a third sphere for propane.²⁵³

Estimation of Vitol's crude oil trading business in Nigeria

Although it is clear that Vitol has important interests in Nigeria, there is a lack of recent data available on exactly how much crude oil Vitol has traded in the country. Using information from the COMD, the Berne Declaration was able to compile Nigerian crude oil sales for 2011, and calculated that: 'Swiss traders bought up no less than 36 per cent of the 223 million barrels put up for sale by the NNPC'; Trafigura and Vitol were the biggest buyers.²⁵⁴ However, more recent figures are difficult to come by, without access to the relevant COMD documentation, which is not publicly available. The most recent official information available on Vitol's crude oil purchases comes from the latest NEITI report on commodity trading, which covers NNPC's oil sales in 2017. In this report, Vitol SA, Hyson and Calson are referred to as one customer and, collectively, bought 4.7 million barrels of oil, 1.97 per cent of the 240.9 million barrels of crude oil that NNPC sold that year. Vitol, Calson and Hyson are also named as costumers in the overview of DSDP transactions (transactions by which NNPC delivers crude oil and receives oil products, see also paragraph 2.3), lifting^{xxxv} 3.8 million barrels of oil, five per cent of the total amount of crude oil allocated by NNPC for DSDP arrangements in 2017. To put these figures in context, of the 240.9 million barrels of oil sold by NNPC in 2017, 72.8 million barrels of oil were allocated to DSDP transactions. These figures are based exclusively on NNPC reporting, as Vitol, Hyson and Calson did not report their oil purchases from NNPC to NEITI.²⁵⁵

Additional to this data – and in order to have, at least, an impression of the volume of oil traded by Vitol in 2018 – we have used the Thomson Reuters Eikon database to compile an overview of all the vessels chartered by Vitol and loaded in West Africa in 2018. Only dirty tankers were selected (those used to transport crude oil as opposed to those that transport refined products). The movements of each vessel were checked to see if they did indeed load in Nigeria and at what terminal (see Map 2 for the loading ports used by Vitol in Nigeria). Based on this data, it is calculated that between January and December 2018, Vitol loaded at least 3,640,000 metric tonnes (26,681,200 barrels^{xxxvi})

xxxv Lifting refers to 'the process of loading oil onto a ship at an export terminal'. From: Sayne, A., Gillies, A., and Katsouris, C. (2015, August). Inside NNPC Oil Sales. A Case for Reform in Nigeria. Natural Resource Governance Institute, pp. 17.

xxxvi Conversion from metric tonnes to barrels: https://www.cmegroup.com/tools-information/calc_crude.html

Map 2 Loading ports used by Vitol in Nigeria



Image: Frans Schupp – Source: Thomson Reuters Eikon database 2019.

in Nigeria, an approximate average of 73,000 barrels per day.^{xxxvii} (Because of the method used to calculate this figure, it should be considered highly approximate, which might explain the difference with the figures reported for 2017 in the NEITI report.)

These numbers only refer to Vitol's crude oil trading business, and Vitol also invests in production and distribution. Our findings demonstrate that, over the years, Vitol has strengthened its presence in Nigeria, by becoming involved not only in the trading business, but also in the downstream and upstream sector, and by also expanding its range of products to include by-products of crude oil such as LPG. Nevertheless, despite Vitol's stakes in Nigeria, the company is not very visible in the country. Vitol's offices in Lagos and Abuja are in the buildings of two partner companies, Hyson Nigeria Ltd. and Mansel Commercial Services (Vitol's commercial tanker shipping arm).²⁵⁶

xxxvii Thomson Reuters Eikon database (2019). From the Thomson Eikon Reuters database SOMO retrieved a list of fixtures carrying crude oil (dirty) chartered by Vitol between January and December 2018. As the load zone is only mentioned in general terms (West-Africa), we checked the movements of each vessel in order to check if they actually loaded the cargo in Nigeria and added this manually to our overview of movements. This resulted in a list of 20 fixtures that were chartered by Vitol and loaded crude oil in Nigeria between 1 January 2018 and 31 December 2018. These 20 fixtures carried in total 3,640,000 metric tonnes of crude oil (26,681,200 barrels). Most probably, this list is not exhaustive, but it gives an idea of the amount of crude oil that is shipped out of Nigeria every year.

No signage on the buildings indicates Vitol's presence^{xxxviii} and though Vitol states that this is normal business practice²⁵⁷, the company does nothing else to increase its visibility. Because Vitol does not provide a country-by-country breakdown of activities,²⁵⁸ this report's authors can only assume that the company prefers to operate discreetly and is reluctant to share details of its activities at country level.

3.2 Controversies involving Vitol in Nigeria

Since it began operating in Nigeria, Vitol has been involved in several controversies. In 2010, Vitol was accused in the Nigerian media of acquiring crude oil from Calson (NNPC's subsidiary) at prices below market rates, leading to a substantial loss of revenue for the Nigerian Government which, through the NNPC, was a 51 per cent shareholder of Calson. The accusations were based on a letter from Calson to Vitol, dated 24 March 2010, which stated that, from May 2010 onwards, the oil should be sold at 'competitive prices', that is, at market price. The letter was addressed to Paul Greenslade, Chief Executive of Vitol in Geneva. The letter reassured the company that it would not stop selling crude oil to Vitol and would respect the agreement, under which the NNPC supplied Calson with at least 30,000 barrels a day.^{xxxix} According to the Nigerian media that published the letter, its content proved that Calson had sold its oil to Vitol at prices below market price. The Berne Declaration questioned Vitol about this matter and, according to the organisation, while the company refuted the allegations, it did not provide a satisfactory explanation for why the letter had used this kind of language if oil had not been obtained at knockdown prices.²⁵⁹ Unfortunately the letter is no longer in the public domain.²⁶⁰

Even before 2010, NEITI had raised concerns about the role of Calson. In its 2005 progress report, NEITI recommended that the NNPC review the use of this subsidiary and its marketing arrangement with Vitol, as it may present 'a conflict of interest between Vitol and NNPC (on behalf of the Federation)'.²⁶¹ According to the Berne Declaration, this recommendation was made again in 2011, and during the reviews of 2006 and 2008, but, surprisingly, was removed from the final report. The following example was used to justify the recommendation: In June 2004, via Hyson, Vitol and Calson bought cargoes of crude oil invoiced by the NNPC at the July 2004 price; this generated a profit for Calson and Vitol, at the expense of the NNPC. The Berne Declaration observed: 'not only did the NNPC take a loss on the transaction, but the added value was siphoned out of the country to Bermuda, with the result that the Nigerian state did not pocket the revenues it should have received'.²⁶² This example, along with the previous controversy over Vitol buying crude oil from Calson below market rates, suggests the joint venture partnership Vitol established with the NNPC

xxxviii On its website Vitol mentions that it has three offices in Abuja and three in Lagos. The Vitol offices in Abuja are located in the buildings of Hyson (Nigeria) Ltd., Mansel Commercial Services, and Algasco LPG Services Ltd., all located on the following address: 3rd Floor, Tsakunda House, Plot 1446 Constitution Avenue, Central Business District, Abuja, Nigeria. These three companies also share the same address in Lagos: 3rd Floor, Atlantic House, Louis Solomon Close, Victoria Island, Lagos, Nigeria. See: Vitol (2020). Offices. Retrieved from <https://www.vitol.com/locations/nigeria/> on 14 February 2020.

xxxix In 2013 a collaborator of the Berne Declaration told journalists of *De Correspondent* who asked to see the letter that he had seen the document in Nigeria and that its content was the same as what was reported about it in the Nigerian media. According to the newspaper, at the time a spokesperson of Vitol denied the existence of the letter. See: Vanheste, T. and Martijn, M. (2013, December 12). Waar rook is, is Vitol. *De Correspondent*. Retrieved from <https://decorrespondent.nl/490/waar-rook-is-is-vitol/22605660-8e518b99> on 23 October 2019.

(by acquiring shares in Calson and Hyson), created possibilities for pricing deals favourable to Vitol and the NNPC trading subsidiaries, but not necessarily to the Nigerian state. Even more problematic, the Nigerian public was unaware of these deals. According to NRGI, NNPC's five trading subsidiaries – which, besides joint ventures Calson and Hyson, also includes a joint venture with Trafigura, Napoil Company Ltd (Bermuda) – 'do not declare their earnings, much of which appear to be kept in offshore accounts. NNPC likewise has not clearly explained how these subsidiaries account to their parent company or share profits, either with NNPC or Vitol and Trafigura'.²⁶³ In 2012, a presidential task force described these trading subsidiaries as 'operational and financial black boxes'.²⁶⁴

Vitol has also been associated with a scandal surrounding the misappropriation of import subsidies in Nigeria. Due to its lack of refining capacity, Nigeria has to import 80 per cent of its refined products, which has driven up the price of refined products in the country. To compensate for these high prices, the Nigerian Government has provided subsidies on the import of petroleum products, keeping pump prices at bargain levels. However, several auditing reports have revealed that these subsidies have encouraged corruption.²⁶⁵ The first auditing report by KPMG came out in 2011. The Federal Ministry of Finance had commissioned KPMG to carry out a process of forensic review of NNPC after reports accusing the state-owned institution of wrongful deductions to fund its operations. KPMG found evidence of severe mismanagement and financial irregularities. The auditors also observed that contracts for the import of refined products were routinely awarded without regard for approved guidelines and procedures.²⁶⁶ In 2012, the Nigerian government promised to set up a committee to probe the existence, and level, of fuel subsidy payments in Nigeria. This resulted in two investigations: the Petroleum Revenue Special Task Force (PRSTF), headed by Nuhu Ribadu and established by the executive arm of the government; and the Ad-Hoc Committee established by the Nigerian House of Representatives, and headed by Farouk Lawan. According to Social Action: 'these two probes, in particular, when combined with the KPMG audit, produced almost identical findings, which seemed to corroborate the culpability of the NNPC and its subsidiaries in stealing oil revenues'.²⁶⁷ According to the PRSTF report, US\$ 6.8bn of the subsidies paid between 2009 and 2011, nearly one quarter of the annual national public budget, could not be properly justified.²⁶⁸ The main actors in this 'subsidy fraud' were approximately 70 local companies who received subsidies from the NNPC for the import of petroleum products. They bought these refined products from (amongst others) international oil traders, including Vitol.²⁶⁹

The fraudulent practices took different forms. One consisted of local companies receiving a subsidy on a cargo but only actually importing part of that cargo, and selling the remaining oil on international, local, or black markets to make an illegal profit. Another fraudulent practice was to falsify the date on the maritime documents, choosing a day when prices were higher than the price actually paid, to again make an illegal profit. According to the Berne Declaration, between 2009 and 2011: 'several importers quite simply "invented" transactions, supplying the whole set of forged documents in order to receive a subsidy paid out for an imaginary import'.²⁷⁰ Importantly, the transactions that formed part of these fraudulent practices, took place abroad, away from the inspection of local authorities. Importers developed complex shipping schemes which created complicated paper trails, making it almost impossible for the authorities to reconcile the bill of lading with the actual oil delivered. Thus, tankers chartered by international oil traders dropped anchor at Lomé or Cotonou, and then divided up their cargo ('mother ships') among smaller vessels ('daughter ships') through 'ship-to-ship' transfers, chartered by several major Nigerian importers. According to the

Berne Declaration: 'It is these ship-to-ship operations that drove the Parliament's auditors to speak of "collusion" between international traders and Nigerian marketers and of the existence of a "clear conspiracy"'.²⁷¹ According to the parliamentary auditors, international oil traders and Nigerian importers colluded in profiting illegally from the subsidy scheme. The international traders defended themselves by saying that they simply followed the instructions of their Nigerian buyers.²⁷²

In an auditing report of the Nigerian Parliament, Vitol was named as one of those involved in the complex ship-to-ship schemes. The report noted that, in 2011 alone, 'Vitol S.A. carried out more than 250 voyages of this type for 34 different marketers'.²⁷³ Based on these observations, the Nigerian Parliament became convinced that oil traders like Vitol had collaborated with local companies to profit exponentially from the subsidy scheme. In February 2012, Rodney Gavshon, the head of the Vitol office in Abuja, was called to answer questions from an ad-hoc commission of the Nigerian Parliament investigating the subsidy fraud. The President of the Commission asked Gavshon why Vitol docked outside Nigerian territorial waters, depriving Nigeria of port duties. Gavshon replied that it was because of the import regulations of the Nigerian Central Bank, the high insurance costs in Nigeria (compared to neighbouring countries), and because the waters around Lagos and Abuja were not deep enough to accommodate bigger oil tankers. The Commission pointed to the inconsistencies in Gavshon's answer, and reminded him that Vitol, as one of the biggest exporters of Nigerian crude oil, takes crude oil by tanker directly from the Nigerian ports, not Lomé and Cotonou. One Member of Parliament asked: 'thefts have taken place, so to speak, in broad daylight. So you cannot plead ignorance. Didn't this touch upon your conscience, Vitol, with your good name?' Gavshon left his lawyers to answer this question; they insisted that Vitol had not helped any marketer violate any regulation.²⁷⁴

Responding to a draft version of this report, Vitol offered a different version of the facts, insisting that it cooperated as much as possible with the Nigerian authorities, including 'voluntarily appearing in front of the Nigerian Parliamentary Commission investigating the subsidy fraud'. Vitol emphasised that, while other international traders were also invited to attend, 'only Vitol did so'.²⁷⁵ More generally, Vitol firmly 'refutes any suggestion of "alleged complicity" in relation to the subsidy fraud'. According to Vitol:

*Until the official investigation began, it would have been impossible for Vitol to know that fraud was taking place. Vitol sold a given amount to a licenced importer. The fraud occurred when this importer misstated the amount it claimed to have imported in order to get more subsidies. It was not until the authorities sought to reconcile the amount they believed had been imported with the amount that Vitol (and others) had sold, that Vitol became aware that fraud had taken place.*²⁷⁶

Despite these assertions, Vitol and other international traders continued to be the target of investigations into subsidy fraud. In October 2012, the Economic and Financial Crimes Commission (EFCC)^{xl} (the Nigerian authority in charge of police inquiries), requested the help of Swiss authorities

xl The EFCC was established in 2003. The commission coordinates the various institutions involved in the fight against money laundering and enforcement of all laws dealing with economic and financial crimes in Nigeria and consists of, among others, representatives of several Ministries, the Governor of the Central Bank of Nigeria, the director of the National Intelligence Agency and the director of the Department of State Security Services.

to obtain documents from five Swiss traders, including Vitol. The EFCC was searching for accounting documents, letters of credit, and bills of loading, to compare with the information supplied by local companies suspected of having taken part in the fraud. According to the Berne Declaration, the traders had refused to cooperate, forcing the EFCC to ask the Swiss judiciary to intervene.²⁷⁷ Vitol insists that it provided all the requested information to the Swiss authorities and refutes the suggestion that the company refused to cooperate with the Nigerian authorities. According to Vitol, providing this information directly to the Nigerian authorities would have made the company in breach of Article 271 of the Swiss Penal Code, which prohibits the carrying out, on Swiss territory, of any official act for the benefit of a foreign state. The request for information from a Swiss company should always be made via its counterpart agency in Switzerland through a mutual legal assistance treaty.²⁷⁸ Vitol states that it even provided guidance on the appropriate legal process the Nigerian authorities should follow for the company to be able to share relevant information, citing this as additional proof of their willingness to cooperate 'as much as it was able to with the Nigerian authorities'.²⁷⁹

3.3 Controversies involving Vitol's joint venture partner, Oando

In 2016, Vitol and its associate, Helios Investment Partners, acquired 49 per cent of Oando's downstream assets in Nigeria (as explained in paragraph 3.1), thus acquiring over 350 petrol stations along with large storage facilities. These petrol stations are operated by OVH Energy, a joint venture between Vitol, Helios, and Oando. Oando has been involved in several controversies in recent years, and has been accused in the media and by the Nigerian Securities and Exchange Commission (Nigerian SEC) of many financial irregularities. It is very difficult to establish the facts in these controversies, as Oando has publicly denied any accusation of fraudulent practices and none of the investigations carried out against the company produced any concrete results. Therefore, due to the difficulties in accessing information to substantiate such allegations, we cannot make any claims in this direction either. However, the allegations will be discussed because they raise the question as to what extent Vitol has identified and assessed these controversies, including the risks associated with doing business with Oando, any measures Vitol has taken to mitigate such risks, and how the company has reported on these risks. Responding to a draft version of this report, Vitol assured us that it has 'the relevant programmes to address the risk of it becoming associated with human rights violations and fraudulent practices, including enhanced due diligence'.²⁸⁰ The company, however, did not provide concrete information on how it has analysed the controversies involving Oando, and what it has done to mitigate any risks associated with such a business partner. This information is not publicly available either. The company did offer to share more information upon request but we did not follow up on this invitation, as it is clear that the company does not formally or proactively communicate how it addresses its risks, something the normative framework expects.^{xli}

xli Having a back and forth conversation on a company's human rights due diligence is not the same as formally reporting on it. John Ruggie himself insists on the importance of 'knowing and showing' in this context: 'I've already noted the first: due diligence can be a game changer for companies. Knowing and showing is necessary for companies to demonstrate they respect human rights. If they don't know, and can't show, their claim is just that — a claim, not a fact'. Ruggie, J. (2010, May 15). The Corporate Responsibility to Respect Human Rights. Harvard Law School Forum on Corporate Governance. Retrieved from <https://corpgov.law.harvard.edu/2010/05/15/the-corporate-responsibility-to-respect-human-rights/> on 4 June 2020.

Oando – according to Forbes ‘one of Nigeria’s largest independent oil companies’,²⁸¹ – has been involved in several controversies, but has remained relatively unscathed. As one admirer of Oando’s CEO, Wale Tinubu, put it: ‘At least twice a year, there is a controversy about Wale Tinubu as a person or Oando as a company, but the man scales them like a piece of cake [...] the gentleman remains unruffled. He goes on with his business hardly affected’.²⁸² Wale Tinubu’s political connections have brought him both support and criticism. He is the nephew of Bola Tinubu, a national leader of the ruling All Progressive’s Congress (APC), President Buhari’s party, and has reportedly been lobbying for Wale Tinubu to become a petroleum minister.²⁸³ Wale Tinubu has also been named in relation to Buhari’s 2015 presidential campaign, allegedly supporting the campaign with cash donations and by lending Buhari his private jet.²⁸⁴

One of the controversies involving Oando is the recurrent accusation that the company is implicated in the subsidy fraud. In 2012, the Nigerian newspaper The Will reported that the Senate had subpoenaed Oando’s CEO, Wale Tinubu, to discuss the role of Oando in the subsidy fraud. The subpoena was based on the findings of the 2011 KPMG auditing report, which, according to The Will, linked Oando and other local oil companies to irregularities in the payment of import subsidies.²⁸⁵ As well as providing detailed evidence of severe mismanagement and financial irregularities, the KPMG report also observed that contracts for the importation of refined products were routinely awarded without regard for approved guidelines and procedures, and specifically mentioned Oando in this context.²⁸⁶ In 2017, Oando was again linked in the media to the subsidy fraud, when the NNPC released the list of companies that had won contracts for the sale and purchase of crude oil for 2017/2018. The Premium Times stated that ‘at least six companies were fingered in fuel subsidy fraud or are still facing charges on the matter’, one of which was Oando.²⁸⁷ We could not, however, find other evidence to support the newspaper’s claims. A news item in Reuters on the same topic did not include Oando in the list of companies facing criminal charges.²⁸⁸

In 2017, the same year as media reports again linked Oando to the subsidy fraud, the Nigerian SEC, the Nigerian capital markets regulator, investigated Oando for alleged financial irregularities. The investigation began after two influential Oando shareholders – the Nigerian philanthropist Dahiru Mangal, and the Panama registered Ansbury Investment, a company backed by Gabriele Volpi, an Italian-Nigerian billionaire – filed a petition against the company. Mangal dropped his petition in January 2018, but Volpi did not.²⁸⁹ Following up on the petition, the Nigerian SEC engaged Deloitte & Touche to conduct a forensic audit of Oando’s activities. On 31 May, the Nigerian SEC issued a press release on the main findings of the report, and the measures the Nigerian SEC had adopted against the company. In its press release, the Nigerian SEC stated that:

*the findings from the report revealed serious infractions such as false disclosures, market abuses, misstatements in financial statements, internal control failures, and corporate governance lapses stemming from poor board oversight, irregular approval of directors’ remuneration, unjustified disbursements to directors and management of the company, related party transactions not conducted at arm’s length, amongst others.*²⁹⁰

The Nigerian SEC ordered: the implicated board members of the company to resign; an Extra-Ordinary General Meeting to be convened on or before 1 July 2019 to appoint new directors; monetary penalties to be paid by the company, affected individuals and director, and the refund

of improperly disbursed remuneration by the affected board members of the company. Finally, it barred Oando's CEO, Wale Tinubu, and his Deputy, Omamofe Boyo, from being directors of public companies for five years.²⁹¹

Oando responded with a press release stating that:

*these alleged infractions and penalties are unsubstantiated, ultra vires, invalid and calculated to prejudice the business of the Company. The Company has not been given the opportunity to see, review and respond to the forensic audit report and so is unable to ascertain what findings (if any) were made in relation to the alleged infractions and defend itself accordingly before the SEC.*²⁹²

Oando also filed a successful lawsuit to overturn the Nigerian SEC measures. At the beginning of June 2019, a federal court in Lagos prevented the Nigerian SEC from replacing Wale Tinubu and Omamofe Boyo, and taking other actions against the company, arguing that more hearings were needed on the case.²⁹³ While reporting on the controversy, some media have raised questions as to whether Volpi's insistence on maintaining his petition against Oando might be politically motivated. One newspaper highlighted how Volpi shares business interests with former Vice-President Atiku Abubakar of the People's Democratic Party (PDP), whereas Wale Tinubu is known to support President Buhari and his political party, the APC. In the politicised environment of Nigeria, where economic power and political interests are so tightly connected, politics inevitably influences business as well.

3.4 Controversies involving Shoreline Natural Resources Ltd.

Shoreline, the company that received financing from Vitol, has also been the subject of controversy. In 2018 Vitol concluded a deal with Shoreline (see paragraph 3.1) to provide US\$ 530m – together with international and local banks – to help Shoreline refinance its existing debt and further develop the OML 30 block in the Niger Delta, in which Shoreline has 45 per cent interest. In return for the loan to Shoreline, Vitol acquired preferential access to some of the 50,000 barrels of crude oil being produced on a daily basis in the oil field. Shoreline was created in 2014 as a joint venture between the Nigerian company Shoreline Power Company Ltd. (45 per cent equity) and Heritage Oil Shoreline Natural Resources (Nigeria) B.V., a subsidiary of Heritage Oil Ltd. Heritage Oil Ltd. is listed on the Toronto Stock Exchange and the London Stock Exchange.²⁹⁴ Through Shoreline and the acquisition of shares in oilfield OML 30, Heritage Oil aimed to become a significant producer in Nigeria. However, several controversies have arisen surrounding Heritage Oil and Shoreline since Heritage Oil first acquired a licence to extract oil from OML 30. As a financier and buyer of Shoreline's crude oil, Vitol has a business relationship with Shoreline and should, therefore, assess actual and potential adverse impacts occurring in Shoreline's oil production in OML 30, and demonstrate its ongoing efforts to mitigate such impacts.²⁹⁵

The first controversy surfaced in 2014, when it became public knowledge that Heritage Oil had acquired a licence for OML 30. The acquisition of this licence provoked strong protests from several union members in Nigeria, particularly those belonging to the Trade Union Congress (TUC) and the National Union of Petroleum and Natural Gas Workers (NUPENG), who pointed out the questionable

background of Heritage Oil's former CEO and founder, Anthony Leslie Rowland Buckingham.^{xlii} Tony Buckingham, as he is known in business circles, is one of Jersey's richest men and a significant donor to the Conservative Party in the United Kingdom. He is also accused of involvement in civil wars in various African countries, by supplying arms to mercenaries fighting insurgents. He denies these allegations.²⁹⁶ Referring to Buckingham's notorious past, the TUC urged the then President Goodluck Jonathan, and the Minister of Petroleum Resource, Diezani Alison-Maduekwe, to withdraw the licence given to Heritage Oil. The Secretary-General of NUPENG also asked for an investigation into the bidding process.²⁹⁷

There was no investigation and the licence was not withdrawn, and Heritage Oil, through Shoreline, now has a 45 per cent interest in OML 30, in partnership with NPDC (55 per cent). Heritage Energy Operational Services Ltd. (HEOSL) operates OML 30 on behalf of Shoreline and NPDC, and is therefore the most visible face for the communities living in the area. A research team from CISLAC visited the OML 30 concession in the Niger Delta in March 2019, and identified several areas of conflict between HEOSL and the host communities of OML 30. These issues merit further scrutiny as they might indicate (potential) adverse environmental and human rights impacts.^{xliii} Conflicts have arisen over the poor implementation by HEOSL of the GMoUs signed between HEOSL and a cluster of communities in OML 30. Protests against the company have been met by armed soldiers protecting HEOSL installations. This is perceived as highly intimidating and a sign of increasing militarisation of the area. Additionally, community members suspect the company of using gas flaring in the production process (which impacts health and living environments in the area), and of clearing farmland without community consent.

Conflicts around poor implementation of GMoU

The implementation of GMoUs between HEOSL, the company operating on behalf of Shoreline and NPDC, and the communities living in the concession area covered by OML 30 has been a constant source of tensions. For context: OML 30 covers 1,097 square km and includes eight producing fields, with oil and gas contained in stacked reservoirs. The acquisition of OML 30 also

xlii Interestingly, the website of Heritage Oil does not mention Buckingham anywhere. See: Heritage Oil Limited (2014). *Board and Management*. Retrieved from <http://www.heritageoiltd.com/about-us/board-management.aspx> on 20 February 2020. However on his own website Tony Buckingham does mention his position as a former CEO and founder of Heritage Oil. See: Tony Buckingham (n.d.). *Heritage Oil*. Retrieved from <https://tonybuckinghamheritageoil.wordpress.com/heritage-oil/> on 20 February 2020.

xliii The research team visited six out of the 11 clusters located in the OML 30 concession area in March 2019. For each cluster, the research team interviewed the President General and where possible the Secretary and the Youth Representative. The research team targeted these three people for being the most influential in the relations with HEOSL. The President General is the person who signs the GMoU within the cluster of communities. In each cluster the team was able to interview the President General and at minimum one other representative. 18 interviews were carried out in total. All interviewees were men. This has to do with the fact that the communities nominate their representatives, and because of the patriarchal culture that predominates in Nigeria, none of these communities will nominate a woman. The research team did have small conversations with women in the communities they visited, mostly sellers on the street or at gas stations. Regarding the age of the interviewed persons, given the focus on community leaders, none of them was under 35 years old. The term youth leader is an alias for their name, and does not reflect their age.

Map 3 The Niger Delta

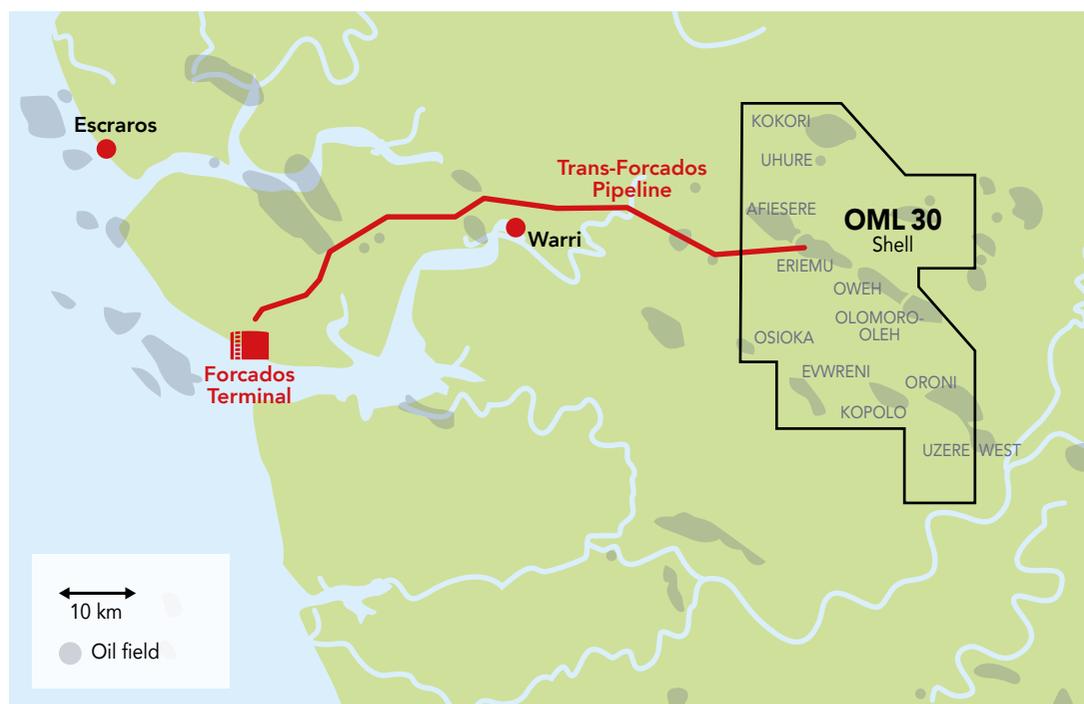


Image: Frans Schupp.

includes a 45 per cent interest in the Trans Forcados Pipeline (TFP) that transports liquids from OML 30 to the Forcados Terminal. The pipeline covers 97 km and is used by several other operators, providing additional revenue to OML 30 through the tariffs charged (see Map 3).²⁹⁸ Approximately 111 communities^{xliv} live in the area covered by the concession, organised in 12 flow clusters

xliv The exact number is difficult to determine. Newspapers generally speak of 111 or 112 communities.

Map 4 OML 30 in the Niger Delta



Source: Shoreline Natural Resources (2014). Retrieved from <http://www.shorelinenaturalresources.com/new/project/oml30-project/> on 22 January 2020 and Heritage Oil Plc. Capital Markets Day, 30 January 2013, pp. 12. Retrieved from http://www.heritageoiltd.com/media/10606/heritage_cmd_presentation.pdf on 21 July 2020. Image: Frans Schupp.

(a flow cluster is a communication of communities affected or impacted within a particular flow station).^{xlv} Each cluster has its own leadership structure: the President General is the highest representative, followed by a Secretary and a Youth Representative. These representatives are responsible for signing the GMoUs. Through these GMoUs, the communities decide, plan, and implement community development projects. Often the company invites an NGO to oversee the project implementation. The Community Development Board is the core governance institution of the GMoUs.

At the beginning of April 2018, newspapers reported protests by communities in the concession area OML 30. *The Nation* spoke of a 'brewing disagreement' between the operators of OML 30, HEOSL, and the 111 host communities in the OML 30 concession area, represented by the OML 30

xlv A flow cluster is a communication of communities affected or impacted within a particular flow station. Any community that has a facility, pipeline, or flow station forms an impacted or affected community. With an average size of 500,000 people, the communities are rather large. However, there are also some very small communities in the area, of no more than 10. All together between one to 1.5 million people from three major ethnic groups – the Isoko, Ijaw and Urhobo – live in the area, with the population growing over time as a result of migration: the arrival of oil facilities in a particular area attracted many young people looking for a job in the oil industry.

Community Development Board. The Community Development Board accused HEOSL of applying 'divide and rule tactics' and of 'renegeing on its side of the GMoU signed with the communities'.²⁹⁹ A press statement by the 12 President Generals representing the 111 host communities, pointed at delays in the payments to community contractors rendering services to HEOSL, and delays in implementing those aspects of the GMoU relating to scholarships for children in the host communities.³⁰⁰ More unrest was reported later that month, with communities threatening to 'shut down every flow station processing oil from the acreage', an action that would have led to the loss of 100,000 barrels of oil per day for Nigeria. The communities accused the company of not implementing agreed accords, particularly aspects related to offering employment to community youth, providing scholarships, and not complying with the agreement to review the existing GMoU.³⁰¹

HEOSL responded to the unrest by denying the allegations, insisting that 'HEOSL, the operators of OML 30, have in the last year of operations, nurtured and sustained peaceful and mutually beneficial relationships with all OML 30 Communities, working through the tenets of the GMoU and its recognized governance structure which is the Community Development Board'.³⁰² In October 2018, the *Guardian Nigeria* reported the signing of a new GMoU between HEOSL and the host communities of OML 30, to 'ensure effective grassroots participation'. The company explained that the GMoU was also a response to the growing unrest among youth in the communities demanding participation in their operations, and causing disruption to operations, thereby escalating operational costs and creating huge losses. The GMoU, according to the company, had been made 'with the full participation of all relevant stakeholders to co-create a new governance framework'.³⁰³



HEOSL flow station at Eriemu in Warri, Nigeria. Photo by CISLAC.

The signing of this new GMoU did not, however, put an end to unrest in the area but instead led to an escalation of the conflict. In November 2018, youth leaders from Isoko community, embarked on a protest to the Olomoru and Oleh flow stations to make their grievances known, but were stopped by armed soldiers stationed there. Community members told how the area has become increasingly militarised, as HEOSL reinforced its security by stationing well-armed Nigerian soldiers at all locations of their operations and denying access to leaders of the communities.³⁰⁴ While HEOSL probably considers the posting of armed soldiers as a necessary security measure in a high conflict situation, the communities interpret the use of military men to secure the company's operations as a way of refraining them from making legitimate demands.³⁰⁵

More generally, the perception of HEOSL's performance is so negative, that one of the community leaders interviewed stated that Shell, HEOSL's predecessor in the area, was far better, in any case more accessible. He also reported that HEOSL used soldiers to protect all their installations and had been intimidating community people, even though they had never lifted arms against the company.³⁰⁶ The stories circulating about HEOSL's poor performance are widespread. Communities accuse HEOSL of scrapping existing education funds altogether, despite promises of increasing the support scheme, resulting in students having to drop out of school. The Igbide community reports that, while the company has mined 14 oil wells in their area, they have only an incomplete and abandoned road, and an unfinished hospital, to show for their relationship with the company. The pattern is similar for other communities in other locations. Community leaders have also complained that HEOSL makes promises that it does not keep: contracts to the communities for the protection of pipelines from oil thieves were not awarded, promised employment opportunities for qualified youths from the communities never became available.³⁰⁷

Suspicious of gas flaring and of clearance of farmland without community consent

The Eruemukoharian community suspects HEOSL of gas flaring in close proximity to the villages. While this needs further verification, the suspicions are not unfounded. Gas flaring, the process in which natural gas is burned off in a controlled manner when extracting oil, has been illegal in Nigeria since 1984 because of its notorious impact on global warming, the environment, and people's health.^{xlvi} Nevertheless, gas flaring continues unabated throughout the Niger Delta. Oil majors operating in Nigeria have been practicing it for decades. Companies like Shell claim to be actively investing in infrastructure to capture associated gas, either through new facilities or through installing equipment for capturing associated gas from older facilities, but in 2018 Nigeria still ranked 7th in the top 30 of gas-flaring countries.³⁰⁸ Additionally, oil majors like Shell and Chevron have been divesting from some of their assets in the Niger Delta. These assets have been bought by

xlvi Gas flaring is a notorious contributor to global warming, but also extremely damaging for the environment and for people's health. The air pollutants released by gas flaring have been linked to cancer and lung damage, as well as to neurological and reproductive problems. The rise in soil temperature provoked by the gas flaring has led to a decline in crop yields in those areas nearby a gas flare. Furthermore, gas flares also affect people's sleep at night, as the flames continue unabated, giving constant light and noise. See: Schick, L., Myles, P, and Okelum, O.E. (2018, November 14). Gas flaring continues scorching Niger Delta. Retrieved from <https://www.dw.com/en/gas-flaring-continues-scorching-niger-delta/a-46088235> on 7 May 2020.

local and international independent companies with less financial and technical resources to adapt equipment and infrastructure that is either obsolete or based on older practices such as gas flaring (see paragraph 2.6). In the case of Shoreline, which bought Shell's assets in OML 30 in 2014, there is a possibility – which we could not verify but would merit further research – that the company has taken over existing gas flares from Shell. The Eruemukoharian community has talked of alarming rises in temperature, especially at night when the heat becomes so unbearable that doors and windows have to be left open. Community leaders have asked the company on several occasions for a solution but without success. Further investigation is needed to confirm whether increased temperatures are indeed the result of gas flaring, and if so, whether HEOSL is responsible for this illegal practice.³⁰⁹

The same community has also reported clear signs that HEOSL is designing an oil well near to the community. The company has cleared a large area of land and moved heavy duty equipment to the site. This new project is being carried out on community farmland and, according to the community leaders interviewed when visiting the area, the company simply sent bulldozers onto the farmland, destroying food crops planted there. The community leaders insist that no negotiations were carried out with the community, and there was no compensation for losses. The leaders said they did not protest, because they were afraid of the armed soldiers guarding the facility.³¹⁰ As with the allegations of gas flaring, these accusations need to be investigated but they do point to strained relations with the company, and poor communication by the company to the host communities. While Vitol might consider these problems 'on the ground' as beyond its influence, it is directly linked to possible adverse impacts on local communities by the loan it provided to Shoreline for the development of OML 30. Therefore, the international normative framework requires Vitol to investigate these issues, make a plan on how to deal with them, and report formally on the steps taken.

3.5 Conclusion

This chapter has discussed our main findings on Vitol's operations in Nigeria and identified a number of elements that might present a risk in terms of corruption and adverse human rights and environmental impacts, and that would therefore require enhanced due diligence for responsible business conduct from the company. The chapter shows that Vitol has been expanding its operations in Nigeria since it first started trading oil in this country. The company has now acquired assets in the downstream sector (Oando's petrol stations and storage facilities, operated by OVH Energy), and has slowly been expanding into the upstream sector through an oil-for-loan with Shoreline. Thus, the company has interests throughout the entire supply chain. Yet, while having significant stakes in the country, the company does not have the same visibility amongst the Nigerian citizenship as the oil majors that have dominated the oil industry for decades, and of which Shell is the most visible face. The company does not display its logo anywhere, and it is difficult to find more detailed information on its activities in the country because it does not provide a country-by-country breakdown of its activities. This lack of information makes it difficult for Nigerian citizens and civil society organisations to monitor Vitol's activities in Nigeria, even though Vitol's operations in the country are significant and present risks of adverse human rights and environmental impacts.

Nevertheless, Vitol acquired some level of visibility in the second decade of the 2000s, when its name was cited in the Nigerian media in relation to two controversies. The first concerned an advantageous deal that Vitol allegedly made with the NNPC's trading subsidiary Calson, to sell its oil at a price lower than market rates. Vitol denies the existence of such a deal. Vitol's name also surfaced in the context of the so-called 'subsidy fraud', in which local importers committed subsidy fraud in various ways, including misstating the amount they claimed to have imported to increase subsidies on the imported products bought from international oil traders like Vitol. The Parliamentary Ad-Hoc Commission investigating the fraud accused international oil traders of collusion with the local companies, to profit illegally from the subsidies. Besides inquiries from Nigerian authorities, these accusations have not been further investigated and Vitol refutes any allegations of complicity.

What these controversies do show, and what was also extensively demonstrated in Chapter 2, is that the Nigerian oil industry is a high-risk sector, and difficult to navigate without becoming (even perhaps unwittingly) linked to fraudulent practices or adverse human rights and environmental impacts. The controversies surrounding Vitol's business partner Oando, with which it has established a joint venture with Helios, show that each actor operating in this sector might come with a track record of controversies that need to be checked. Similarly, the high conflict context in which oil is extracted in the Niger Delta requires companies buying and selling this oil to thoroughly analyse the local context in which the oil is being extracted, and assess to what extent there is a risk of adverse human rights and environmental impacts that needs to be mitigated or remediated. One of the evident risks in the case of OML 30 is that when Shoreline took over Shell's divested assets in OML 30, it also inherited old production facilities that increase the risks of oil pollution, and Shell's legacy of oil-related conflicts with host-communities living in the concession area. To address both the ecological implications of production from such lease areas, and the grievances of host-communities that have suffered from these environmental impacts for several decades, requires a solid long-term plan. According to the international normative framework on business and human rights, as a financier and buyer of Shoreline's crude oil, Vitol has a business relationship with Shoreline and might therefore become linked to adverse impacts associated with Shoreline. It is therefore expected to assess these potential impacts, determine appropriate action, and communicate about that action.

Operating in a high-risk sector like the oil industry in Nigeria demands enhanced due diligence for responsible business conduct. As discussed in Chapter 1, this means much more than identifying risks for the company, it means identifying the risks of Vitol's operations for adverse impacts on the environment and human rights of Nigerian citizens, formulating concrete measures to address those risks, and reporting on these in a way that is transparent and accessible to stakeholders. Furthermore, this mapping of risks should not be limited to Vitol's own activities, but also cover activities linked to its operations, products or services, through its business relationships. Given that Nigeria is a high-risk business environment, Vitol should formally communicate about these risks and the measures adopted to address them.

Conclusion and recommendations

Conclusion

The motivation behind this research was that one of the world's largest energy traders, with annual revenues comparable to those of major companies like Apple, remains relatively unknown to the general public. Additionally, we observed that Vitol was operating in many fragile and conflict-affected settings, where enhanced due diligence is required because of the greater risks of becoming complicit with corruption and adverse human rights and environmental impacts. We thought it important to see how much information on this company is in the public domain, especially as the company is not stock-listed and therefore is under less reporting obligations than publicly-listed companies.

The research focused on Vitol's operations in Nigeria, an important country of operations for the oil trader. Nigeria is highly dependent on oil revenues and the politics of oil in Nigeria have significantly eroded government institutions. Furthermore, conflict has deeply affected the oil-producing region of the Niger Delta ever since oil started to dominate the Nigerian economy, with international oil companies being important actors in these conflict dynamics.

The research aimed to get insight into:

1. The nature of Vitol's investments in Nigeria: How does Vitol operate in Nigeria? What business relationships has it established? What are its economic interests in the country?
2. Vitol's due diligence for responsible business conduct in general, and in Nigeria in particular: What human rights and environmental risks has the company identified in relation to its business operations in Nigeria? How does it address these risks and communicate about the outcomes of this process?

With these questions, the research aimed to improve understanding of how Vitol operates in fragile and conflict-affected contexts like Nigeria – where institutions are weak and regulation is insufficient or badly implemented – and how transparent the company is about both its economic interests and activities in the country, and its due diligence for responsible business conduct.

The research resulted in the following findings:

1. Responding to an earlier draft of this report, Vitol insisted that the company is transparent and has fluid and open communication with all relevant stakeholders. Nevertheless, we conclude that the company's transparency is, at best, selective. To counter allegations of being 'secretive', the company insists that it complies with national and international regulations, has an elaborate Compliance Programme, deposits financial reports in the Chambers of Commerce of Luxembourg and the Netherlands, and responds to media enquiries. It also emphasises that

it is part of a working group of the EITI on how to promote greater transparency in commodity trading, and that it has always communicated openly about being owned by its employees.

At the same time, public information on the company is very limited. It is not known, for example, who the 350 senior employees are, as this information is not disclosed publicly. Similarly, the company chooses not to make its policies public or to publicly provide a country-by-country breakdown of activities. The opacity of the company is compounded by the fact that, as a private company it has less reporting obligations than publicly listed companies. Finally, while being a member of the EITI Working Group on Commodity Trading, the company has chosen not to become a supporting company of EITI, a status that would have meant Vitol would have been expected to publicly disclose taxes and payments, and beneficial ownership details, and to contribute financially to the initiative.

2. Vitol's position is not unique for oil traders; limited transparency and activities in risky environments have been a characteristic of the oil trading business. These conditions, along with the very high gains possible in the sector, have in the past proven to be a combination conducive to corruption. Bribery or kickback schemes to secure a favourable deal, as happened in the UN Oil-for-Food scandal in Iraq, have been among the modalities used in the oil trading business. At an international level, there has been growing recognition of the need for more transparency in the oil sector, resulting in binding regulation in several countries on the disclosure of company payments to governments, and the voluntary initiative, EITI. These efforts, however, have focused on extraction activities, rather than on trading. Consequently, an oil trader such as Vitol, involved in extraction and trading, has to disclose figures relating to its extractive activities, but not its trading activities, which might involve much bigger money transfers.

The EITI has gone a step further by including a requirement that specifically addresses commodity trading, encouraging companies buying oil, gas and or/mineral resources from the state to 'disclose volumes received from the state or state-owned enterprises and payments made for the purchase of oil, gas, and/or mineral resources'.³¹¹ But the EITI is a voluntary initiative, which limits its powers in countries, or with companies, that have not signed up in support of the initiative.

3. While transparency is an important step towards more accountability in the sector, it has also been difficult to implement, perhaps because opacity is so much a part of the business model of oil traders. Much of oil traders' biggest profits come from securing advantageous deals with oil-producing countries in order to resell oil at higher, shortlived spot prices. Several of the controversies involving Vitol related to deals the company made with controversial actors (allegations of dealing with PEPs in Kazakhstan and with rebel forces in Libya, for example), or on controversial terms (allegations of oil paid at prices lower than market rates in Nigeria, or of using complicated pricing schemes in Mozambique, for example). In other cases, Vitol and other traders even faced regulatory actions, accused of paying bribes and kickbacks to fix oil bids in Venezuela, Iraq, and Brazil. In the case of Venezuela, the case was dismissed on procedural grounds and in the case of Brazil, the investigation is still ongoing. In Iraq, Vitol pleaded guilty to grand larceny, admitting that it had paid monies to the Iraqi state oil company under the UN Oil-for-Food programme.

4. While corruption is indeed a great risk in the sector and, therefore, much effort is made to increase transparency, oil traders also have human rights responsibilities in their supply chain. Oil traders can become linked to human rights abuses and environmental impacts in various phases of the oil trading business – including the transportation, storage, transforming and selling phases – and also through their suppliers, in the extraction phase. According to the international normative framework on business and human rights, Vitol has a responsibility to identify the risks of adverse impacts on human rights and the environment, of its own activities and those connected to its operations through business partnerships, to prevent those impacts, mitigate them, and account for how it addresses these adverse impacts. Furthermore, according to UNGP 21, in high-risk environments or sectors, Vitol should report formally on how these adverse impacts are being addressed.

Vitol states that it has solid due diligence procedures in place. However, the information that we received on Vitol's Compliance Programme, suggests that its focus lies mostly on identifying the risks for the company of becoming involved in corruption and bribery, rather than the risks of adverse human rights and environmental impacts for affected right-holders in its supply chain. Vitol states that the company's possible impact on HSEC is addressed through its ongoing monitoring of these issues across the companies it is invested in. However, Vitol does not provide information on how this monitoring is done, nor does it report formally on how the risks or impacts are addressed. Similarly, when asking more specifically what human rights risks the company had identified in Nigeria, we received a general reply. We expected the company to have information on specific human rights risks it had identified in Nigeria which it was able to provide, on request, in line with UNGP 21. This was not the case, and the lack of formal communication on its due diligence for responsible business conduct raises doubts as to whether Vitol is implementing such a process at all. The information received from the company did not convince us of the existence of solid due diligence for responsible business conduct. This absence is remarkable given the size and economic importance of the company and the type of contexts in which it operates.

5. The high-risk sector and environments in which Vitol operates, requires solid monitoring of impacts, along with public reporting, on the company's human rights performance throughout its supply chain. The chapter on the Nigerian oil sector describes the kind of human rights and environmental risks present in this fragile and conflict-affected setting. Oil has come to dominate both the economy and the politics of Nigeria. Ever since oil was discovered in commercial quantities in the Niger Delta, military and civil elites have fought over control of this oil wealth, and played a key role in protecting the interests of the international oil majors that have dominated Nigerian oil production from the 1960s onwards. The vast majority of Nigerians have received little benefits from this oil wealth. The country continues to fare badly on all development indicators and, in the Niger Delta in particular, decades of oil extraction have created an explosive mixture of environmental impacts, poverty, and oil-related conflicts. While international oil majors have tried to improve their image since the height of these conflicts in the 1990s, the dramatic socio-environmental context created by decades of careless oil extraction has not substantially changed. In fact, new potentially adverse human rights and environmental impacts related to oil extraction are emerging as oil majors divest themselves of assets in the Niger Delta, without cleaning up the extensive environmental damage their

operations have caused. These assets have been taken over by local, independent companies, often with limited financial and technical capacity, and therefore unable to address some of the problems created by obsolete infrastructure and practices such as gas flaring, which would require major investments to transform into less polluting and damaging forms of oil extraction.

6. Banks and traders, such as Vitol, are amongst those providing finance to these independent companies (as in the case of Shoreline). This relationship gives Vitol an additional responsibility to identify and assess the risks and adverse impacts resulting from Shoreline's operations in OML 30 and to monitor how the company deals with the legacy of pollution associated with the sites formerly owned by Shell. Additionally, when examining the ways in which the national state oil company, NNPC, has organised its sales, there are many reasons for Vitol to be particularly careful and transparent in its operations in Nigeria. NNPC has, on numerous occasions, been accused of clientelism and corruption. The particularly complex way in which it has organised its sales, in combination with a notorious lack of oversight in the sector, have been conducive to corruption and fraud. A key problem is the way NNPC works through intermediaries, both Nigerian companies and international oil traders. Another, is that COMD, NNPC's subsidiary responsible for sales, does not disclose the terms of the long-term contracts with these intermediaries, or provide information on the criteria and the process used to select contract holders. This lack of transparency has been conducive to fraud, as the concept of 'briefcase companies' shows. 'Briefcase companies' are companies with no track record of selling and refining crude oil, and appear to be more politically motivated than commercially driven. The notorious subsidy fraud is an example of the risks of corruption and fraud that arise from such an opaque and complex system, and illustrates how international oil traders might become associated with such practices through their business relationships (even if unknowingly, as oil traders maintain).
7. It is clear, from research into Vitol's operations in Nigeria, that the country is important to the company. Vitol's interests in Nigeria are not limited to oil trading and have, over the years, expanded all along the oil supply chain, to include investments in oil extraction and distribution. So, together with a pool of banks, Vitol provided an oil-for-loan deal to Shoreline, which took over Shell's assets in OML 30. Vitol has also bought more than 350 petrol stations along with large storage facilities from Oando through OVH Energy, a joint venture between Vitol, Helios, and Oando. Given the enormous risks of becoming involved in corruption, along with environmental and human rights abuses, enhanced due diligence for responsible business conduct should be a key requirement for any company operating in the oil sector in Nigeria. Oil traders can become connected to adverse environmental and human rights impacts through buying and selling oil produced in adverse circumstances, as has been historically the case in the Niger Delta, a situation which has also created high levels of violence and conflict in the area. The growing involvement of oil traders in the downstream sector presents its own risks, particularly of becoming involved in the selling of poor quality fuels that damage the environment and people's health.

Such enhanced due diligence for responsible business conduct is not about identifying the risks for the company, but identifying the risks for the environment and the rights of people that might be affected by the company's activities or the activities of its business relationships. Given the high-risk context and sector, the company should provide detailed information on how it assesses these risks, prevents and mitigates them, and how it monitors progress in doing this. Vitol does not appear to have such due diligence for responsible business conduct in place, or does not report formally and proactively on any processes that are in place, as would be expected. This absence is surprising given that Vitol has been involved in several controversies in the past, both outside and inside Nigeria. Vitol denies all the accusations, and indeed, was only found guilty on one occasion. However, given this, it is difficult to understand why the company does not publicly share information on the concrete steps that it has taken to assess potential human rights and environmental impacts when making new investments in Nigeria. We would firmly recommend Vitol develop and implement due diligence for responsible business conduct in accordance with the international normative framework on business and human rights.

Recommendations

Recommendations for Vitol

1. In line with UNGP 16, make policy commitment on human rights publicly available. Likewise, publicly share detailed information on Vitol's Compliance Programme.
2. In compliance with UNGP 17 and 21, formally report on how Vitol applies due diligence for responsible business conduct in fragile and conflict-affected settings in general, and in Nigeria in particular, explaining what human rights and environmental risks the company has identified regarding Vitol's activities and those of its business relationships in its supply chain, and what it does to prevent or mitigate those risks, and what has resulted from their implementation.
3. Explain how Vitol plans to investigate the controversies surrounding business partner, Oando, and the problems between HEOSL and host communities in OML 30, and what action the company takes to cease, prevent, mitigate, and remedy actual adverse impacts.
4. On the question of OML 30, explain how Vitol will deal with the legacy of pollution associated with such divested sites formerly owned by oil majors such as Shell. Explain what plans have been made for the long term ecological implications of production from such lease areas.
5. Explain in a public and accessible way, what policies and procedures Vitol has in place, in terms of conflict sensitivity to make sure that the company does not negatively impact or strengthen local, national or regional patterns of conflict and fragility.

Recommendations for the Nigerian Government

1. Pass the PIB and ensure its correct implementation, following due process. This includes providing space for civil society organisations to share concerns and ensuring that these concerns are addressed adequately.
2. Proceed with further reform of the oil industry in general, and the NNPC in particular, to ensure enhanced transparency.
3. Disclose NNPC contracts in the upstream sector to make public monitoring possible.
4. COMD should ensure a more transparent bidding process and respect the criteria set out when awarding term contracts for crude oil sales. Make sure the award process is open and competitive.
5. Support the NEITI in its efforts to make the sector more transparent, including commodity trading.
6. Enhance efforts to put metering instruments in place.
7. Assent the amendment of the Corporate and Allied Matters Act, which will enable the establishment of a publicly accessible beneficial ownership register in Nigeria. Such a register will serve as a tool to curb corruption in business dealings in the extractive sector.

Recommendations for the Dutch Government

1. Introduce legislation for mandatory human rights and environmental due diligence for all companies operating on the Dutch market to identify, prevent, mitigate, and account for human rights abuses and environmental damage in their global supply chains.
2. Include trading related payments in the national legislation that requires disclosure of payments on a project-by-project basis from oil, gas, and mining companies, following up on the commitments made at the 2016 London Anti-Corruption Summit.
3. Support efforts at EU level to include oil trade in the transparency requirements established in the Accounting Directive, so that companies are required to disclose their trading related payments to governments.
4. Support legislation at EU level, on mandatory human rights and environmental due diligence, requiring companies to identify, prevent, mitigate, and account for human rights abuses and environmental damage in their global value chains.
5. Ensure that the EU directive on money laundering which entered into force in January 2020, is enforced at the national level.
6. The Netherlands has been a strong supporter of EITI from its inception and became a member country in 2018. The Dutch Government should continue to support the initiative both financially and politically.

Recommendations for financiers providing loans to or with Vitol

1. Banks and international financial institutions providing loans to Vitol should request information from the company on how it has performed enhanced due diligence in its operations in Nigeria and in other fragile and conflict-affected countries in which it operates. They should ask Vitol for formal reporting on human rights and environmental risks the company has identified, what actions it has undertaken to prevent or mitigate those risks, and what it will do to remediate adverse impacts.
2. Banks and international financial institutions providing loans to Vitol should report formally on how specific adverse human rights and environmental impacts identified in relation to Vitol's activities have been managed and remediated.
3. Banks providing loans to Vitol should seek actively to overcome the barrier of client confidentiality considerations so they can report in more detail on their efforts to address specific human rights and environmental impacts.
4. Banks participating in the oil-for-loan deal with Shoreline should explain how they plan to investigate, together with Vitol, the issues raised in this report on the confrontational relations between Shoreline's operating company HEOSL and the oil-producing communities of OML 30, and what actions they will take to cease, prevent, mitigate, and remedy actual adverse impacts.

Annex 1

Chronology of Nigerian Governments since independence³¹²

1 October 1960: Independence

1963 - 1966: First Republic of Nigeria

President	Took office	Left office	Political party at time of election
Nnamdi Azikiwe	1 October 1963	16 January 1966 (deposed)	National Council of Nigeria and the Cameroons

Military rule (1966 - 1979)

Head of State	Took office	Left office	Military
Major-General Johnson Aguiyi-Ironsi	16 January 1966	29 July 1966 (assassinated)	Federal Military Government
General Yakubu Gowon	1 August 1966	29 July 1975 (deposed)	Federal Military Government
General Murtala Mohammed	29 July 1975	13 February 1976 (assassinated)	Federal Military Government
Major-General Olusegun Obasanjo	13 February 1976	1 October 1979 (resigned)	Federal Military Government

Second Republic (1979 - 1983)

President	Took office	Left office	Political party at time of election
Shehu Shagari	1 October 1979	31 December 1983 (deposed)	National Party of Nigeria

Military rule (1983 - 1993)

Head of State	Took office	Left office	Military
Major-General Muhammadu Buhari	31 December 1983	27 August 1985 (deposed)	Supreme Military Council
General Ibrahim Babangida	27 August 1985	26 August 1993 (resigned)	Armed Forces Rule Council

Third Republic (1993)

President	Took office	Left office	Political party at time of election
Ernest Shonekan	26 August 1993	17 November 1993 (deposed)	Independent

Military rule (1993 - 1999)

Head of State	Took office	Left office	Military
General Sani Abacha	17 November 1993	8 June 1998 (died in office)	Provisional Ruling Council
General Abdulsalami Abubakar	8 June 1998	29 May 1999 (resigned)	Provisional Ruling Council

Fourth Republic (1999 - present)

President	Took office	Left office	Political party at time of election	Elected
Olusegun Obasanjo	29 May 1999	29 May 2007	PDP	1999, 2003
Umaru Musa Yar'Adua	29 May 2007	5 May 2010 (died in office)	PDP	2007
Goodluck Jonathan	5 May 2010	29 May 2015	PDP	2011
Muhammadu Buhari	29 May 2015	Incumbent	APC	2015, 2019

Endnotes

- 1 Fund for Peace (2019). Fragile States Index 2019. Retrieved from <https://issuu.com/fundforpeace/docs/9511904-fragilestatesindex> on 29 April 2020; Vitol (2020). *Where we work*. Retrieved from <https://www.vitol.com/working-with-us/where-we-work/> on 29 April 2020.
- 2 Libby, G., and Payne, J. (2020, July 28). Exclusive: Nigeria in \$1.5 billion oil prepay deal with traders Vitol, Matrix. *Reuters*. Retrieved from <https://www.reuters.com/article/us-nigeria-oil-prefinance-exclusive/exclusive-nigeria-in-1-5-billion-oil-prepay-deal-with-traders-vitol-matrix-idUSKCN24T1QW> on 15 September 2020.
- 3 Blas, J. and Hoffman, A. (2016, June 1). Inside Vitol: How the World's Largest Oil Trader Makes Billions. *Bloomberg Markets*. Retrieved from <https://www.bloomberg.com/news/features/2016-06-01/giant-oil-trader-vitol-makes-billions-in-volatile-times> on 16 October 2019.
- 4 Farchy, J. and Blas, J. (2018, July 24). Vitol Handed a Record \$1.6 Billion Payout to Its Traders in 2017. *Bloomberg*. Retrieved from <https://www.bloomberg.com/news/articles/2018-07-24/vitol-handed-a-record-1-6-billion-payout-to-its-traders-in-2017> on 16 October 2019; Sheppard, D. and Hume, N. (2018, March 15). Vitol's Ian Taylor steps down as chief to become chairman. *Financial Times*. Retrieved from <https://www.ft.com/content/6ac76f44-286c-11e8-b27e-cc62a39d57a0> on 16 October 2019; Hoffman, A. and Blas, J. (2018, September 27). EU Plan to Sidestep Iran Sanctions Won't Keep Oil Flowing. *Bloomberg*. Retrieved from <https://www.bloomberg.com/news/articles/2018-09-26/eu-plan-to-sidestep-iran-sanctions-won-t-keep-its-oil-flowing> on 16 October 2019; Macalister, T. (2016, June 1). Vitol: world's biggest energy trader emerges from the shadows. *The Guardian*. Retrieved from <https://www.theguardian.com/business/2016/jun/01/vitol-world-biggest-energy-trader-emerges-shadows> on 16 October 2019.
- 5 Vitol (2019, March 19). *Vitol 2018 volumes and review*. Retrieved from <https://www.vitol.com/vitol-2018-volumes-and-review/> on 23 October 2019; Vitol (2019). *Trading*. Retrieved from <https://www.vitol.com/what-we-do/trading/> on 23 October 2019.
- 6 Blas, J. and Hoffman, A. (2016, June 1). Inside Vitol: How the World's Largest Oil Trader Makes Billions. *Bloomberg Markets*.
- 7 Vitol (2018, March 26). *Vitol 2017 volumes and review*. Retrieved from <https://www.vitol.com/vitol-2017-volumes-review/> on 11 October 2019; Barber, L. (2018, August 3). Vitol's Ian Taylor on oil deals with dictators and drinks with Fidel. *Financial Times*. Retrieved from <https://www.ft.com/content/2dc35efc-89ea-11e8-bf9e-8771d5404543> on 16 October 2019. Schneyer, J. (2011, October 28). Corrected: Commodity Traders: The trillion dollar club. *Reuters*. Retrieved from <https://www.reuters.com/article/us-commodities-houses/corrected-commodity-traders-the-trillion-dollar-club-idUSTRE79R4S320111028> on 16 October 2019.
- 8 Sheppard, D. and Hume, N. (2017, October 5). Vitol's accounts show potential value of up to \$20bn. *Financial Times*. Retrieved from <https://www.ft.com/content/283a9606-a77a-11e7-93c5-648314d2c72c> on 16 October 2019.
- 9 Vitol (2019). *What we do*. Retrieved from <https://www.vitol.com/what-we-do/> on 11 October 2019. For number of employees see: Vitol (2017). *Vitol Film*. Retrieved from <https://www.vitol.com/who-we-are/> on 11 November 2019. For the long list of specific products that Vitol trades in, see: Vitol (2019). *Trading*. Retrieved from <https://www.vitol.com/what-we-do/trading/> on 11 October 2019.
- 10 Vitol (2019). *Refining*. Retrieved from <https://www.vitol.com/what-we-do/refining/> on 3 October 2018.
- 11 Vitol (2020). *Terminals and storage*. Retrieved from <https://www.vitol.com/what-we-do/terminals-storage/> on 14 October 2020.
- 12 Hume, N. and Sheppard, D. (2018, November 19). Vitol's first-half profits tumble as volatile energy markets bite. *Financial Times*. Retrieved from <https://www.ft.com/content/5d678c2e-ec0e-11e8-89c8-d36339d835c0> on 18 October 2018. For details see: Blas, J. and Hoffman A. (2016, June 1). Inside Vitol: How the World's Largest Oil Trader Makes Billions. *Bloomberg Markets*.
- 13 Vitol (2012, January 5). *Ton Vonk*. Retrieved from <https://www.vitol.com/ton-vonk/> on 10 March 2020.
- 14 Blas, J. and Hoffman, A. (2016, June 1). Inside Vitol: How the World's Largest Oil Trader Makes Billions. *Bloomberg Markets*.
- 15 Hume, N. and Sheppard, D. (2016, October 26). Oil traders tighten grip with 5-year profit surge. *Financial Times*. Retrieved from <https://www.ft.com/content/5e81b3ae-9aa9-11e6-8f9b-70e3cabccfae> on 17 October 2019; Hume, N. and Sheppard D. (2018, November 19). Vitol's first-half profits tumble as volatile energy markets bite. *Financial Times*. See also: Philips, M. (2012, September 27). The Oil Hub Where Traders Are Making Millions. *Bloomberg*. Retrieved from <https://www.bloomberg.com/news/articles/2012-09-27/the-oil-hub-where-traders-are-making-millions> on 30 January 2018.

- 16 Hume, N. (2016, April 5). Vitol profit up 15% as oil traders thrive. *Financial Times*. Retrieved from <https://www.ft.com/content/dfe8bf81-9e3d-3bea-9997-d436c683115d> on 17 October 2019.
- 17 Bridge, G. and Le Billon, P. (2017). *Oil* (2nd ed.). Malden, MA: Polity Press, pp. 61.
- 18 Blas, J. and Hoffman, A. (2016, June 1). Inside Vitol: How the World's Largest Oil Trader Makes Billions. *Bloomberg Markets*.
- 19 Following the Corporate Tax Haven Index 2019 of the tax justice network. Retrieved from <https://www.corporatetaxhavenindex.org/introduction/cthi-2019-results> on 22 January 2020.
- 20 Armitage, J. (2014, July 24). The Truth about Vitol's tax affairs. *The Independent*. Retrieved from <https://www.independent.co.uk/news/business/news/the-truth-about-vitol-s-tax-affairs-a7337201.html> on 18 October 2019.
- 21 BankTrack (2017, May). Human Rights Impact Briefing. Banks and Dirty Diesel, pp. 1. Retrieved from https://www.banktrack.org/download/human_rights_impact_briefing_iii_banks_and_dirty_diesel/170523_hrib_iii_banks_and_dirty_diesel_pdf_1.pdf on 26 March 2020.
- 22 Berne Declaration ed. (2012). *Commodities. Switzerland's most dangerous business*. Zurich, Switzerland: Berne Declaration, pp. 71. Retrieved from https://www.publiceye.ch/fileadmin/doc/Rohstoffe/2012_PublicEye_Commodities_EN_Book.pdf on 22 March 2017.
- 23 Blas, J. and Hoffman, A. (2016, June 1). Inside Vitol: How the World's Largest Oil Trader Makes Billions. *Bloomberg Markets*.
- 24 The World Bank (2015, July 30). *What is the Sankofa Gas Project?* Retrieved from <https://www.worldbank.org/en/country/ghana/brief/what-is-the-sankofa-gas-project> on 22 October 2019; IFC (2019). *Infrastructure & Natural Resources*. Retrieved from https://www.ifc.org/wps/wcm/connect/region_ext_content/ifc_external_corporate_site/western+europe/priorities/we_infrastructure/infra-natural-resources on 22 October 2019; IFC (2017). *IFC and MIGA Support Sankofa Gas Project to Help Ghana Transition Power Generation to Natural Gas*. Retrieved from <https://ifcextapps.ifc.org/ifcext/pressroom/ifcpressroom.nsf/0/0A27DB6985F2AE6F8525808A00522061?OpenDocument> on 22 October 2019; Lakshmi, S.A. (2018, August 22). Offshore Cape Three Points Begins Gas Delivery to Ghana. *Marine Link*. Retrieved from <https://www.marinelink.com/news/offshore-cape-three-points-begins-gas-440805> on 22 October 2019; Sankofa (2018). *A New Crude From Ghana's OCTP Development*. Retrieved from <http://www.vitol.com/wp-content/uploads/2018/05/Sankofa-May-2018-Web-version.pdf> on 6 May 2020; Thomson Reuters Eikon database, *Vitol Offshore Cape Three Points (OTCP), loans*. Retrieved on 3 January 2019.
- 25 NEITI (2019). *Nigeria's Oil & Gas Commodity Trading Pilot Report*, pp. 35. Retrieved from <https://neiti.gov.ng/index.php/neiti-reports> on 4 May 2020.
- 26 Thomson Reuters Eikon database. *Vitol Holding B.V., company deals*. Retrieved on 17 July 2020.
- 27 Vitol (2019). *Who we are*. Retrieved from <https://www.vitol.com/who-we-are/> on 23 October 2019.
- 28 Blas, J. and Hoffman, A. (2016, June 1). Inside Vitol: How the World's Largest Oil Trader Makes Billions. *Bloomberg Markets*.
- 29 Farchy, J. and Blas, J. (2018, July 24). Vitol Handed a Record \$1.6 Billion Payout to Its Traders in 2017. *Bloomberg*. Blas, J. and Hoffman, A. (2016, June 1). Inside Vitol: How the World's Largest Oil Trader Makes Billions. *Bloomberg Markets*.
- 30 Blas, J. and Hoffman A. (2016, June 1). Inside Vitol: How the World's Largest Oil Trader Makes Billions. *Bloomberg Markets*. See also: Schneyer, J. (2011, October 28). Corrected: Commodity Traders: The trillion dollar club. *Reuters*.
- 31 Hoffman, A. and Blas, J. (2018, March 15). Top Trader Vitol Has New CEO as Taylor Becomes Chairman. *Bloomberg*. Retrieved from <https://www.bloomberg.com/news/articles/2018-03-15/vitol-names-russell-hardy-ceo-as-ian-taylor-becomes-chairman> on 6 February 2019.
- 32 The quote in Dutch says: 'De aandelen zijn in handen van 360 van onze medewerkers. Dat is goed voor een bedrijf: we zitten allemaal in hetzelfde schuitje. Wij zullen niet snel last hebben van handelaren die te veel risico nemen. Het is je eigen geld, en het geld van je vrienden – geen anoniem geld. Als je vertrekt, duurt het vijf tot tien jaar voor je je geld krijgt. Wij zien dat aandelenbezit als een mooie manier om goede medewerkers aan te trekken en te houden. En het is evenwichtig verdeeld. Niemand heeft meer dan 5 procent van de aandelen'. See: Persson, M. (2012, April 14). 'Wij kloppen ons niet graag op de borst'. *De Volkskrant*. Retrieved from <https://www.volkskrant.nl/nieuws-achtergrond/-wij-kloppen-ons-niet-graag-op-de-borst-~b2dce456/> on 6 February 2019.
- 33 Blas, J. and Hoffman, A. (2016, June 1). Inside Vitol: How the World's Largest Oil Trader Makes Billions. *Bloomberg Markets*.
- 34 Blas, J. and Hoffman, A. (2016, June 1). Inside Vitol: How the World's Largest Oil Trader Makes Billions. *Bloomberg Markets*.

- 35 Payne, J. and Zhdannikov, D. (2018, March 15). Hardy takes helm from Taylor as CEO of trading giant Vitol. *Reuters*. Retrieved from <https://www.reuters.com/article/us-vitol-ceo/hardy-takes-helm-from-taylor-as-ceo-of-trading-giant-vitol-idUSKCN1GR2UK> on 23 October 2019.
- 36 Hume, N., and Sheppard, D. (2020, June 9). Vitol chairman Ian Taylor dies after long illness. *Financial Times*. Retrieved from <https://www.ft.com/content/054e76b3-1517-4bdf-858c-8d94c42b47bd> on 10 June 2020.
- 37 ('Remain campaign', 2016, August 2). Remain campaign donor Ian Taylor requests exclusion from honours. *BBC News*. Retrieved from <https://www.bbc.com/news/uk-scotland-scotland-politics-36960686> on 23 October 2019.
- 38 Barber, L. (2018, August 3). Vitol's Ian Taylor on oil deals with dictators and drinks with Fidel. *Financial Times*.
- 39 Blas, J. and Hoffman, A. (2016, June 1). Inside Vitol: How the World's Largest Oil Trader Makes Billions. *Bloomberg Markets*.
- 40 Blas, J. and Hoffman, A. (2016, June 1). Inside Vitol: How the World's Largest Oil Trader Makes Billions. *Bloomberg Markets*.
- 41 Berne Declaration ed. (2012), *Commodities*. Switzerland's most dangerous business, pp. 65-66.
- 42 Blas, J. and Hoffman, A. (2016, June 1). Inside Vitol: How the World's Largest Oil Trader Makes Billions. *Bloomberg Markets*.
- 43 Vanheste, T. and Martijn, M. (2013, December 12). Waar rook is, is Vitol. *De Correspondent*. Retrieved from <https://decorrespondent.nl/490/waar-rook-is-is-vitol/22605660-8e518b99> on 23 October 2019.
- 44 Schneyer, J. (2011, October 28). Corrected: Commodity Traders: The trillion dollar club. *Reuters*.
- 45 Macalister, T. and Curtis, P. (2011, September 1). Government admits Alan Duncan's links to company in 'Libyan oil cell'. *The Guardian*. Retrieved from <https://www.theguardian.com/world/2011/sep/01/libya-alan-duncan-links-oil-cell> on 25 October 2019.
- 46 Blas, J. and Hoffman, A. (2016, June 1). Inside Vitol: How the World's Largest Oil Trader Makes Billions. *Bloomberg Markets*.
- 47 Blas, J. and Hoffman, A. (2016, June 1). Inside Vitol: How the World's Largest Oil Trader Makes Billions. *Bloomberg Markets*.
- 48 Vanheste, T. and Martijn, M. (2013, December 12). Waar rook is, is Vitol. *De Correspondent*; Blas, J. and Hoffman A. (2016, June 1). Inside Vitol: How the World's Largest Oil Trader Makes Billions. *Bloomberg Markets*.
- 49 Vitol (2020, March 3). Company review, pp. 4
- 50 Vitol (2020, March 3). Company review, pp. 4
- 51 Blas, J. and Hoffman, A. (2016, June 1). Inside Vitol: How the World's Largest Oil Trader Makes Billions. *Bloomberg Markets*.
- 52 Schneyer, J. (2011, October 28). Corrected: Commodity Traders: The trillion dollar club. *Reuters*.
- 53 Pachymuthu, L., Fabi, R. and Aizhu, C. (2012, September 26). Exclusive: Vitol trades Iranian fuel oil, skirting sanctions. *Reuters*. Retrieved from <https://www.reuters.com/article/us-iran-oil-sanctions-vitol-idUSBRE88P06C20120926> on 25 October 2019; Blas, J. and Hoffman, A. (2016, June 1). Inside Vitol: How the World's Largest Oil Trader Makes Billions. *Bloomberg Markets*.
- 54 Vitol (2020, March 3). Company review, pp. 4.
- 55 Public Eye (2018, November). *Vitol, the king of oil in Kazakhstan*. Retrieved from <http://stories.publiceye.ch/vitolinkazakhstan/index.html> on 18 June 2020.
- 56 Public Eye (2018, November). *Vitol, the king of oil in Kazakhstan*.
- 57 Public Eye (2018, November). *Vitol, the king of oil in Kazakhstan*; and Vitol (2020, March 3). Company review, pp. 7.
- 58 Armitage, J. (2016, September 29). New scandal threatens world's largest oil trader Vitol and boss Ian Taylor. *The Independent*. Retrieved from <https://www.independent.co.uk/news/business/news/new-scandal-threatens-worlds-largest-oil-trader-vitol-and-boss-ian-taylor-a7337546.html>, on 25 October 2019.
- 59 Armitage, J. (2016, September 29). New scandal threatens world's largest oil trader Vitol and boss Ian Taylor. *The Independent*.
- 60 Vitol (2020, March 3). Company review, pp. 4.
- 61 Vitol (2020, April 7). Company review, pp. 2.
- 62 Public Eye (2016, September). Dirty Diesel. How Swiss Traders Flood Africa with Toxic Fuels. Retrieved from https://www.publiceye.ch/fileadmin/doc/Rohstoffe/2016_PublicEye_DirtyDiesel_EN_Report.pdf on 25 October 2019.
- 63 Hoffman, A. and Blas, J. (2018, 15 March). Top Trader Vitol Has New CEO as Taylor Becomes Chairman. *Bloomberg*; Stevens, J. (2016, August 4). How £175m oil tycoon who refused a knighthood built his fortune by dealing with the world's least savoury regimes while chief of the 'biggest company you've never heard of'. *The Daily Mail*. Retrieved from <https://www.dailymail.co.uk/news/article-3722707/How-175m-oil-tycoon-refused-knighthood-built-fortune-dealing-world-s-savoury-regimes-chief-biggest-company-ve-never-heard-of.html> on 25 October 2019.

- 64 Honan, E. (2007, November 20). Update 2 – Swiss firm Vitol pleads guilty in UN oil/food case. *Reuters*. Retrieved from <https://uk.reuters.com/article/un-food-vitol/update-2-swiss-firm-vitol-pleads-guilty-in-un-oil-food-case-idUKN205821120071120> on 25 October 2019.
- 65 Volcker, P.A., Goldstone, R.J., and Pieth, M. (2005, October 27). Independent Inquiry Committee into the United Nations Oil-for-Food Programme. Manipulation of the Oil-for-Food Programme by the Iraqi Regime. Oil Transactions and Illicit Payments. Humanitarian Goods Transactions and Illicit Payments. The Escrow Bank and the Inspection Companies. Other UN-Related Issues. Retrieved from <https://www.files.ethz.ch/isn/13894/ManipulationReport.pdf> on 28 January 2020.
- 66 Vitol (2020, March 3). Company review, pp. 4; Vitol (2020, April 7). Company review, pp. 2.
- 67 Macalister, T. (2016, June 1). Vitol: world's biggest energy trader emerges from the shadows. *The Guardian*.
- 68 Blas, J. and Hoffman, A. (2016, June 1). Inside Vitol: How the World's Largest Oil Trader Makes Billions. *Bloomberg Markets*.
- 69 Schneyer, J. (2011, October 28). Corrected: Commodity Traders: The trillion dollar club. *Reuters*.
- 70 Blas, J. and Hoffman, A. (2016, June 1). Inside Vitol: How the World's Largest Oil Trader Makes Billions. *Bloomberg Markets*; van Schaik, M. (2018, March 22). Petróleos de Venezuela beschuldigt oliehandelsbedrijven van corruptie. *Transparency International*. Retrieved from <https://www.transparency.nl/nieuws/2018/03/pdvsa-beschuldigt-oliehandelsbedrijven-van-corruptie/> on 25 October 2019.
- 71 ('Geneva probe opened into alleged oil trade corruption', 2019, March 13). Geneva probe opened into alleged oil trade corruption. Venezuelan ties. *Swissinfo.ch*. Retrieved from https://www.swissinfo.ch/eng/business/venezuelan-ties_geneva-probe-opened-into-alleged-oil-trade-corruption/43968468 on 25 October 2019.
- 72 Asamblea Nacional República Bolivariana de Venezuela (2019, April 24). Acuerdos aprobados en la plenaria en las distintas áreas de interés nacional. Acuerdo para denunciar la inconstitucionalidad de la constitución del fideicomiso "PDVSA US Litigation Trust", por parte de la Sociedad Anónima Petróleos de Venezuela. Retrieved from <http://www.asambleanacional.gob.ve/actos/detalle/acuerdo-para-denunciar-la-inconstitucionalidadde-la-constitucion-del-fideicomiso-pdvsa-us-litigation-trust-por-parte-de-la-sociedad-anonimapetroleos-de-venezuela-269> on 26 March 2020.
- 73 Susman Godfrey L.L.P. (2019, March). Susman Godfrey Wins for Vitol, Inc. in \$5 Billion PDVSA US Litigation Trust Case. Retrieved from <https://www.susmangodfrey.com/news-awards/sg-news/susman-godfrey-wins-for-vitol-inc-in-5-billion-pdvsa-us-litigation-trust-case/> on 26 March 2020. See also: Holland & Knight (2019, March 12). Holland & Knight wins dismissal in suit brought by Venezuela's PDVSA against oil industry giant. Retrieved from <https://www.hklaw.com/en/news/press-releases/2019/03/holland-knight-wins-dismissal-in-suit-brought-by> on 26 March 2020.
- 74 Millard, P. and Valle, S. (2018, December 5). Trafigura, Glencore and Vitol Probed in Brazil Graft Scandal. *Bloomberg*. Retrieved from <https://www.bloomberg.com/news/articles/2018-12-05/trafigura-glencore-and-vitol-ensnared-in-brazil-bribery-scandal> on 25 October 2019. See also: Davey, E. (2018, December 14). Senior executives at top world oil companies implicated in Brazil bribery scandal. *Global Witness*. Retrieved from <https://www.globalwitness.org/pt/campaigns/corruption-and-money-laundering/senior-executives-top-world-oil-companies-implicated-brazil-bribery-scandal/> on 31 October 2019.
- 75 Vitol (2020, March 3). Company review, pp. 5.
- 76 Public Eye (2018, November). Five years of inaction. Why regulation of the commodity trade in Switzerland is long overdue, pp. 5-7. Retrieved from https://www.publiceye.ch/fileadmin/doc/Rohstoffe/2018_PublicEye_ReportCommodities_Five-years-of-inaction.pdf on 29 October 2019.
- 77 OECD (2016). Corruption in the Extractive Value Chain. Typology of Risks, Mitigation Measures and Incentives. Preliminary version, pp. 83-84. Retrieved from <http://www.oecd.org/dev/Corruption-in-the-extractive-value-chain.pdf> on 27 March 2020.
- 78 OECD (2016). Corruption in the Extractive Value Chain. Typology of Risks, Mitigation Measures and Incentives, pp. 85-88.
- 79 Gillies, A., Guéniat, M., and Kummer, L. (2014, July). Big Spenders. Swiss Trading Companies, African Oil and the Risks of Opacity, pp. 3. Retrieved from https://resource-governance.org/sites/default/files/documents/bigspenders_20141014.pdf on 29 October 2019.
- 80 Public Eye (2018, November). Five years of inaction. Why regulation of the commodity trade in Switzerland is long overdue, pp. 15.
- 81 Gillies, A., Guéniat, M., and Kummer, L. (2014, July). Big Spenders. Swiss Trading Companies, African Oil and the Risks of Opacity, pp. 1.
- 82 Reinfeldt, F. (2019, March 25). Commodity traders have nothing to fear from transparency. *Financial Times*. Retrieved from <https://www.ft.com/content/d80a686a-4cc2-11e9-bbc9-6917dce3dc62> on 13 March 2020.

- 83 Global Witness (2017, January 30). *Revenue disclosure laws – Cardin-Lugar and the Global Transparency Standard*. Retrieved from <https://www.globalwitness.org/en/campaigns/oil-gas-and-mining/turn-towards-transparency/> on 18 June 2020.
- 84 Global Witness (2017, January 30). *Revenue disclosure laws – Cardin-Lugar and the Global Transparency Standard*.
- 85 Global Witness (2017, January 30). *Revenue disclosure laws – Cardin-Lugar and the Global Transparency Standard*.
- 86 For the list of member states that have passed the directive into national legislation see: EUR-Lex (n.d.) Document 32013L0034. Retrieved from <https://eur-lex.europa.eu/legal-content/EN/NIM/?uri=CELEX:32013L0034> on 28 March 2020.
- 87 Government of Canada (2020). *Extractive Sector Transparency Measures Act (ESTMA)*. Retrieved from <https://www.nrnc.gc.ca/our-natural-resources/minerals-mining/mining-resources/extractive-sector-transparency-measures-act/18180> on 9 June 2020.
- 88 Public Eye (2018, November). Five years of inaction. Why regulation of the commodity trade in Switzerland is long overdue, pp. 15. See also NRGi and Publish What You Pay (2016, May). *Commodities Trading Transparency. Game-Changing Opportunity for U.K. Leadership at the London Anti-Corruption Summit*. Briefing Paper. Retrieved from <https://resourcegovernance.org/sites/default/files/documents/commodities-trading-trans.pdf> on 20 May 2020.
- 89 Publish What You Pay Coalition (2017, December). *Improving transparency in the European Union's oil, gas and mining sector*, pp. 17-18. Retrieved from <http://www.publishwhatyoupay.org/wp-content/uploads/2017/12/Improving-transparency-in-the-European-Union%E2%80%99s-oil-gas-and-mining-sectors.pdf> on 28 January 2020. The EU also published a summary report of the public consultation, see: European Commission (2018, October 31). *Summary Report of the Public Consultation on the Fitness Check on the EU framework for public reporting by companies*. 21 March 2018-31 July 2018. Retrieved from https://ec.europa.eu/info/sites/info/files/business_economy_euro/banking_and_finance/documents/2018-companies-public-reporting-feedback-statement_en.pdf on 28 January 2020. For a critical analysis of the European Commission's summary report of the consultation, see also: Transparency International EU (2019, June 20). *All eyes on extractives legislation review*. Retrieved from <http://transparency.eu/all-eyes-on-extractives-legislation-review/> on 28 January 2020.
- 90 GOV.UK (2016). *Anti-Corruption Summit 2016*. Retrieved from <https://www.gov.uk/government/topical-events/anti-corruption-summit-london-2016/about> on 9 June 2020.
- 91 NRGi (2020, June 19). *Switzerland Adopts Extractive Sector Transparency Law, Opens Door to Improved Commodities Trading Transparency*. Press release. Retrieved from <https://resourcegovernance.org/news/switzerland-adopts-extractive-sector-transparency-law-opens-door-improved-commodities-trading> on 1 July 2020; see also: Swiss Parliament (2019, December 20). *Conseil national. Session d'hiver 2019*, pp. 75 (or search for 'Art. 964f'). Retrieved from <https://www.parlament.ch/centers/eparl/curia/2016/20160077/N1-44%20F.pdf> on 9 June 2020; and: Swiss Parliament (2020, June 19). *Code des obligations (Droit de la société anonyme). Modification du 19 juin 2020*. Retrieved from <https://www.parlament.ch/centers/eparl/curia/2016/20160077/Texte%20pour%20le%20vote%20final%201%20NS%20F.pdf> on 1 July 2020, pp. 56-57.
- 92 EITI (2019, October 15). *The EITI Standard 2019. The global standard for the good governance of oil, gas and mineral resources*. Retrieved from https://eiti.org/files/documents/eiti_standard_2019_en_a4_web.pdf on 30 March 2020.
- 93 For a full overview of the expectations for EITI supporting companies, see: EITI (2018, April). *Expectations for EITI supporting companies*. Retrieved from https://eiti.org/files/documents/eiti_company_expectations_en.pdf on 12 March 2020.
- 94 EITI (n.d.). *Companies. Why companies support the EITI*. Retrieved from <https://eiti.org/supporters/companies> on 23 October 2019.
- 95 EITI (2019, October 15). *The EITI Standard 2019. The global standard for the good governance of oil, gas and mineral resources*, pp. 23-24.
- 96 EITI (2017, June). *Guidance note 26. Reporting on first trades in oil*, pp. 4. Retrieved from https://eiti.org/files/documents/eiti_commodities_trading_working_group_reporting_guidance_june_2017_guidance-note-26_0.pdf on 30 March 2020.
- 97 EITI (2019, June). *Transparency in the First Trade*, pp. 9.
- 98 Public Eye (2018, November). Five years of inaction. Why regulation of the commodity trade in Switzerland is long overdue, pp. 15-17.
- 99 Public Eye (2018, November). Five years of inaction. Why regulation of the commodity trade in Switzerland is long overdue, pp. 15.
- 100 Public Eye (2018, November). Five years of inaction. Why regulation of the commodity trade in Switzerland is long overdue, pp. 16-17.

- 101 Public Eye (n.d.). *Payment transparency*. Retrieved from <https://www.publiceye.ch/en/topics/commodities-trading/payment-transparency> on 20 May 2020.
- 102 FDFA – SECO – IHRB (2018). *The Commodity Trading Sector. Guidance on Implementing the UN Guiding Principles on Business and Human Rights*, pp. 13. Retrieved from https://www.publiceye.ch/fileadmin/doc/Rohstoffe/2018_FDFA_SECO_CommoditiesGuidance.pdf on 29 October 2019.
- 103 United Nations Human Rights Office of the High Commissioner (2011). *Guiding Principles on Business and Human Rights. Implementing the United Nations 'Protect, Respect and Remedy' Framework*, pp. 14-15. Retrieved from https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf on 31 March 2020.
- 104 United Nations Human Rights Office of the High Commissioner (2011). *Guiding Principles on Business and Human Rights. Implementing the United Nations 'Protect, Respect and Remedy' Framework*, pp. 22.
- 105 United Nations Human Rights Office of the High Commissioner (2011). *Guiding Principles on Business and Human Rights. Implementing the United Nations 'Protect, Respect and Remedy' Framework*, pp. 22.
- 106 OECD (2018). *OECD Due Diligence Guidance for Responsible Business Conduct*, pp. 21. Retrieved from <http://mneguidelines.oecd.org/OECD-Due-Diligence-Guidance-for-Responsible-Business-Conduct.pdf> on 15 July 2020.
- 107 United Nations Human Rights Office of the High Commissioner (2011). *Guiding Principles on Business and Human Rights. Implementing the United Nations 'Protect, Respect and Remedy Framework'*, pp. 29.
- 108 United Nations Human Rights Office of the High Commissioner (2011). *Guiding Principles on Business and Human Rights. Implementing the United Nations 'Protect, Respect and Remedy Framework'*, pp. 23.
- 109 United Nations Human Rights Office of the High Commissioner (2011). *Guiding Principles on Business and Human Rights. Implementing the United Nations 'Protect, Respect and Remedy Framework'*, pp. 24.
- 110 See for a complete and up to date overview of these initiatives: *Business and Human Rights Resource Centre* (2019, May 22). *National movements for mandatory due diligence in European countries*. Retrieved from <https://www.business-humanrights.org/en/national-movements-for-mandatory-human-rights-due-diligence-in-european-countries> on 31 March 2020.
- 111 Vitol (2018). *Code of Conduct*, pp 7. Retrieved from <https://3wy4t48t53n2zjure2oko7k3-wpengine.netdna-ssl.com/wp-content/uploads/2018/11/Vitol-Code-of-Conduct.pdf> on 14 October 2020.
- 112 Vitol (2018). *Code of Conduct*, pp. 7.
- 113 Vitol (2018). *Code of Conduct*, pp. 8.
- 114 Vitol (2018). *Code of Conduct*, pp. 8.
- 115 Vitol (2019). *Modern slavery policy statement for financial year 2018/19*. Retrieved from <https://3wy4t48t53n2zjure2oko7k3-wpengine.netdna-ssl.com/wp-content/uploads/2020/08/Modern-Slavery-Statement-201819.pdf> on 14 October 2020.
- 116 Vitol (2020, April 7). *Company review*, pp. 3.
- 117 Vitol (2020). *Health, Safety, Environment, Human Rights and Communities Framework*. Retrieved from https://3wy4t48t53n2zjure2oko7k3-wpengine.netdna-ssl.com/wp-content/uploads/2020/04/Vitol-HSEC-Framework_120620_Final.pdf on 8 September 2020.
- 118 Vitol (2020, March 3). *Company review*, pp. 6.
- 119 JMLSG (n.d.). *The Joint Money Laundering Steering Group (JMLSG)*. Retrieved from <https://jmlsg.org.uk/> on 16 April 2020.
- 120 Vitol (2020, April 7). *Company review*, pp. 3.
- 121 Vitol (2020, April 7). *Company review*, pp. 4.
- 122 Vitol (2020, April 7). *Company review*, pp. 4.
- 123 Vitol (2020, March 3). *Company review*, pp. 6.
- 124 United Nations Human Rights Office of the High Commissioner (2011). *Guiding Principles on Business and Human Rights. Implementing the United Nations 'Protect, Respect and Remedy Framework'*, pp. 13.
- 125 Clark, E.V. (2016, August). *The Politics of Oil in Nigeria: Transparency and Accountability for Sustainable Development in the Niger Delta*. *American International Journal of Contemporary Research*, 6 (4), pp. 76-82.
- 126 Kingsley, M.I. (2017, December). *The impact on Economic Growth of Nigeria's Oil Dependency*. International Institute of Social Studies, pp.1.
- 127 Bridge, G., and Le Billon, P. (2017). *Oil*, pp. 173.
- 128 UNDP (2019). *Nigeria. Human Development Indicators*. Retrieved from <http://hdr.undp.org/en/countries/profiles/NGA> on 7 November 2019.
- 129 UNICEF Nigeria (n.d.). *Education*. Retrieved from <https://www.unicef.org/nigeria/education> on 8 November 2019.
- 130 The index takes into consideration issues such as internal grievances in the country, uneven economic development, poverty, economic decline, state legitimacy, public services, human rights and the rule of law, and the lower the rank the more fragile the situation. See: *Fragile States Index* (2019). *Nigeria*. Retrieved from <https://fragilestatesindex.org/country-data/> on 7 November 2019.

- 131 Ibaba, S.I., Ukaga, O., and Ukiwo, U.O. (2012). Introduction: Natural Resource, Conflict, and Sustainable Development in the Niger Delta. In: Ibaba, S.I., Ukaga, O., and Ukiwo, U.O. (eds.). *Natural Resources, Conflict, and Sustainable Development. Lessons from the Niger Delta* (pp. 1-21, here pp. 1). New York and London: Routledge.
- 132 Ibaba, S.I., Ukaga, O., and Ukiwo, U.O. (2012). Introduction: Natural Resource, Conflict, and Sustainable Development in the Niger Delta, pp. 2-4.
- 133 Oxfam International (2017, May). Inequality in Nigeria. Exploring the Drivers, pp. 9. Retrieved from <https://oi-files-cng-prod.s3.amazonaws.com/nigeria.oxfam.org/s3fs-public/cr-inequality-in-nigeria-170517-en.pdf> on 8 November 2019.
- 134 Ekeh, P. (1975, January). Colonialism and the Two Publics in Africa: A Theoretical Statement. *Comparative Studies in Society and History*, 17 (1), pp. 91-112.
- 135 Clark, E.V. (2016, August). The Politics of Oil in Nigeria: Transparency and Accountability for Sustainable Development in the Niger Delta. *American International Journal of Contemporary Research*, 6 (4), pp. 76-82.
- 136 Aye, I., et al. (2019, October). The Oil and Gas Law Review – Edition 7. Nigeria. *The Law Reviews*. Retrieved from <https://thelawreviews.co.uk/edition/the-oil-and-gas-law-review-edition-4/1140339/nigeria> on 6 December 2019.
- 137 Aye, I., et al. (2019, October). The Oil and Gas Law Review – Edition 7. Nigeria. *The Law Reviews*.
- 138 Akinola, A.O. and Wissink, H. (2018). Public Sector Performance in the Nigerian Downstream Oil Sector: A Critical Reflection. *Journal of Asian and African Studies*, 53 (3), pp. 476-490, here pp. 476.
- 139 Berne Declaration (2013). Swiss traders' opaque deals in Nigeria, pp 8. Retrieved from https://www.publiceye.ch/fileadmin/doc/Rohstoffe/2013_PublicEye_Swiss_Traders_opaque_deals_in_Nigeria_Report.pdf on 5 December 2019.
- 140 Aye, I., et al. (2019, October). The Oil and Gas Law Review – Edition 7. Nigeria. *The Law Reviews*.
- 141 Munshi, Neil (2019, November). State promises hike in oil take will benefit all Nigerians, *Financial Times*. Retrieved from <https://www.ft.com/content/2f4e783e-e39d-11e9-9743-d5a370481bc> on 5 December 2019.
- 142 Berne Declaration (2013). Swiss traders' opaque deals in Nigeria, pp 3.
- 143 Akinola, A.O. and Wissink, H. (2018). Public Sector Performance in the Nigerian Downstream Oil Sector: A Critical Reflection, pp. 482.
- 144 Pitman, R. and Chinweze, A. (2018, March). The Case for Publishing Petroleum Contracts in Nigeria. Natural Resource Governance Institute (NRGI), pp. 2. Retrieved from: <https://resourcegovernance.org/sites/default/files/documents/the-case-for-publishing-petroleum-contracts-in-nigeria.pdf> on 12 December 2019.
- 145 Aye, I., et al. (2019, October). The Oil and Gas Law Review – Edition 7. Nigeria. *The Law Reviews*; Spaces for Change (S4C) (2018, May). Analysis of the Petroleum Host Community Development Bill 2018. Retrieved from <https://spacesforchange.org/wp-content/uploads/2018/05/S4C.-Analysis-of-the-Provisions-of-the-Petroleum-Host-Communities-Development-Bill-2018..pdf> on 20 April 2020.
- 146 Ene, K.C. (2018, February). *The fall and rise of the Nigerian Petroleum Industry Governance Bill*. Retrieved from <https://www.opml.co.uk/blog/nigerian-petroleum-industry-governance-bill> on 6 December 2019; Bungane, B. (2018, July 25). Nigeria urgently needs its Petroleum Industry Bills signed into Law. *ESI Africa. Africa's Power Journal*. Retrieved from <https://www.esi-africa.com/nigeria-urgently-needs-its-petroleum-industry-bills-signed-into-law/> on 6 December 2019.
- 147 Stakeholder Democracy Network (SDN) (2018). The Petroleum Industry Governance Bill. Retrieved from <https://www.stakeholderdemocracy.org/wp-content/uploads/2018/12/PIGB-11.12.18-JB.pdf> on 20 April 2020; and: Social Action (2017, June 21). Shortchanged: How the Senate's Petroleum Industry Governance Bill (PIGB) Fails the Environment and Local Communities. Retrieved from <http://saction.org/shortchanged-how-the-senates-petroleum-industry-governance-bill-pigb-fails-the-environment-and-local-communities/> on 19 February 2020.
- 148 Spaces for Change (S4C) (2018, May). Analysis of the Petroleum Host Community Development Bill 2018.
- 149 NEITI (2016). *Brief History of NEITI*. Retrieved from <http://www.neiti.gov.ng/index.php/aboutus/brief-history-of-neiti> on 30 January 2020.
- 150 NEITI (2019). Nigeria's Oil & Gas Commodity Trading Pilot Report.
- 151 NEITI (2019). Nigeria's Oil & Gas Commodity Trading Pilot Report, pp. 20.
- 152 Pitman, R. and Chinweze, A. (2018, March). The Case for Publishing Petroleum Contracts in Nigeria. Natural Resource Governance Institute (NRGI), pp. 2.
- 153 Pitman, R., and Chinweze, A. (2018, March). The Case for Publishing Petroleum Contracts in Nigeria. Natural Resource Governance Institute (NRGI), pp. 2.
- 154 Pitman, R., and Chinweze, A. (2018, March). The Case for Publishing Petroleum Contracts in Nigeria. Natural Resource Governance Institute (NRGI), pp. 8.

- 155 BudgIT (n.d.). *How is the industry run?* Retrieved from <https://www.yourbudgit.com/oil/report/How%20is%20the%20industry%20run.html> on 17 June 2020; Nerush, A., Haynes and Boone LLP (2019, May 17). *International Joint Ventures: Oil & Gas. Practical Law.* Retrieved from https://www.haynesboone.com/-/media/files/attorney-publications/2019/nerush_practice_note_oil_and_gas.ashx?la=en&hash=C1780717EDE621318229E4F39B27056468A78F2A on 17 June 2020.
- 156 Pitman, R. and Chinweze, A. (2018, March). *The Case for Publishing Petroleum Contracts in Nigeria.* Natural Resource Governance Institute (NRGI), pp. 9.
- 157 Pitman, R. and Chinweze, A. (2018, March). *The Case for Publishing Petroleum Contracts in Nigeria.* Natural Resource Governance Institute (NRGI), pp. 11.
- 158 Pitman, R. and Chinweze, A. (2018, March). *The Case for Publishing Petroleum Contracts in Nigeria.* Natural Resource Governance Institute (NRGI), pp. 11.
- 159 Pitman, R. and Chinweze, A. (2018, March). *The Case for Publishing Petroleum Contracts in Nigeria.* Natural Resource Governance Institute (NRGI), pp. 11-12.
- 160 Sayne, A., Gillies, A., and Katsouris, C. (2015, August). *Inside NNPC Oil Sales. A Case for Reform in Nigeria.* Natural Resource Governance Institute, pp. 18. Retrieved from https://resourcegovernance.org/sites/default/files/NRGI_InsideNNPCOilSales_CompleteReport.pdf on 11 December 2019.
- 161 Pitman, R. and Chinweze, A. (2018, March). *The Case for Publishing Petroleum Contracts in Nigeria.* Natural Resource Governance Institute (NRGI), pp. 12.
- 162 Sayne, A., Gillies, A., and Katsouris, C. (2015, August). *Inside NNPC Oil Sales. A Case for Reform in Nigeria.* Natural Resource Governance Institute, pp. 17.
- 163 Sayne, A., Gillies, A., and Katsouris, C. (2015, August). *Inside NNPC Oil Sales. A Case for Reform in Nigeria.* Natural Resource Governance Institute, pp. 47.
- 164 Sayne, A., Gillies, A., and Katsouris, C. (2015, August). *Inside NNPC Oil Sales. A Case for Reform in Nigeria.* Natural Resource Governance Institute, pp. 49.
- 165 Sayne, A., Gillies, A., and Katsouris, C. (2015, August). *Inside NNPC Oil Sales. A Case for Reform in Nigeria.* Natural Resource Governance Institute, pp. 48-51.
- 166 Katsouris, C. and Sayne, A. (2013, September). *Nigeria's Criminal Crude: International Options to Combat the Export of Stolen Oil*, pp. 8. Chatham House (The Royal Institute of International Affairs). Retrieved from https://www.chathamhouse.org/sites/default/files/public/Research/Africa/0913pr_nigeriaoil.pdf on 13 December 2019.
- 167 Sayne, A., Gillies, A., and Katsouris, C. (2015, August). *Inside NNPC Oil Sales. A Case for Reform in Nigeria.* Natural Resource Governance Institute, pp. 19.
- 168 Sayne, A., Gillies, A., and Katsouris, C. (2015, August). *Inside NNPC Oil Sales. A Case for Reform in Nigeria.* Natural Resource Governance Institute; Pitman, R. and Chinweze, A. (2018, March). *The Case for Publishing Petroleum Contracts in Nigeria.* Natural Resource Governance Institute (NRGI).
- 169 EITI (2015, June 13). *Nigeria: Mapping the Labyrinth.* Retrieved from: <https://eiti.org/news/nigeria-mapping-labyrinth> on 12 December 2019.
- 170 Akinola, A.O. and Wissink, H. (2018). *Public Sector Performance in the Nigerian Downstream Oil Sector: A Critical Reflection*, pp. 476 and 480.
- 171 NEITI (2006). *Nigeria Extractive Industries Transparency Initiative: Audit of the Period 1999 – 2004 (Popular Version).* Retrieved from <https://resourcegovernance.org/sites/default/files/PopularVersionof1stAudit%201999-2004.pdf> on 12 December 2019.
- 172 Okafor, C. (2017, September 29). *NEITI: Nigeria does not know its daily oil output 59 years after first export. This Day.* Retrieved from <https://www.thisdaylive.com/index.php/2017/09/29/neiti-nigeria-does-not-know-its-daily-oil-output-59-years-after-first-export/> on 12 December 2019.
- 173 Onwuemenyi, O. (2009, June 15). *Nigeria needs efficient database to develop oil sector – Norwegian envoy. Vanguard.* Retrieved from: <https://www.vanguardngr.com/2009/06/nigeria-needs-efficient-database-to-develop-oil-sector-norwegian-envoy/> on 12 December 2019.
- 174 Three leading reports on oil theft in Nigeria, refer to the complicity of top government official in oil theft: Stakeholder Democracy Network (SDN) (2015). *Communities not criminals. Illegal oil refining in the Niger Delta. Trying to understand an informal economy.* Retrieved from <https://www.stakeholderdemocracy.org/wp-content/uploads/2015/04/CommunitiesNotCriminals.pdf> on 24 January 2020; Social Action (2014). *Crude Business: Oil Theft, Communities and Poverty in Nigeria*; Naanen, B., and Tolani, P. (2014). *Private Gain, Public Disaster: Social Context of Illegal Oil Bunkering and Artisanal Refining in the Niger Delta.*
- 175 Katsouris, C. and Sayne, A. (2013, September). *Nigeria's Criminal Crude: International Options to Combat the Export of Stolen Oil.* Chatham House (The Royal Institute of International Affairs).

- 176 Vidal, J. (2013, October 6). £1bn a month: the spiralling cost of oil theft in Nigeria. *The Guardian*. Retrieved from: <https://www.theguardian.com/global-development/2013/oct/06/oil-theft-costs-nigeria> on 13 December 2019.
- 177 Amanze-Nwachuku (2018, May 14). How top oil industry officials ruined Nigeria's refineries. *This Day*. Retrieved from <https://www.thisdaylive.com/index.php/2018/05/14/how-top-oil-industry-officials-ruined-nigerias-refineries/> on 13 December 2019.
- 178 Berne Declaration (2013). Swiss traders' opaque deals in Nigeria, pp. 8.
- 179 Udo, B. (2014). Why Nigeria's refineries are in terrible shape – Petroleum Minister. *PremiumTimes*. Retrieved from <https://www.premiumtimesng.com/business/175498-nigerias-refineries-terrible-shape-petroleum-minister.html> on 13 December 2019.
- 180 Amanze-Nwachuku (2018, May 14). How top oil industry officials ruined Nigeria's refineries. *This Day*.
- 181 Sayne, A., Gillies, A., and Katsouris, C. (2015, August). Inside NNPC Oil Sales. A Case for Reform in Nigeria. Natural Resource Governance Institute, pp. 2.
- 182 Hildyard, N. (2018, October). The World Bank, red flags and the looting of Nigeria's oil revenues. The IFC's investment in Seven Energy: What would have been your call? The Corner House, Global Witness, Human & Environmental Development Agenda, Re:common, pp. 4. Retrieved from: <http://www.thecornerhouse.org.uk/resource/world-bank-red-flags-and-looting-nigerias-oil-revenues> on 12 December 2019.
- 183 Hildyard, N. (2018, October). The World Bank, red flags and the looting of Nigeria's oil revenues. The IFC's investment in Seven Energy: What would have been your call? pp 4.
- 184 Sayne, A., Gillies, A., and Katsouris, C. (2015, August). Annex A. The Case for Eliminating the Domestic Crude Allocation, Inside NNPC Oil Sales. A Case for Reform in Nigeria. Natural Resource Governance Institute, pp. A15.
- 185 Sayne, A., Gillies, A., and Katsouris, C. (2015, August). Inside NNPC Oil Sales. A Case for Reform in Nigeria. Natural Resource Governance Institute, pp. 43.
- 186 Sayne, A. (2017, March). Securing Fair Value from Nigeria's DSDP Contracts. Briefing Natural Resource Governance Institute. Retrieved from <https://resourcegovernance.org/sites/default/files/documents/securing-fair-value-from-nigerias-dsdp-contracts.pdf> on 23 April 2020.
- 187 Sayne, A. (2017, March). Securing Fair Value from Nigeria's DSDP Contracts. Briefing Natural Resource Governance Institute.
- 188 Clark, E.V. (2016, August). The Politics of Oil in Nigeria: Transparency and Accountability for Sustainable Development in the Niger Delta. *American International Journal of Contemporary research*, 6 (4), pp. 76-82, here pp. 76.
- 189 Cited in: Obi, C. and Rustad, S.A. (2011). Introduction: Petro-violence in the Niger Delta – the complex politics of an insurgency. In C. Obi, and S.A. Rustad (eds.). *Oil insurgency in the Niger Delta. Managing the complex politics of petro-violence* (pp.1-13, here pp. 6). London and New York: Zed Books.
- 190 Obi, C. and Rustad, S.A. (2011). Introduction: Petro-violence in the Niger Delta – the complex politics of an insurgency, pp. 7.
- 191 Zalik, A. (2004). The Niger Delta: 'Petro Violence' and 'Partnership Development'. *Review of African Political Economy*, 101, pp. 401-424, here pp. 405.
- 192 Zalik, A. (2004). The Niger Delta: 'Petro Violence' and 'Partnership Development'. *Review of African Political Economy*, 101, pp. 401-424, here pp. 405.
- 193 Zalik, A. (2004). The Niger Delta: 'Petro Violence' and 'Partnership Development'. *Review of African Political Economy*, 101, pp. 401-424, here pp. 404.
- 194 Frynas, J.G. (1993). *Oil in Nigeria: Conflict and Litigation between Oil Companies and Village Communities*. New Brunswick, USA and London, UK: Transaction Publishers, pp. 9.
- 195 Soremekun, K. (2011). Nigeria's oil diplomacy and the management of the Niger Delta crisis. In: C., Obi and S.A., Rustad, S.A. (eds). *Oil and insurgency in the Niger Delta. Managing the complex politics of petro-violence*. (pp. 99-114, here pp. 102). New York and London: Zed Books.
- 196 Frynas, J.G., Beck, M.P., and Mellahi, K. (2007, February 24). Maintaining corporate dominance after decolonization: the 'first mover advantage' of Shell-BP in Nigeria. *Review of African Political Economy*, 27 (85), pp. 405-425, here pp. 413.
- 197 Obi, C. and Rustad, S.A. (2011). Introduction: Petro-violence in the Niger Delta – the complex politics of an insurgency, pp. 7.
- 198 Ibaba, S.I., Ukaga, O., and Ukiwo, U.O. (2012). Introduction: Natural Resource, Conflict, and Sustainable Development in the Niger Delta, pp. 12.
- 199 Bridge and Le Billon (2017). *Oil*, pp. 179-180; Idemudia, U. (2011). Corporate social responsibility and the Niger Delta conflict: issues and prospects. In: C., Obi and S.A., Rustad, S.A. (eds). *Oil and insurgency in the Niger Delta. Managing the complex politics of petro-violence*. (pp. 167-183, here pp. 177). New York and London: Zed Books.

- 200 The Bayelsa State Oil & Environment Commission (2019, November). Interim Report. Retrieved from <https://www.bayelsacommission.org/wp-content/uploads/2019/11/BSOEC-Public-Interim-Report-ONLINE-VERSION-29.10.19.pdf> on 10 June 2020.
- 201 Obi, C. and Rustad, S.A. (2011). Introduction: Petro-violence in the Niger Delta – the complex politics of an insurgency, pp. 7-8.
- 202 Obi, C. and Rustad, S.A. (2011). Introduction: Petro-violence in the Niger Delta – the complex politics of an insurgency, pp. 8.
- 203 Zalik, A. (2004). The Niger Delta: 'Petro Violence' and 'Partnership Development', pp. 406.
- 204 Quoted in: Zalik, A. (2004). The Niger Delta: 'Petro Violence' and 'Partnership Development', pp. 409.
- 205 Zalik, A. (2004). The Niger Delta: 'Petro Violence' and 'Partnership Development', pp. 410.
- 206 The Bayelsa State Oil & Environment Commission (2019, November). Interim Report.
- 207 Social Action (2014). Crude Business. Oil theft, communities and poverty in Nigeria, pp. 39.
- 208 Social Action (2014). Crude Business. Oil theft, communities and poverty in Nigeria, pp. 26-27.
- 209 The Bayelsa State Oil & Environment Commission (2019, November). Interim Report.
- 210 Berne Declaration ed. (2012), Commodities. Switzerland's most dangerous business, pp. 62-65.
- 211 Quoted in: Berne Declaration ed. (2012). Commodities. Switzerland's most dangerous business, pp. 65-66.
- 212 Intergovernmental Forum on Mining, Minerals and Sustainable Development (IGF) (2018). Nigeria: National Capacity. Building Capacity in the Oil Sector through 'Indigenization' policies. Retrieved from <https://www.iisd.org/sites/default/files/publications/case-study-nigeria-national-capacity.pdf> on 29 April 2020.
- 213 Sayne, A. (2017, March). Securing Fair Value from Nigeria's DSDP Contracts. Briefing Natural Resource Governance Institute, pp. 11.
- 214 Afieroho, E-O U. et.al. (2017). From declared asset retirement obligations to a decommissioning cost estimate for onshore crude oil fields in Nigeria. *Journal of Environmental Management*, 204, pp.207-220, here pp. 207.
- 215 Garrick, N. (2014). Upstream Assets Divestment in Nigeria: Update, Outlook and Challenges. *Energy Mix Report*. Retrieved from <https://www.energymixreport.com/upstream-assets-divestment-in-nigeria-update-outlook-and-challenges/> on 29 April 2020.
- 216 Afieroho, E-O U. et.al. (2017). From declared asset retirement obligations to a decommissioning cost estimate for onshore crude oil fields in Nigeria. *Journal of Environmental Management*, 204, pp.207-220, here pp. 209.
- 217 Garrick, N. (2014). Upstream Assets Divestment in Nigeria: Update, Outlook and Challenges. *Energy Mix Report*.
- 218 Afieroho, E-O U. et.al. (2017). From declared asset retirement obligations to a decommissioning cost estimate for onshore crude oil fields in Nigeria. *Journal of Environmental Management*, 204, pp.207-220, here pp. 208-209.
- 219 Afieroho, E-O U. et.al. (2017). From declared asset retirement obligations to a decommissioning cost estimate for onshore crude oil fields in Nigeria. *Journal of Environmental Management*, 204, pp.207-220, here pp. 209.
- 220 Public Eye (2016, September). Dirty Diesel. How Swiss Traders Flood Africa with Toxic Fuels, pp. 30. Retrieved from: https://www.publiceye.ch/fileadmin/doc/Rohstoffe/2016_PublicEye_DirtyDiesel_EN_Report.pdf on 18 December 2019.
- 221 Quoted in: Public Eye (2016, September). Dirty Diesel. How Swiss Traders Flood Africa with Toxic Fuels, pp. 30.
- 222 Public Eye (2016, September). Dirty Diesel. How Swiss Traders Flood Africa with Toxic Fuels, pp. 31.
- 223 Public Eye (2016, September). Dirty Diesel. How Swiss Traders Flood Africa with Toxic Fuels, pp. 31.
- 224 Public Eye (2016, September). Dirty Diesel. How Swiss Traders Flood Africa with Toxic Fuels.
- 225 Human Environment and Transport Inspectorate (2018, June 8). Heavy fuel oil for sea-going vessels. On-road fuels for West-Africa. Blended in the Netherlands. Retrieved from <https://english.ilent.nl/documents/reports/2018/07/04/heavy-fuel-oil-for-sea-going-vessels> on 11 June 2020.
- 226 Human Rights Watch (2020, February 9). Human Rights Watch Submission to UN Working Group on Business and Human Rights. Re: Corruption and Human Rights. Retrieved from <https://www.hrw.org/news/2020/02/21/human-rights-watch-submission-un-working-group-business-and-human-rights> on 11 June 2020.
- 227 Public Eye (2016, September). Dirty Diesel. How Swiss Traders Flood Africa with Toxic Fuels, pp. 33.
- 228 Vitol (2015, June 30). *Consortium comprising Helios and Vitol to acquire an equity stake in Oando's downstream business*. Retrieved from <https://www.vitol.com/consortium-comprising-helios-and-vitol-to-acquire-an-equity-stake-in-oandos-downstream-businesses/> on 1 May 2020.

- 229 George, L. and Bouso, R. (2019, November 1). Oil trader Vitol pulls out of \$1.5 billion deal to buy Nigerian oil fields. *Reuters*. Retrieved from <https://www.reuters.com/article/us-petrobras-divestiture-vitol/oil-trader-vitol-pulls-out-of-1-5-billion-deal-to-buy-nigerian-oil-fields-idUSKBN1XB4QM> on 19 December 2019.
- 230 Kravtsova, E. (2019, December 12). Vitol signs 10-year deal to buy Nigeria's LNG from 2021. *Reuters*. Retrieved from <https://www.reuters.com/article/us-lng-nigeria-vitol/vitol-signs-10-year-deal-to-buy-nigerias-lng-from-2021-idUSKBN1YG0YU> on 19 December 2019.
- 231 Cited in: Berne Declaration (2013). Swiss traders' opaque deals in Nigeria, pp. 5.
- 232 Berne Declaration (2013). Swiss traders' opaque deals in Nigeria, pp. 5-6.
- 233 Berne Declaration (2013). Swiss traders' opaque deals in Nigeria, pp. 6.
- 234 Zhdannikov, D., and Neely, J. (2016, June 20). Vitol hires former trading boss of Total as head of Africa. *Reuters*. Retrieved from <https://af.reuters.com/article/investing-News/idAFKCN0Z618J> on 29 January 2020.
- 235 Jeremiah, K., (2019, June 21). NNPC gets new GMD, seven COOs. *The Guardian Nigeria*. Retrieved from <https://guardian.ng/news/nnpc-gets-new-gmd-seven-coos/> 29 January 2020.
- 236 African Refiners Association (ARA) (2016). ARA Week 2016 attendance list. Retrieved from https://afrra.org/sites/default/files/newsletter/2016_ARA%20WEEK_Attendance%20List_0.pdf on 5 May 2020.
- 237 NNPC (2019). *Executive Management*. Retrieved from <https://www.nnpcgroup.com/About-NNPC/Pages/Executive-Management.aspx> on 29 January 2020.
- 238 ('NNPC retires 11 senior management staff, to be replaced by in-house officers', 2019, May 20). NNPC retires 11 senior management staff, to be replaced by in-house officers. *PM News*. Retrieved from <https://www.pmnewsnigeria.com/2019/05/20/nnpc-retires-11-senior-management-staff-to-be-replaced-by-in-house-officers/> on 29 January 2020.
- 239 Vitol (2020). *Bermuda*. Retrieved from <https://www.vitol.com/locations/bermuda/> on 29 January 2020. Prior to the publication of the present report, Vitol updated its website, rendering the web link used as source of information for Vitol's offices in Bermuda incorrect. SOMO saved an offline copy of all the webpages used as source material, including this one, and can provide these documents to anyone interested.
- 240 Vitol (2016, July 4). *Press Release regarding completion of Oando transaction: Oando concludes recapitalization and partial divestment of equity stake in its downstream operations to a consortium of Helios and Vitol*. Retrieved from <https://www.vitol.com/press-release-regarding-completion-of-oando-transaction-oando-concludes-recapitalization-and-partial-divestment-of-equity-stake-in-its-downstream-operations-to-a-consortium-of-helios-and-vitol/> on 22 January 2020.
- 241 Public Eye (2016, September). Dirty Diesel. How Swiss Traders Flood Africa with Toxic Fuels, pp. 33.
- 242 Vitol (2020, March 3). Company review, pp. 10.
- 243 Public Eye (2016, September). Dirty Diesel. How Swiss Traders Flood Africa with Toxic Fuels, pp. 33. On OVH Energy see also: Fick, M., and Sheppard, D. (2016, July 4). Oando sells majority stake in downstream business to Vitol. *Financial Times*. Retrieved from <https://www.ft.com/content/07ba4bd8-41e6-11e6-b22f-79eb4891c97d> on 3 January 2020; and Vitol (2019). *OVH Energy*. Retrieved from <https://www.vitol.com/working-with-us/our-companies/ovh-energy/> on 3 January 2020.
- 244 Raval, A. and Hume, N. (2018, January 18). Commodity trader Vitol in \$530m Nigerian oil-for-loan deal. *Financial Times*. Retrieved from <https://www.ft.com/content/1d72b370-fc3e-11e7-a492-2c9be7f3120a> on 3 January 2020.
- 245 George, L. (2018, January 18). Vitol agrees \$530 mln oilfield deal with Nigeria's Shoreline. *Reuters*. Retrieved from <https://www.reuters.com/article/nigeria-oil/update-1-vitol-agrees-530-mln-oilfield-deal-with-nigerias-shoreline-idUSL8N1PD365> on 3 January 2020; Gbadeyanka, M. (2018, January 19). Nigeria's shoreline seals \$530m oil deal with Vitol. *BusinessPost*. Retrieved from <https://www.businesspost.ng/2018/01/19/nigerias-shoreline-seals-530m-oil-deal-vitol/> on 15 May 2019.
- 246 Vitol (2020, March 3). Company review, pp. 9-10; George, L. (2018, January 18). Vitol agrees \$530 mln oilfield deal with Nigeria's Shoreline. *Reuters*; Gbadeyanka, M. (2018, January 19). Nigeria's shoreline seals \$530m oil deal with Vitol. *BusinessPost*; Raval, A. and Hume, N. (2018, January 18). Commodity trader Vitol in \$530m Nigerian oil-for-loan deal. *Financial Times*.
- 247 Raval, A. and Hume, N. (2018, January 18). Commodity trader Vitol in \$530m Nigerian oil-for-loan deal. *Financial Times*.
- 248 Vitol (2020, March 3). Company review, pp. 10.
- 249 Vitol (2019, March 19). *Vitol 2018 volumes and review*.
- 250 George, L. and Bouso, R. (2019, November 1). Oil trader Vitol pulls out of \$1.5 billion deal to buy Nigerian oil fields. *Reuters*. Retrieved from <https://www.reuters.com/article/us-petrobras-divestiture-vitol/oil-trader-vitol-pulls-out-of-1-5-billion-deal-to-buy-nigerian-oil-fields-idUSKBN1XB4QM> on 19 December 2019.
- 251 Vitol (2020). *LPG*. Retrieved from <https://www.vitol.com/what-we-do/trading/lpg/> on 3 January 2020.

- 252 Vitol (2020). *Terminals and storage*.
- 253 VTTI (2020). *Terminals. Navgas, Lagos, Nigeria*. Retrieved from <http://www.vtti.com/terminals/navgas-nigeria> on 3 January 2020.
- 254 Berne Declaration (2013). Swiss traders' opaque deals in Nigeria, pp. 3 and pp. 19.
- 255 NEITI (2019). Nigeria's oil & gas commodity trading pilot report, pp. 63-65 and pp. 83-86.
- 256 Vitol (2020). *Shipping*. Retrieved from <https://www.vitol.com/what-we-do/shipping/> on 3 January 2020.
- 257 Vitol (2020, March 3). Company review, pp. 10.
- 258 Vitol (2020, April 7). Company review, pp. 5.
- 259 Berne Declaration (2013). Swiss traders' opaque deals in Nigeria, pp. 6. See also: ('NNPC official protests against fraud in crude oil mispricing', 2010, April 3). NNPC official protests against fraud in crude oil mispricing. *Fortune & Class*. Retrieved from <https://fnc0486.wordpress.com/2010/04/03/nnpc-again-officals-fight-over-fraud-in-crude-oil-pricing/> on 8 January 2020.
- 260 Vanheste, T. and Martijn, M. (2013, December 12). Waar rook is, is Vitol. *De Correspondent*.
- 261 Hart Resources Ltd., SS Afemikhe Consulting Ltd., and CMA Ltd. (2008, September). Nigeria Extractive Industries Transparency Initiative (NEITI). Physical Audit 2005. Final Draft Report, pp. 11. Retrieved from <https://www.neiti.gov.ng/phocadownload/neitiphysicalaudit2005-finaldraftreport.pdf> on 30 January 2020.
- 262 Berne Declaration (2013). Swiss traders' opaque deals in Nigeria, pp.6.
- 263 Sayne, A., Gillies, A., and Katsouris, C. (2015, August). Inside NNPC Oil Sales. A Case for Reform in Nigeria. Natural Resource Governance Institute, pp. 37.
- 264 Federal Ministry of Petroleum Resources (2012, August). Report of the Petroleum Revenue Special Task Force (Nuhu Ribadu, chair) ("the PRSTF Report"), pp.59, quoted in: Sayne, A., Gillies, A., and Katsouris, C. (2015, August). Inside NNPC Oil Sales. A Case for Reform in Nigeria. Natural Resource Governance Institute, pp. 37.
- 265 See: KPMG and Afemikhe, S.S. (2011). Final Report on the Process and Forensic Review of the Nigerian National Petroleum Corporation (Project Anchor); House of Representatives (2012, April). Report of the ad-hoc committee 'To Verify and Determine the Actual Subsidy Requirements and Monitor the Implementation of the Subsidy Regime in Nigeria', and: Federal Ministry of Petroleum Resources (2012, August). Report of the Petroleum Revenue Special Task Force (Nuhu Ribadu, chair) ("the PRSTF Report").
- 266 Mojeed, M. (2011, December 9). Monumental Oil Subsidy Fraud and Corruption at the NNPC-The Damning KMPG Report. *Premium Times*. Retrieved from <https://www.premiumtimesng.com/news/3106-world-exclusive-the-full-kpmg-report-on-large-scale-corruption-and-fraud-at-the-nnpc.html> on 9 January 2020. The article also contains a link to the interim KPMG report: Federal Ministry of Finance (2010, November 22). Current State Assessment Report on the Process and Forensic Review of the Nigerian National Petroleum Corporation (Project Anchor). Retrieved from https://www.premiumtimesng.com/docs_download/Consolidated%20Detailed%20Findings-v1.pdf on 9 January 2020.
- 267 Social Action (2014). Crude Business: Oil Theft, Communities and Poverty in Nigeria, pp. 17-18.
- 268 Federal Ministry of Petroleum Resources (2012, August). Report of the Petroleum Revenue Special Task Force (Nuhu Ribadu, chair) ("the PRSTF Report"), cited in: Berne Declaration (2013). Swiss traders' opaque deals in Nigeria, pp. 8. See also: Brock, J. (2012, May 13). Factbox: Nigeria \$6.8 billion fuel subsidy scam. *Reuters*. Retrieved from <https://www.reuters.com/article/us-nigeria-subsidy-graft-idUSBRE84C08N20120513> on 7 January 2020; Jukwey, J. (2012, January 19). Nigeria investigates \$4 billion fuel subsidy fraud. *Reuters*. Retrieved from <https://www.reuters.com/article/us-nigeria-fuel-scam/nigeria-investigates-4-billion-fuel-subsidy-fraud-idUSTRE801R220120119> on 7 January 2020.
- 269 House of Representatives (2012, April). Report of the ad-hoc committee 'To Verify and Determine the Actual Subsidy Requirements and Monitor the Implementation of the Subsidy Regime in Nigeria', pp. 89, cited in: Berne Declaration (2013). Swiss traders' opaque deals in Nigeria, pp. 9.
- 270 Berne Declaration (2013). Swiss traders' opaque deals in Nigeria, pp. 8.
- 271 Berne Declaration (2013). Swiss traders' opaque deals in Nigeria, pp. 9. See also: House of Representatives (2012, April). Report of the ad-hoc committee 'To Verify and Determine the actual subsidy Requirements and Monitor the Implementation of the Subsidy Regime in Nigeria', pp. 89 for the original source. In the report the ad-hoc commission uses the word 'machination'.
- 272 House of Representatives (2012, April). Report of the ad-hoc committee 'To Verify and Determine the actual subsidy Requirements and Monitor the Implementation of the Subsidy Regime in Nigeria', pp. 89.
- 273 Berne Declaration (2013). Swiss traders' opaque deals in Nigeria, pp. 9. See also: House of Representatives (2012, April). Report of the ad-hoc committee 'To Verify and Determine the actual subsidy Requirements and Monitor the Implementation of the Subsidy Regime in Nigeria', pp. 89 for the original source.

- 274 Berne Declaration (2013). Swiss traders' opaque deals in Nigeria, pp. 11; See also Vanheste, T. and Martijn, M. (2013, December 12). Waar rook is, is Vitol. *De Correspondent*.
- 275 Vitol (2020, March 3). Company review, pp. 11.
- 276 Vitol (2020, March 3). Company review, pp. 11.
- 277 Berne Declaration (2013). Swiss traders' opaque deals in Nigeria, pp. 10.
- 278 Vitol (2020, April 7). Company review, pp. 4.
- 279 Vitol (2020, March 3). Company review, pp. 11.
- 280 Vitol (2020, March 3). Company review, pp. 11.
- 281 Nsehe, M. (2017, July 15). Nigerian Energy Giant Oando Under Investigation For Alleged Financial Malpractice. *Forbes*. Retrieved from <https://www.forbes.com/sites/mfonobongnsehe/2017/07/15/nigerian-energy-giant-oando-under-investigation-for-alleged-financial-malpractice/#659e3ff657fb> on 9 January 2020.
- 282 JarushHub (2015, May 13). *5 Business Lessons I Learnt from Wale Tinubu, Oando CEO*. Retrieved from <https://www.jarushub.com/5-business-lessons-i-learnt-from-wale-tinubu-oando-ceo/> on 9 January 2020.
- 283 Egbejule, E. (2019, July 24). Oando under fire from Nigeria's SEC. *Petroleum Economist*. Retrieved on <https://www.petroleum-economist.com/articles/politics-economics/africa/2019/oando-under-fire-from-nigerias-sec> 14 January 2020.
- 284 ('Nigerian Oil Company Oando Under Probe By Nigeria's Securities and Exchange Commission', 2017, July 15). Nigerian Oil Company Oando Under Probe By Nigeria's Securities and Exchange Commission. *Sahara Reporters*. Retrieved from <http://saharareporters.com/2017/07/15/nigerian-oil-company-oando-under-probe-nigeria%E2%80%99s-securities-and-exchange-commission> on 14 January 2020.
- 285 Uche, E. (2012, June 1). Fuel Subsidy Fraud: Senate Subpoenas Wale Tinubu Folawiyo. *The Will Nigeria*. Published in The Nigerian Voice. Retrieved from <https://www.thenigerianvoice.com/lifestyle/91496/fuel-subsidy-fraud-senate-subpoenas-wale-tinubu-folawiyo.html> on 9 January 2020.
- 286 Mojeed, M. (2011, December 9). Monumental Oil Subsidy Fraud and Corruption At the NNPC-The Damning KPMG Report. *Premium Times*. Retrieved from <https://www.premiumtimesng.com/news/3106-world-exclusive-the-full-kpmg-report-on-large-scale-corruption-and-fraud-at-the-nnpc.html> on 9 January 2020. The article also contains a link to the interim KPMG report: Federal Ministry of Finance (2010, November 22). Current State Assessment Report on the Process and Forensic Review of the Nigerian National Petroleum Corporation (Project Anchor). Retrieved from https://www.premiumtimesng.com/docs_download/Consolidated%20Detailed%20Findings-v1.pdf on 9 January 2020. Oando is mentioned on pp. 27.
- 287 Exeamulu, B. (2017, January 12). Shocking: Firms facing trial for multi-billion subsidy fraud to lift Nigerian crude in 2017. *Premium Times*. Retrieved from <https://www.premiumtimesng.com/news/headlines/220227-shocking-firms-facing-trial-for-multi-billion-subsidy-fraud-to-lift-nigerian-crude-in-2017.html> on 9 January 2020.
- 288 Farge, E. and Brock, J. (2013, July 23). Nigeria fuel list includes firms named in subsidy fraud probe. *Reuters*. Retrieved from <https://www.reuters.com/article/nigeria-gasoline-imports/nigeria-fuel-list-includes-firms-named-in-subsidy-fraud-probe-idUSL6N0FH3CD20130723> on 9 January 2020.
- 289 Egbejule, E. (2019, 24 July). Oando under fire from Nigeria's SEC. *Petroleum Economist*.
- 290 Securities and Exchange Commission, Nigeria – SEC (2019, May 31). *Press Release on Investigation of Oando Plc*. Retrieved from <https://sec.gov.ng/press-release-on-investigation-of-oando-plc/> on 9 January 2020.
- 291 Securities and Exchange Commission, Nigeria – SEC (2019, May 31). *Press Release on Investigation of Oando Plc*.
- 292 Oando (2019, May 31). *Oando Plc. Challenges the Securities and Exchange Commission's Ruling on the Outcome of the Forensic Audit into Oando Plc*. Retrieved from https://www.oandopl.com/press_release/oando-plc-challenges-the-securities-and-exchange-commissions-ruling-on-the-outcome-of-the-forensic-audit-into-oando-plc/ on 10 January 2020.
- 293 George, L. and Akwagyriam, A. (2019, June 3). Nigerian court blocks watchdog from replacing boss of oil firm Oando: document. *Reuters*. Retrieved from <https://www.reuters.com/article/us-nigeria-oando/nigerian-court-blocks-watchdog-from-replacing-boss-of-oil-firm-oando-document-idUSKCN1T42FL> on 10 January 2020.
- 294 Shoreline Natural Resources (2014). *About us*. Retrieved from <http://www.shorelinenaturalresources.com/new/about-us/> on 14 January 2020.
- 295 United Nations Human Rights Office of the High Commissioner (2011). *Guiding Principles on Business and Human Rights. Implementing the United Nations "Protect, Respect and Remedy" Framework*, pp. 27.

- 296 For details about the allegations against Tony Buckingham see: Goodly, S. (2011, November 13). Profile: Tony Buckingham, chief executive of Heritage Oil. *The Guardian*. Retrieved from <https://www.theguardian.com/business/2011/nov/13/heritage-oil-chief-tony-buckingham> on 14 January 2020; Odunlami, T. (2013, January 21). Furore Over Heritage's Oil Bloc. *PM News*. Retrieved from <https://www.pmnewsnigeria.com/2013/01/21/furore-over-heritages-oil-bloc/> on 14 January 2020; ('Tony Buckingham: murky past of a mercenary turned oil baron', 2009, November 27). Tony Buckingham: murky past of a mercenary turned oil baron. *MoneyWeek*. Retrieved from <https://moneyweek.com/30983/profile-of-tony-buckingham-of-heritage-oil-46336> on 14 January 2020; Lashmar, P. (1998, August 3). Will Tony Buckingham be the next Tiny Rowland? *The Independent*. Retrieved from <https://www.independent.co.uk/news/will-tony-buckingham-be-the-next-tiny-rowland-1169349.html> on 14 January 2020; ('Fears, as former mercenary, arms dealer signs \$850 million Nigerian oil deal', n.d.). Fears, as former mercenary, arms dealer signs \$850 million Nigerian oil deal. *Premium Times*. Retrieved from <https://www.premiumtimesng.com/business/93484-former-mercenary-coup-plotter-signs-850million-nigerian-deal.html> on 14 January 2020.
- 297 Odunlami, T. (2013, January 21). Furore over Heritage's Oil Bloc. *PM News*.
- 298 Heritage Oil (2014). *Nigeria. OML 30 is a world class asset with gross 2P oil reserves of over 1.1 billion barrels*. Retrieved from <http://www.heritageoiltd.com/our-operations.aspx> on 15 January 2020.
- 299 ('Delta communities to resist alleged excesses of oil asset operator', 2017, April 8). Delta communities to resist alleged excesses of oil asset operator. *The Nation*. Retrieved from <https://thenationonlineng.net/delta-communities-to-resist-alleged-excesses-of-oil-asset-operator/> on 16 January 2020.
- 300 Onoyume, J. (2018, April 9). 111 communities to shut down oil field, reject NGO. *Vanguard*. Retrieved from <https://www.vanguardngr.com/2018/04/111-communities-shut-oil-field-reject-ngo/> on 14 January 2020.
- 301 ('Delta communities threaten to shut down 100,000 barrels per day flow stations', 2018, April 27). Delta communities threaten to shut down 100,000 barrels per day flow stations. *Sahara Reporters*. Retrieved from <http://saharareporters.com/2018/04/27/delta-communities-threaten-shut-down-100000-barrels-day-flow-stations> on 16 January 2020.
- 302 ('Delta communities to resist alleged excesses of oil asset operator', 2017, April 8). Delta communities to resist alleged excesses of oil asset operator. *The Nation*.
- 303 Okafor, C. (2018, October 18). Host communities of OML 30 sign MoU with JV partners in Delta. *The Guardian Nigeria*. Retrieved from <https://guardian.ng/news/host-communities-of-oml-30-sign-mou-with-jv-partners-in-delta/> on 16 January 2020.
- 304 Interviews with OML 30 community members (11 March 2019).
- 305 Interview with a Youth Leader from Isoko Community (10 March 2019).
- 306 Interview with a Youth Leader from Isoko Community (10 March 2019).
- 307 Interviews with a community leader in Ofama (11 March 2019) and in Ughere Agbarha-Otor (10 March 2019).
- 308 Schick, L., Myles, P, and Okelum, O.E. (2018, November 14). Gas flaring continues scorching Niger Delta. Retrieved from <https://www.dw.com/en/gas-flaring-continues-scorching-niger-delta/a-46088235> on 7 May 2020. This ranking is based on the World Bank's Global Gas Flaring Reduction Partnership rankings. See for more information: NOAA, Colorado School of Mines, GGFR Rounded numbers (2018). Gas flaring volumes 2014-18 billion cubic meters), retrieved from <http://pubdocs.worldbank.org/en/887251581002821897/Revised-2014-2018-flare-volumes-estimates.pdf> on 20 May 2020.
- 309 Interviews with community leaders at Eruemukohwarian community (11 March 2019).
- 310 Interviews with community leaders at Eruemukohwarian community (11 March 2019).
- 311 EITI (2019, October 15). The EITI Standard 2019. The global standard for the good governance of oil, gas and mineral resources, pp. 23-24.
- 312 This chronological overview is based on: Wikipedia (2020). *List of Heads of State of Nigeria*. Retrieved from https://en.wikipedia.org/wiki/List_of_heads_of_state_of_Nigeria on 14 February 2020.

