Royal Dutch/Shell in Nigeria (A)

Brian Anderson faced a deeply disturbing situation. It was October 31, 1995—just over a year since he'd been named managing director of Royal Dutch/Shell's Nigerian oil exploration and development operation. During the previous months, tensions between the Nigerian government and a group of activists for the Ogoni people—one of Nigeria's 240 minority tribes—had finally come to a head. Arrested and imprisoned on charges of inciting murder in May 1994, fourteen of the activists had been tried before a special military tribunal that was regarded by many as a hanging court. During the proceedings, Anderson had spoken out publicly about the defendants' right to due process, medical treatment, and lawyers of their choosing. However, his words had had no noticeable effect on the decisionmakers in the government in Abuja, headed by General Sani Abacha, the country's military dictator who in 1993 had usurped the power of a short-lived civilian government.

Among the imprisoned was Ken Saro-Wiwa, a vocal critic not only of the Nigerian government but also of Shell. A popular novel and screenplay writer, television producer, talented organizer, and environmentalist, Saro-Wiwa was—and had been since 1993—the leader of MOSOP (Movement for the Survival of Ogoni People). According to Emeka Achebe, the external relations manager for Shell's Nigeria operation at that time, the decision to try the Ogoni activists before a special military tribunal rather than a judge and civilian jury had two implications: first, the tribunal could impose the death sentence for being an accessory to murder—whereas the death sentence could not be imposed in a civilian case for the same offense. Second, the verdict and sentence of the tribunal could not be appealed to a higher court—as a civilian decision could. To Achebe, the move seemed ominous: it appeared as if Abacha was determined to have Saro-Wiwa killed, and had put in motion the bureaucratic machine that would bring about the desired outcome.

The tribunal had voted to convict Ken Saro-Wiwa, along with eight of his co-defendants, on charges that in May 1994 they had incited the murder of four Ogoni chiefs representing a more moderate wing of MOSOP. After a short deliberation on the sentencing, the tribunal had returned with the death sentence for all nine.

Royal Dutch/Shell Company Background

Royal Dutch was founded in 1890 by Aeilko Jans Zijlker, after he accidentally discovered pools of oil in the Dutch East Indies. The company was a potential takeover target for U.S.-based Standard Oil Corporation and Zijlker, feeling threatened, restricted the ownership of Royal Dutch shares to invitees. In 1907, Royal Dutch merged with UK-based Shell Transport and Trading

Post-doctoral Research Fellow Mihnea Moldoveanu prepared this case under the supervision of Professor Lynn Sharp Paine as the basis for class discussion rather than to illustrate either effective or ineffective handling of an administrative situation. Research Associate Robert J. Crawford also contributed to the case.

Company, whose top managers also felt besieged by Standard Oil but were not willing to see their firm taken over by U.S. managers.

Under the terms of the merger agreement, Royal Dutch would handle all oil refining and production operations and Shell would transport, store, and market the resulting oil products. Royal Dutch, based in The Hague (Netherlands) and Shell Transport and Trading, based in London (UK) became separately traded holding companies owning 60% and 40% of the Royal Dutch/Shell Group's operating subsidiaries. Each holding company had its own chairman and operating officers, and each of these people in turn answered to a Committee of Managing Directors (CMD) drawn from the boards of directors of the two companies, and chaired by one of its members. The combined company became one of the most profitable and fastest growing large firms in the world, and emerged as the leader in its market after World War II.

Until the mid-1930's, the Group was led by Henri Deterding, a perceived "strong man" who built up a large bureaucracy to support the company's central offices. Deterding reportedly supported the National Socialist party in Germany after its rise to power in 1933, and negotiated with Adolf Hitler to supply oil on credit. Such events—true or rumored—led to his forced retirement. After Deterding's tenure, executive power on the CMD shifted from its chairman to the committee as a whole, and consensus became a necessary condition for executive action. After 1959, at the suggestion of consultants from McKinsey & Company, the Group's subsidiaries were given a larger range of freedom to operate, further diluting the executive power of the CMD's Chairman. The intent of the change was to allow executives running the companies within the Group to make decisions with greater autonomy and speed. (See **Exhibit 1** for Group structure.)

Royal Dutch/Shell was made up of people who had evolved a unique culture and a positive self-image. Managers of the Group's operating companies, of which there were about 200 in 1995, had gained a reputation for operating "with an effortless air of their own superiority … believing that they work for the best-managed company in the world."[1] Monroe Spaght, chairman of Shell Oil in the U.S., suggested that the Greek ideal of *arete*, which conveyed the idea of "the fullest and finest exercise of one's abilities in all activities recognized as good," best captured the Group ethos.[2] Shell managers were widely recognized among peers and clients for their technical competence.

The Group's revenues reached $103 billion in 1991, making it the largest oil company in the world. At that time, Royal Dutch/Shell was operating in 130 countries and had some 101,000 employees. As the 1990s began to unfold, however, some felt that Shell's financial performance was not all that it should be. The Group's return on average capital employed fell to 7.9% in 1993, almost 1.5% below the average of its competitors. Despite an abundance of cash, Shell's managers were finding it difficult to unearth new opportunities for growth. (See **Exhibit 2** for summary financials.)

In May 1994, the Group's chairman Cor Herkströter called together 50 executives to review Shell's financial performance, which he felt was unacceptable. As reported in the press, Herkströter concluded that Shell had become "bureaucratic, inward-looking, complacent, self-satisfied, arrogant … technocentric and insufficiently entrepreneurial."[3] The meeting set in motion a thorough-going review of every aspect of the company that eventually led the Group to embark on a major transformation effort. In 1994, Shell ranked third in the first *Financial Times* survey of Europe's "most respected companies."

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[1] "Shellman Says Sorry," *Economist*, May 10, 1997, p. 65.

[2] Monroe E. Spaght, *The Long Road from Eureka: An Autobiography* (Butler and Tanner, 1986), pp. 101-102.

[3] Janet Guyon and Wilton Woods, "Why Is the World's Most Profitable Company Turning Itself Inside Out?" *Fortune*, August 4, 1997, pp. 120-121.

In February and March of 1995, just as the Group's senior executives were examining change proposals generated by the designated review teams, Shell found itself in the middle of a major environmental controversy. This was not the first time environmentalists had challenged Shell. Although the company had earned high rankings for environmentalism from some quarters, environmental groups had from time to time taken issue with certain of the company's practices. One example was Shell's production, into the 1990's, of hazardous pesticides (Aldrin, Dieldrin, and Endrin) that had been linked to human and environmental dangers in developing countries.

This time the controversy was over the disposal of the Brent Spar, a North Sea storage buoy that had been in operation since 1976. As reported in Stephen Howarth's commissioned history of Shell, the company spent 30 months considering the best way to dispose of the spar and studying the environmental impact of each option. On the advice of independent scientists, Shell officials decided that the safest and environmentally best alternative was to tow the Brent Spar to the deep Atlantic and sink it in 6,000 feet of water. Permission for this method of disposal was received from the British government. After consulting with the relevant ministers of various European governments and meeting no objections, Shell announced its plan to the press.[4]

Within a short period of the announcement, the plan came under attack from Greenpeace, the worldwide environmental protection and advocacy group, on the grounds that potentially toxic chemicals supposedly still inside the spar would produce widespread contamination at sea. On April 30, a team from Greenpeace boarded the Brent Spar in a dramatic protest against its disposal by sinking. Television stations accepted the Greenpeace footage of the event, broadcasting it without critical commentary throughout Europe.

The publicity provoked powerful emotions among the gasoline-buying public in northern Europe, particularly in Germany, where Shell stations were boycotted by angry automobile owners. Sales volumes at some Shell oil stations in Germany dropped by up to 50% during the week of the media coverage. More worrying were the bombing and shooting at some of the German stations. Some of the European governments that had a few months earlier approved of Shell's plans—actively or tacitly—responded to pressure from their electorates and began to pressure Shell to seek other means for disposing of the Brent Spar.

On June 20, Shell decided to abandon its plans for sinking the spar. Instead it was towed across the North Sea to shelter in a Norwegian fjord, with the permission of the Norwegian government. Greenpeace later admitted that some critical assumptions on its part had been mistaken—notably the assumption that the contents of the Brent Spar were largely toxic.

Royal Dutch/Shell in Nigeria

Shell's involvement in Nigeria began under British colonial rule in 1937 when the company, in equal partnership with British Petroleum (BP), was given exclusive right to prospect for oil. In 1958, oil was discovered in the Niger Delta. The partnership between Shell and BP became a three-way joint venture in 1973 when the Nigerian government took a 35% stake. Since that time, the equity held by the government-owned Nigerian National Petroleum Corporation (NNPC) had varied between 35% and 80%, and it had held a controlling interest since 1974. (See **Exhibit 3:** Equity Interests in the SPDC-Operated Joint Venture.) Shell's share of the joint venture was held by the Shell Petroleum Development Company of Nigeria Limited (SPDC).

In 1979, the Nigerian government appropriated BP's 20% share of the joint venture. The government's action was interpreted by many as a response to the then-UK government's policies

[4] Stephen Howarth, *A Century in Oil: The Shell Transport and Trading Company, 1897-1997* (London: Weidenfeld and Nicolson, 1997), pp. 381-383.

toward southern Africa. In 1988, the Nigerian government gave minority stakes in the joint venture to Elf and Agip, two European oil companies. In 1995, NNPC owned 55% of the SPDC-operated joint venture, whereas Shell owned 30%, Elf—10% and Agip—5%.

While each party was responsible for selling its own share of the oil produced by the venture, the division of the venture's profits did not mirror its equity structure. Instead, according to a formula established in 1991, so long as oil prices remained in the range of $12.50-$23.00 per barrel, the private partners' share of revenues was insensitive to oil price fluctuations. (See **Exhibit 4**: Who Gets What—SPDC Joint Venture.) The government took the balance of the revenue on each barrel of oil through the equity held by NNPC and through royalties and direct taxation of the oil revenues of the participating oil companies. Nigeria's "take" of Nigerian oil revenues was at that time the highest of any government in the world. (See **Exhibit 5**: General State Take Comparison.) Shell was not the only oil company to partner with the Nigerian government for the exploration and development of Nigerian oil resources. As part of its overall plan, the Nigerian government also set up joint ventures with other multinational oil companies, including U.S. oil firms Chevron, Mobil, and Texaco in the late 1960s and early 1970s. These were still in operation in 1995.

Investments in the joint venture proceeded according to a "cash call" system. By the terms of the agreement, SPDC, as operator of the joint venture, would propose an investment program, typically for a five-year period, outlining plans for oil exploration and development, as well as associated environmental remediation and community development activities. Representatives of the venture partners, including the Nigerian government, would debate and negotiate the terms of the proposed plan until some agreement was reached. Each partner was then responsible for contributing funds in proportion to its respective equity stake. Based on its forecasts of anticipated monthly expenditures, Shell issued periodic "cash calls" to the partners according to the schedule that they had jointly ratified. Shell's managers noted, however, that the Nigerian government was not always a timely contributor, but had sometimes postponed payments or reduced the size of the joint venture's budget. In mid-1995, the Nigerian government was some $300 million in arrears.

By the mid-1990s, the SPDC-operated venture controlled about 60% of Nigeria's known oil reserves and employed some 5000 people, of whom 270 were non-Nigerians. The venture was producing about 930,000 barrels of oil a day from 94 oil fields over a network of 6,200 km of flowlines and pipelines. About 280 sq. km of the 31,000 sq. km of acreage allocated to the venture was used for production facilities, office and living accommodations, well-sites, pipelines, and roads—a land take of .3% of the Niger Delta. According to Shell, SPDC operations represented about 12% of Shell's worldwide crude oil production and about 7% of its crude oil production profits. For 1994, SPDC's net income was roughly $235 million. Shell itself used a very small amount of the crude oil produced in Nigeria. Instead SPDC's share was sold to other end-users.

Nigerian Oil and Nigerian Wealth

In the wake of the discovery of high-quality oil in the Niger Delta and the growth of its oil producers, Nigeria had become the world's tenth-largest producer of oil, and its seventh-largest oil exporter. (See **Exhibit 6**: Nigeria Crude Oil Production.) In 1996, oil revenues generated $10 billion for the Nigerian government, and accounted for over 90% of the country's foreign exchange. (See **Exhibit 6**: Nigerian Oil Revenues.)

After the 1972-1973 oil price shock—when the government significantly increased its stake in the joint venture—the fate of Nigeria's economy became closely intertwined with the evolution of its oil industry. With the prospect of ever-increasing oil prices, the government paid little attention to using oil revenues to grow and diversify the non-oil economy. Non-oil sources of revenue, in particular a thriving agricultural sector, were unable to compete as independent centers of economic and political activity. From its position as an exporter of such foodstuffs as palm oil and yams, Nigeria became a net importer of high-value food products. Moreover, distortions generated by the oil economy—windfall revenues that raised the value of the Nigerian currency—slowly strangled other export sectors whose prices rose with the currency, thus further increasing Nigeria's dependence on oil.

While the central government tried to strengthen and maintain its control over the economy, the various states of Nigeria vied with the central government and with one another to get their share of the oil revenues. Regional state governments proliferated in number from 4 to 30 (36 by 1999), each insisting on its own infrastructure, university, and other trappings of governmental authority.

As a consequence of the focus on oil, Nigeria's per-capita gross domestic product (GDP) closely tracked its oil revenue during the period 1970-1990. (See **Exhibit 6**: Oil Revenue in the Nigerian Economy.) In turn, oil revenues closely tracked Nigerian oil prices, leaving the Nigerian GDP figure very vulnerable to fluctuations in world oil prices. (See **Exhibit 6**: Nigerian Oil Prices.)

Nigeria: Socio-Political Background

In 1995, Nigeria was Africa's most populous nation, with about 100 million people living in a geographical area the size of the state of Texas. Over 50% of the population, growing at a rate of 3% annually, were under 15 years of age. The populace comprised some 240 ethnic groups, of which the Ibo in the East, the Hausa-Fulani in the North, and the Yoruba in the West were the largest, together representing about two-thirds of the total. About 50% of the population was Muslim; about 40%, Christian.

The country was plagued with high rates of crime and unemployment. One Shell official in London talked about the need for a police escort from the Lagos airport to the center of Lagos, to protect against armed robberies. He also noted the dearth of health care and elementary schools in some areas of the country, and the high level of unemployment among Nigerian youths. Of particular concern was the high susceptibility of the country's young and poor to extremism and radical movements that played on their emotions. Nigeria's government and system of public officials was perceived as the most corrupt in the world in 1996, according to Transparency International, a Berlin-based watchdog group concerned with corruption. (See **Exhibit 7** for some standard economic indicators for Nigeria.)

To protect their people and facilities from crime, companies operating in Nigeria were obliged to rely on special members of the country's regular police force known as "supernumerary police." Shell and other companies that employed supernumeraries could impose their own rules of engagement for dealing with conflicts and were able to dismiss any police they deemed unsatisfactory. Companies were responsible for paying, training, and equipping the police assigned to their facilities, including providing them with arms as necessary.

Nigeria had been a British colony, originally set up as the Crown Colony of Lagos in 1861. The geographical boundaries that defined Nigeria in 1995 had been drawn in 1914, encompassing in some cases ethnic groups that had been violently antagonistic toward one another throughout history. In 1960, Britain's government recognized Nigeria as an independent country, but British rule had left lasting impressions on the Nigerian society, including a tradition of democratic institutions and one of the freest presses in Africa. Nigeria remained part of the British Commonwealth through 1995, and Abacha was planning to send a representative to the Commonwealth Conference in Auckland, New Zealand, scheduled to begin November 8, 1995.

After British decolonization in 1960, Nigeria's prospects seemed bright. Sitting atop enormous oil reserves and mineral deposits, it also had a well-developed agricultural sector and held promise as a model of development for Africa. However, tensions among the country's ethnic groups increased and erupted violently in 1966 when an Ibo major led a failed coup against the civilian prime minister. The prime minister was killed during the coup, as were many senior northern (Hausa-Fulani) politicians. An Ibo general assumed the presidency, but this led to resentment against the Ibo which in turn led to a second revolt and another military government. The subsequent Ibo-led rebellion resulted in the Biafran civil war, and members of several minority tribes in the Niger Delta joined the Ibo. The war ended only in 1970 with the violent putdown of the rebellion and with a death toll of one million people. Apart from some brief periods of civilian rule, Nigeria was subsequently led by military governments—many of them headed by Hausa-Fulanis, either directly or behind the scenes.

When General Sani Abacha seized power in November 1993, he abolished most of Nigeria's remaining democratic institutions, reduced the powers of state governments, and jailed the winner of the 1993 presidential election, Moshood Abiola. Abacha's leadership met with at least one direct challenge. When leaders of the unsuccessful coup were sentenced to death by a military tribunal, Abacha commuted the sentence in an uncharacteristic bow to international opinion.

Ogoniland and the Niger Delta

The Ogoni people—about 500,000 in number—were one of 20 minority tribes occupying the Niger Delta. (See **Exhibit 8**: Map of Nigeria.) They inhabited a 404-square-mile stretch of land and represented about 7% of the Delta's population. Dependent on the natural resources of the Delta for their welfare, the Ogoni lived principally from farming and fishing. As in other parts of Nigeria, poverty was ubiquitous. The region had few hospitals, few jobs, and high rates of infant mortality.

The Niger Delta was the geographical home of Nigeria's oil exploration and development efforts, and the source of most of the country's oil in the mid-1990s. (See **Exhibit 9**: Location of the Six Majors in the Niger Delta Region.) According to Shell's Emeka Achebe, the importance of the Delta dated back to the days of the slave trade in the eighteenth century, when the tribes in the region functioned as buffers between the hinterland and the white slave buyers. Later, with the trade in palm oil, the tribal chiefs again used their privileged middle-man position to increase their power and autonomy. It was here that the British expeditionary forces met strong resistance in the mid-nineteenth century. Although the Delta's commercial importance waned in the twentieth century after the federal government captured the palm oil business, the local tribes did not forget their previously powerful "middle kingdoms." With the discovery of crude oil riches in the late twentieth century, the Delta's tribal leaders sought to restore the region's importance and their own rightful position.

In 1995, Ogoniland housed about 100 oil wells—96 belonging to Shell and a small number to Chevron. A petrochemical plant, a fertilizer plant, and two refineries—all belonging to the Nigerian government—were also located in the region. Though Ogoniland's contribution to Nigeria's total output of crude oil had fallen to about 1.5% by 1993, at its peak twenty years earlier, it accounted for about 5%. According to Shell's figures, Shell had received 4% of the $5.2 billion in total gross revenues generated from oil production in the Ogoni region; the Nigerian government had received 79%, other oil companies 2%, and 15% had gone to capital and operating costs.

A percentage of the Nigerian government's oil revenues was supposedly returned to the Delta for community development. Under a scheme set up in 1983, the amount was 1.5%. Later, under pressure from oil companies, it was increased to 3%. The system, however, never worked. The organization established by the government to administer development projects in the Delta claimed that the government did not pay in full, and the government claimed that the money was lost to local corruption and poor investments. The net result was a littering of incomplete projects and poverty that appeared to worsen year by year. As far as Shell managers in Nigeria and London were concerned, the people of the Delta were justified in feeling they were not getting a fair reward from the oil being recovered from the region.

Over the years, the joint venture had invested in a variety of community development projects, principally focused on agriculture, health, and education in the Delta. These included running agricultural self-help programs, providing free seeds and cuttings, providing scholarships, building school blocks and hospitals, and donating salary supplements for teachers, doctors, and nurses. According to Shell managers, the venture's investments in community development averaged about $4 million annually in the late 80's, some $13 million in the early 90's, and $22 million in 1995. Faced with the deteriorating situation in the Delta and with increasing demands for more contributions, Shell had begun talking to several non-governmental organizations (NGO's) in 1994 about new approaches to fostering development and accountability in the region. It remained unclear to Shell managers, however, what role a commercial enterprise such as Shell *should* properly play in community development activities.

Environmentalism and the Delta

SPDC's operations in the Niger Delta came under scrutiny in the early and mid-1990s for the environmental impact that they were having on the human and ecological development of the region. Environmental groups such as Greenpeace claimed that the Niger Delta was "an ecological disaster" and attributed the damage principally to Shell's operations.

The main environmental problems allegedly related to Shell's activities were due to isolated but frequent oil spills, the drainage of contaminated water into the waterways, and emissions from the flaring of natural gas at the pumping sites. Environmentalists claimed that oil spills and effluents from the oil-water separation process destroyed plant and animal life, and that emissions from the "flaring" or burning off of natural gas were a leading contributor to global warming. They also argued that flaring caused acid rain which, in turn, destroyed plant life, killed off fish in the waterways, and released carcinogenic particles into the atmosphere. The environmentalists' reports cited Shell's figures of 111 oil spills between 1975 and 1984.

One journalist who traveled under cover in the Delta in 1995 painted a bleak picture. In a *Harper's Magazine* article published in 1996, Joshua Hammer wrote:

> [O]il fields mottle the landscape, their rigs ceaselessly pumping crude and natural gas from deep underground. The gas burns incessantly in giant geysers of flame and smoke, and at night the flares that ring the city of Port Harcourt and fishing villages deep within the mangrove swamps cast a hellish glow. As the smoke from the flares rises above the palm trees, methane and carbon dioxide separate from the greasy soot. The gases rise but the grime descends, coating the trees, the mud-daubed huts and the people within.[5]

To Hammer, the linkage between Shell's activities and the plight of the Ogoni was obvious. "Here was a place and a people utterly subservient to the production of oil," he wrote. "High pressure pipes snaked amid plots of yam and cassavas, past mud-brick huts, even through people's yards; I watched as one woman climbed over a tangle of pipes to get to her front door."[6] Hammer's article contrasted the Ogoni's endemic poverty and lack of access to schools and hospitals with Shell's profitable oil operations in the Delta. British audiences received a similar portrayal of the Delta and its problems in early 1995 when Channel 4 television aired its Delta Force program.

Shell managers in London challenged the picture of environmental devastation being circulated by its critics and countered that many of the charges of environmental misconduct were misplaced. Despite Nigeria's lack of environmental legislation prior to 1992, Shell had always built

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5 Joshua Hammer, "Nigeria Crude," *Harper's Magazine*, June 1996, p. 58.

6 Hammer, at p. 61.

its flow stations to prevailing standards set by the American Petroleum Institute. While older facilities might, for a time, lag evolving world standards, any gap would be closed in the natural course of events when the facility was replaced or upgraded. Most oil industry infrastructure had a 15-year life-cycle. Since June 1992, when Nigeria introduced environmental legislation comparable to that of the U.S. and Europe, SPDC had been working on a $100 million-a-year series of projects to upgrade infrastructure and make environmental improvements. Prior to the passage of legislation, explained Shell managers who had favored the new standards, they had found it difficult, due to declining oil revenues, to persuade their government partner of the need to upgrade the deteriorating infrastructure—much of it dating to the early 1970s—and invest in environmental improvements.

In response to charges that SPDC had driven pipelines through the Delta's villages, Shell officials exhibited a time sequence of pictures showing that, instead, villages had grown up around the pipelines as Nigeria's population had expanded. The rapidly growing population, they explained, was the principal contributor to such environmental problems as deforestation, erosion, and overfarming.

As for spills, Shell managers pointed out that some 77 of the 111 oil spills in the Delta had been due to sabotage by local people. While sabotage of oil operations was in theory punishable by jail or life imprisonment, the absence of eye witnesses willing to give testimony made it impossible to prosecute such cases. Since Shell was prohibited from paying compensation for damages caused by sabotage, would-be saboteurs tried to make spills and leaks look as if they were caused by technical failures, often creating poorly disguised drill holes or hacksaw cuts in the pipes. Individuals and communities affected by a spill would then approach SPDC seeking compensation for damages. Spills also created employment opportunities. Twenty young men could earn as much from cleaning up an oil spill for a couple of months as a whole village could normally earn in a year. Because of this dynamic, Shell began making plans in 1995 to bury most of the existing pipes in the Delta, in spite of the cost involved, and even though above-ground pipes were more easily monitored for leaks and repaired.

Though Shell managers challenged the description of the Delta as an "ecological disaster," they acknowledged the presence of environmental problems. However, their view was much closer to that presented in a 1995 World Bank report. The report, which presented a ranking of environmental threats to the Delta, put the issues related to oil spills and gas flaring well below many other issues, such as the degradation of agricultural land and untreated sewage. (See **Exhibit 10** for ranking of environmental issues.) Nigeria did indeed suffer from gasoline-related pollution problems—the report noted—but these were due to the high lead emissions in urban areas experiencing high traffic volumes. The report called flaring "a wasteful emission of greenhouse gases," but pointed out that no notable acidification of rainwater was found around flaring sites. Although the report's authors called the impact of oil-related activities "widespread and substantial," they concluded that oil pollution, by itself, was only "a moderate priority when compared with the full spectrum of environmental problems in the Niger Delta."[7]

Dealing with gas flaring presented a problem for SPDC. Since natural gas was produced as a by-product of oil, it was not possible to have one without the other. Moreover, unlike some other parts of the world, in Nigeria it was not possible safely to re-inject the gas back into the oil reservoirs. Nor could Nigeria's industry fully utilize all the gas that was flared since the amount was sufficient to power a country the size of Belgium. (More oilbed natural gas was burned off in Nigeria than in any other country in the world.) The solution lay in building a liquefied natural gas plant which, together with an extensive pipeline network, could collect the gas and export it in liquefied form to other countries as an energy source.

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[7] Jasdip Singh, David Moffat, Olof Linden, *Defining an Environmental Development Strategy for the Niger Delta, May 25th, 1995*, The World Bank, West Central Africa Dept., Industry and Energy Operations Division, vol. I, p. xi..

Marshalling the resources and getting the go-ahead to build a Nigerian liquefied gas plant, however, required building a coalition of co-investors as well as customers willing to sign "take or pay" contracts committing them to take delivery of natural gas shipments for as long as twenty years into the future. It also required a fixed price contract for the construction of the plant.

Five projects mounted since the mid-1960s had, for various reasons, failed. However, in the fall of 1995, the Nigerian government had agreed to co-invest with Shell, Elf, and Agip for the construction of a $3.8 billion liquefied natural gas plant. Buyers had signed "take or pay" contracts, and a fixed price construction contract had been arranged. Before the end of the year, the partners would have to make a final decision whether to proceed with the project. Otherwise, all of these contracts would become void. As had happened with other failed projects, the construction company would increase its price, and the buyers would be free to source their gas from elsewhere. Even if successful, the project would take four years to construct and not show a profit before 2007.

Though Shell's managers were increasingly aware of discrepancies between their own understanding of the situation in the Delta and the portrayal in the international mass media, they felt helpless to correct the matter in 1995. They noted that the Nigerian government at the time was unwilling to grant visas to foreign journalists and that responsible journalists would be unwilling to enter the country on a tourist visa. Only later, in 1996, would other voices begin to challenge the depiction of the Delta as an "ecological disaster" and thereby lend greater credence to Shell's account.

MOSOP and Ken Saro-Wiwa

The critique of Shell in Nigeria was fueled in part by local activists in the Delta—in particular by Ken Saro-Wiwa and other leaders of the Movement for the Survival of the Ogoni People (MOSOP). Saro-Wiwa, the son of an Ogoni chief, was born in 1941, and educated in local missionary schools before winning a scholarship to the University of Ibadan, near Lagos. During the Biafran war in the late 1960s, Saro-Wiwa served as an administrator of the Bonny Island oil depot. Starting in 1968, he was appointed a regional commissioner for education. Saro-Wiwa later founded and managed successful real estate and grocery businesses, as well as a publishing company, and also became successful as a writer. *Sozaboy: A Novel in Rotten English*, was an antiwar tale about a village youth recruited into the rebel army during the Biafran conflict; and *On a Darkling Plain* was an autobiographical account of the Biafran war. Saro-Wiwa also produced a hit TV sitcom, *Basi and Company*, that satirized the get-rich-quick attitude among Nigerians. The show had a viewership of 30 million around the country.[8]

Despite his many talents, politics was Saro-Wiwa's true passion. According to an acquaintance quoted by Hammer, "Ken had this idea from the time he was fifteen. He wanted to create a campaign modeled after the American civil rights movement, with mass protests, sit-ins, boycotts, vigils."[9] Although not a founder of MOSOP, Saro-Wiwa joined the group early on and participated in drafting an "Ogoni Bill of Rights." (See **Exhibit 11.**)

Published and circulated widely in Nigeria in late 1990, the Bill of Rights cited numerous Ogoni grievances. In its opening statement, Dr. G.B. Leton, a respected minister of education and then president of MOSOP, began, "[T]he Ogoni case is of genocide being committed in the dying years of the twentieth century by multi-national oil companies under the supervision of the Government…of Nigeria." Asserting that "an estimated 100 billion dollars worth of oil has been carted away from Ogoniland," Leton charged the Nigerian federal government with usurping the rights and resources of the Ogoni people and offering them "NOTHING in return." He attributed the region's environmental degradation to the effects of oil exploration and exploitation.

8 This paragraph is based on Hammer, at p. 61.

9 Hammer, at p. 61.

Principally directed to the Nigerian government, the Bill of Rights claimed that the Ogoni had no representation whatsoever in any institution of the federal government as well as "no pipe-borne water, no electricity, [and] no job opportunities…in public sector or private sector companies." (SPDC counted some 88 Ogoni among its employees). The Bill of Rights demanded political autonomy for the Ogoni as a unit within the Federal Republic of Nigeria, including:

(a) Political control of Ogoni affairs by Ogoni people.

(b) The right to the control and use of a fair proportion of Ogoni economic resources for Ogoni development.

(c) Adequate and direct representation as of right in all Nigerian national institutions.

(d) The use and development of Ogoni languages in all Nigerian territory.

(e) The full development of Ogoni culture.

(f) The right to religious freedom.

(g) The right to protect the Ogoni environment and ecology from further degradation.

When the Nigerian government refused to grant MOSOP leaders an audience to discuss the Bill of Rights, the MOSOP group drafted an addendum to the original document appealing to members of the international community. Saro-Wiwa penned a foreword to the addendum in which he sought to "draw the attention of the American government and people to the fact that the oil which they buy from Nigeria is stolen property and that it is against American law to receive stolen goods." Saro-Wiwa was perhaps alluding to the fact that since 1978, the land of Nigeria had been all government-owned, (individuals had surface rights only), that the federal government had an exclusive revenue-sharing agreement with the oil companies, and that shares of the federal government's oil revenues were not making their way back to the local regions as promised. (See **Exhibit 12** for Saro-Wiwa foreword.)

The addendum specifically abjured the use of violence, but asserted that the Ogoni people "will, through every lawful means, and for so long as is necessary, fight for social justice and equity for themselves and their progeny." Adding to the group's previous demands, the document also called for "full restitution of the harm done to the health of our people by the flaring of gas, oil spillages, oil blow-outs, etc. by the following oil companies: Shell, Chevron, and their Nigerian accomplices." The addendum asked the international community for specific action. (See **Exhibit 13.)**

An engaging speaker and talented organizer, Saro-Wiwa eventually emerged as the leading spokesperson for the Ogoni. He gained international prominence after leading a peaceful protest march involving an estimated 300,000 participants in January 1993. The demonstration was staged on the day designated by the Dalai Lama as a day of international recognition for under-represented and minority people around the world. At the January protest and at many subsequent events, Saro-Wiwa spoke out forcefully not only against the Nigerian government, but also against SPDC. He called Shell's operations "'genocide' and systematic extermination," and he urged the Ogoni to fight for their rights.

Despite the popular image surrounding Saro-Wiwa in the West, his role was controversial. He publicly embraced the dictates of non-violence, but some charged that he was the driving force behind a more radical faction of MOSOP, a faction not bound by the larger MOSOP's pledge of non-violence. The traditional elites accused Saro-Wiwa of whipping his audiences into a frenzy and then leaving them to their own devices.[10] In any event, by early 1993, the charismatic Saro-Wiwa seemed increasingly to be displacing the more moderate leaders of MOSOP. A new and militant youth wing of MOSOP was formed—the National Youth Council of Ogoni People, or NYCOP.

SPDC and the Ogoni Cause

According to Emeka Achebe, SPDC's managers first became aware of the Ogoni Bill of Rights in November 1992 when the then managing director Phil Watts received a letter from MOSOP. The letter demanded from Shell $6 billion for damage caused by its operations in Ogoniland, and $4 billion in lost revenue from the sale of Ogoni oil abroad, which should rightfully have accrued to the Ogoni people. The letter, which was also addressed to Chevron and the Nigerian government, made no explicit threats. However, the implication was clear: consequences would follow if SPDC did not take action.

In early 1993, SPDC field staff—largely Nigerians—became the targets of violence. On their way to work at SPDC's flow stations in Ogoniland, employees were attacked and badly beaten. SPDC vehicles were being seized and not returned. Fearing for the safety of its field staff, SPDC declared Ogoniland a "no-go" area, though it continued pumping oil until April. All staff were removed from the area, including the supernumerary police assigned to Shell's facilities. To Achebe, it seemed clear that Saro-Wiwa's faction of MOSOP was prepared to break the law to make its point. The group held protests and demonstrations without the legally required police permits.

In April MOSOP staged mass demonstrations to stop the construction of a major trunk line passing through Ogoniland. The line was being built for SPDC by a U.S. construction company. When federal internal security forces summoned by the state governor tried to restrain demonstrators, a skirmish ensued. A woman was fatally shot—apparently by the federal troops. Although the local civilian government negotiated a resolution, some portrayed the skirmish as further evidence of complicity between powerful oil interests and the military government. The incident only heightened the tensions among MOSOP, SPDC, and the federal Nigerian government.

Meanwhile, behind the scenes, several moderate Ogoni leaders informally approached SPDC managers for help in pressuring the Nigerian government to create an Ogoni state. The Ogoni leaders believed that Shell could persuade the government by threatening to pull out of Nigeria. Regardless of their stance on the Ogoni cause, however, SPDC managers felt their leverage with the Nigerian government was limited. In their judgment, Shell's pulling out of Nigeria—essentially removing the company's 270 expatriate staff—would have little or no impact on oil production. Moreover, anyone turning off the oil pumps would be committing a criminal offense punishable by jail under Nigerian law.

In any event, Shell's Business Principles committed the company to an apolitical role. Adopted as a set of guidelines in 1976 and subsequently updated five times, the principles stated that "Shell companies should endeavor always to act commercially, operating within existing national laws in a socially responsible manner and avoid involvement in politics." The document referred to Shell's right to address matters of "general interest" and to consider the "wider political and social situation" when making investment decisions. Shell's general practice was to work within the political systems it found in various locales and to express its views only on matters, such as energy policy or fiscal policy, with direct commercial impact on its business.

In June 1993, Saro-Wiwa upset some MOSOP members with his call for the Ogoni people to boycott the Nigerian election as a sign of protest against the ruling government. In November 1993,

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[10] Joshua Hammer, p. 66.

however, Saro-Wiwa's skepticism was confirmed when General Sani Abacha nullified the results of the election and seized power. Abacha and Saro-Wiwa had known one another from the time that both were members of the Rivers State Executive Council. As 1993 and 1994 unfolded, Saro-Wiwa became progressively more outspoken. He was among the few in Nigeria to challenge Abacha publicly. According to Achebe, Abacha resented Saro-Wiwa for his criticism.

Saro-Wiwa continued his attacks against Shell as well. Achebe felt that Saro-Wiwa's focus on Shell reflected his failure to get the Nigerian Government to respond, and also his belief that Shell's international presence and multinational stakeholders would help garner international support for the Ogoni cause. While Saro-Wiwa cast Shell as a villain in the story, Shell managers saw the company as a pawn in Saro-Wiwa's plan. Far from condoning the dictatorial practices of General Abacha, Shell saw itself as a political neutral—focused only on commercial matters and constrained by its own principles from taking sides on such a highly political matter.

Saro-Wiwa's Arrest and Trial

On May 21, 1994, Ken Saro-Wiwa was stopped by police while on his way to a reception to honor a number of Ogoni leaders elected to public office. The reception was being held a few days before the election of representatives to a congress called by Abacha to draft a new Nigerian Constitution. Accounts of the event were fragmented, but apparently Saro-Wiwa, who was up for election to the congress, was stopped on the grounds that campaigning was not allowed in the week prior to the voting. After he was stopped, Saro-Wiwa returned to his home. When the Ogoni crowd around him realized that he was not going to be able to attend the reception, they stormed the reception site and killed four Ogoni leaders who had helped organize the reception. At his later trial, witnesses testified that Saro-Wiwa had said to those around him, "The vultures are meeting there. Go get them." Saro-Wiwa denied the statements.

According to an eyewitness quoted in Hammer's article, the reception headquarters "was surrounded by over 2,000 people. There was no escape route. They removed our wristwatches, shoes, belts and everything that was in our pockets. They escorted about 50 people to safety. Then the rest were left in the hall for killing. They attacked us with bottles, stones, iron bars and machetes. I tried to talk sense to them. But they said, 'Ken Saro-Wiwa is going to bring us a kingdom.'"[11] The reception site was looted and wrecked. Among the murdered were a MOSOP founder, killed on the spot by a rake driven into his skull, and three other erstwhile friends and moderate allies of Saro-Wiwa's who had broken with him in 1993.

Saro-Wiwa was arrested and jailed the same day on charges of inciting the murders of the four chiefs. Fourteen others were arrested on the same charges and indicted on the same evidence. Only a few weeks earlier, Saro-Wiwa had reportedly told Greenpeace, "They are going to arrest us all and execute us. All for Shell."[12] Saro-Wiwa remained in prison from the time of his arrest in May 1994 to the time of his trial a year later. The murders completed the polarization of the Ogoni community, and Ogoniland was thereafter closed to outsiders. Shortly after Saro-Wiwa's arrest, Amnesty International issued an appeal on his behalf, expressing Amnesty's belief that the charges against him were unfounded.

Saro-Wiwa believed the trial had been rigged in order to find him guilty and made no effort to defend himself. An eminent lawyer sent to observe the trial by a respected human rights group had, indeed, found numerous flaws in the proceedings. According to Hammer's report, two of the "most damaging" of the nineteen witnesses called by the prosecution would admit later on to having been bribed by the government to give false testimony. Saro-Wiwa was found guilty as charged. The

[11] Hammer, at p. 64.
[12] Hammer, at p. 64.

tribunal briefly deliberated on the sanctions it would impose on the nine defendants found guilty, and voted to impose the death sentence.

Calls for Action

As the trial in Port Harcourt proceeded, Shell had received numerous queries about its stance on the "Ogoni trials." The company came under increasing pressure from the media, Ogoni supporters, and human rights groups to condemn the proceedings and speak out against what was happening.

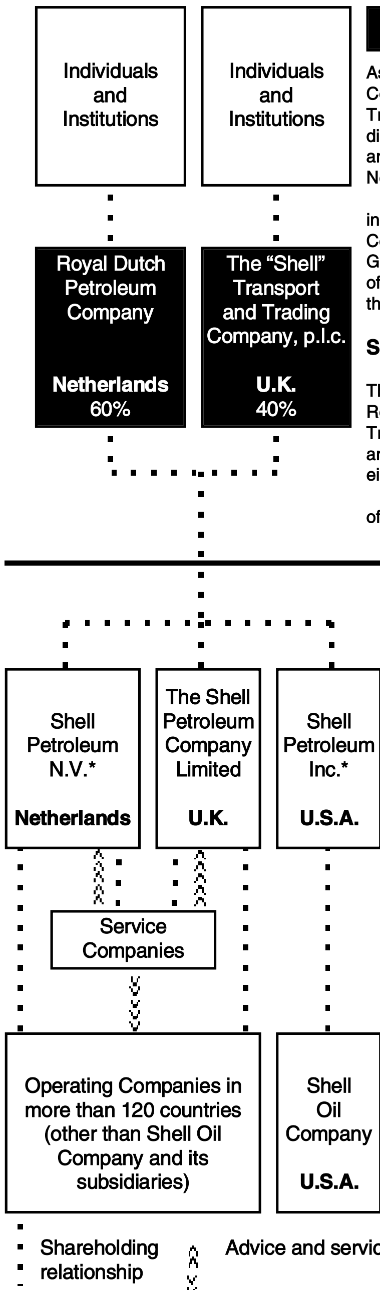
However, other than Brian Anderson's public statement that the defendants were entitled to a fair trial, medical treatment, and lawyers of their own choosing, Shell officials said nothing publicly. The company's lawyers advised that criticizing the trial would constitute contempt of court, possibly exposing Shell to judicial sanctions. However, Shell did talk privately to senior government officials and advised them of the likely consequences of executing those on trial. Some within the company felt that speaking out or attempting to influence the proceedings would be inconsistent with Shell's business principles. None of the other big oil companies was taking a public position. Throughout this period, Brian Anderson and SPDC officials in Nigeria were in close contact with Shell Centre officials and CMD members in London.

Under the decree governing the proceedings, the tribunal's sentence would be reviewed by the Provisional Ruling Council, headed by Abacha, after a one-month moratorium period. There seemed to be good reason, according to some of Shell's managers, why Abacha would commute the sentence. Nigeria was already targeted by human rights organizations and Western governments for corruption, failure to adhere to the rule of law, and suppression of open dialogue and the media. Moreover, there was a precedent, as Abacha had recently commuted the death sentence of the leader of the military coup against his regime—a sentence passed by a tribunal with the same powers. In addition, South African president Nelson Mandela, who was urging "quiet diplomacy," had sent a senior representative to Abuja to plead for mercy in the case of Ken Saro-Wiwa.

On the other hand, Achebe and others in Shell questioned whether Abacha, who had little regard for public opinion, would be likely to show weakness a second time around—particularly since he'd received so little recognition from the West for his earlier act of mercy. Moreover, he was facing no apparent pressure from the U.S. government.

With the announcement of the tribunal's verdict, human rights and environmental groups renewed their calls for Shell to intervene and try to have the verdict overturned. As Shell officials in Nigeria and London reviewed the situation, they looked to Brian Anderson for his views. A 27-year veteran of Shell, Anderson had been born in Nigeria and knew the country well.

Exhibit 1 Structure of Royal Dutch/Shell Group



Parent Companies

As Parent Companies, Royal Dutch Petroleum Company and The "Shell" Transport and Trading Company, p.l.c. do not themselves directly engage in operational activities. They are public companies, one domiciled in the Netherlands, the other in the United Kingdom.

The Parent Companies directly or indirectly own the shares in the Group Holding Companies but are not themselves part of the Group. They appoint Directors to the Boards of the Group Holding Companies, from which they receive income in the form of dividends.

Shareholdings

There are some 295,000 shareholders of Royal Dutch and some 270,000 of Shell Transport. Shares of one or both companies are listed and traded on stock exchanges in eight European countries and in the USA.

The estimated geographical distribution of shareholdings at the end of 1996 was:

	Royal Dutch[1]	Shell Transport[1]	Combined[1]
	%	%	%
United Kingdom	1	96	39
USA	43	4	27
Netherlands	41	*	25
Switzerland	9	*	5
France	3	*	2
Germany	1	*	1
Luxembourg	1	*	1
Belgium	1	*	*
Others	*	*	*

*Less than 1%.

Royal Dutch/Shell Group of Companies

Group Holding Companies

Shell Petroleum N.V. and The Shell Petroleum Company Limited between them hold all the shares in the Service Companies and, directly or indirectly, all Group interests in the Operating Companies other than those held by Shell Petroleum Inc.

Service Companies

Shell International B.V.
Shell International Limited
Shell International exploration and Production B.V.
Shell International Petroleum Company Limited
Shell International Chemicals B.V.
Shell International Chemicals Limited
Shell Internationale Research Maatschappij B.V.
Shell International Oil Products B.V.
Shell International Trading and Shipping Company Limited
Shell International Gas Limited
Shell Coal International Limited

The main business of the Service Companies is to provide advice and services to other Group and associated companies, excluding Shell Petroleum Inc. and its subsidiaries. The Service Companies are variously located in the Netherlands or the United Kingdom.

Operating Companies

Operating Companies are engaged in various branches of the oil and natural gas, chemicals, coal and other businesses throughout the world (see page 16). The management of each Operating Company is responsible for the performance and long-term viability of its own operations, but can draw on the experience of the Service Companies and, through them, of other Operating Companies.

*Shell Petroleum N.V. holds equity shares in Shell Petroleum Inc. which are non-controlling but entitle it to the dividend flow from that company.

Source: Royal Dutch/Shell Annual Report 1996.

Exhibit 2 Financial Summary—1992-1994 (US$ million)[a]

	1994	1993	1992
Income Data			
Sales proceeds			
Oil and gas	116,027	112,977	114,295
Chemicals	11,069	10,102	10,499
Coal	531	570	1,212
Other	1,482	2,165	2,414
Gross proceeds	129,109	125,814	128,420
Sales taxes, excise duties and similar levies	34,279	30,641	31,795
Net proceeds	94,830	95,173	96,625
Earnings by industry segment			
Oil and gas: Exploration and Production	2,363	3,000	3,227
Refining and Marketing	3,193	2,648	2,202
Chemicals	534	(618)	(367)
Other industry segments	(139)	(71)	(129)
Earnings from operations	5,951	4,959	4,933
Corporate items	433	(447)	490
Minority interests	(117)	(15)	(54)
Net income for the year[b]	6,267	4,497	5,369
Assets and Liabilities Data (at year end)			
Total fixed and current assets	107,852	99,830	100,819
Net current assets	7,786	6,753	6,770
Total debt	11,610	11,541	12,270
Parent Companies' interest in Group net assets	56,142	51,591	51,851
Minority interests	1,880	1,563	1,329
Capital employed	69,632	64,695	65,450
Cash Flow Data (1992 and 1993 restated in 1994)			
Cash flow provided by operating activities	11,718	10,272	12,543
Capital expenditure (including capitalized leases)	9,482	8,355	9,104
Cash flow used in investing activities	7,199	7,363	7,906
Cash flow provided by (used in) financing activities	321	(81)	763
Dividends paid	3,890	3,608	3,874
Increase/(Decrease) in cash and cash equivalents	1,425	(1,022)	775
Other Statistics			
Net income as a percentage of average net assets	11.5%	8.7%	9.7%
Return on average capital employed[c]	10.4%	7.9%	9.0%
Total debt ratio[d]	16.7%	17.8%	18.7%

Source: Royal Dutch/Shell Annual Report, 1996.

[a]Footnote missing.

[b]If the cost of sales of the volumes sold in the period is based solely on the average cost of supplies incurred in the same period (instead of using the first-in, first-out (FIFO) method of inventory accounting used by most Group companies) and allowance is made for the estimated tax effects, earnings on this estimated current cost of supplies basis would be as follows:

Oil and gas: Refining and Marketing	3,082	2,989	2,772
Chemicals	534	(618)	(337)
Earnings on an estimated current cost of supplies basis	6,156	4,838	5,469

[c]Return on average capital employed is calculated as follows: net income plus minority interests plus total interest expense, less tax on the interest expense as a percentage of average capital employed.

[d]Total debt ratio is calculated as follows: total debt as a percentage of capital employed.

Exhibit 3 Equity Interests in the SPDC-Operated Joint Venture (1958-1995)

	1958 - 3/31/73	4/1/73 - 3/31/74	4/1/74 - 6/30/79	7/1/79 - 7/31/79	8/1/79 - 6/29/89	6/30/89 - 6/30/93	7/1/93 - –
Royal Dutch/Shell	50.0%	32.5%	22.5%	20%	20.0%	30.0%	30.0%
British Petroleum	50.0	32.5	22.5	20.0			
Elf						5.0	10.0
Agip						5.0	5.0
NNPC (Nigerian government)		35.0	55	60.0	80.0	60.0	55.0

Source: Company information.

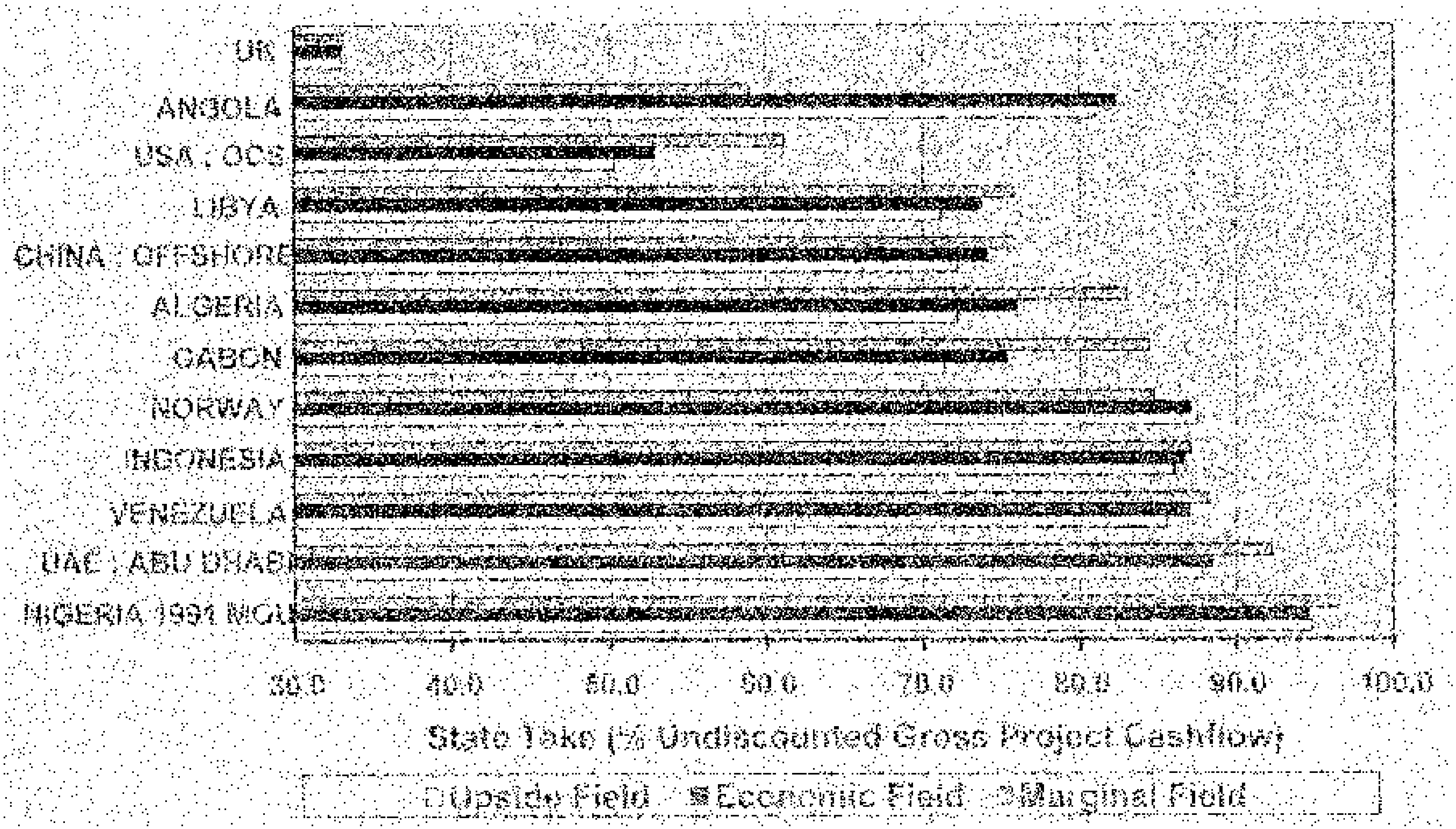
Exhibit 4 Who Gets What - SPDC Joint Venture

	Per Barrel
Costs	$4.50
Shell	0.70
Elf/Agip	0.30
Government (through tax, royalty, and NNPC equity)	9.50
	15.00

Source: Company document.

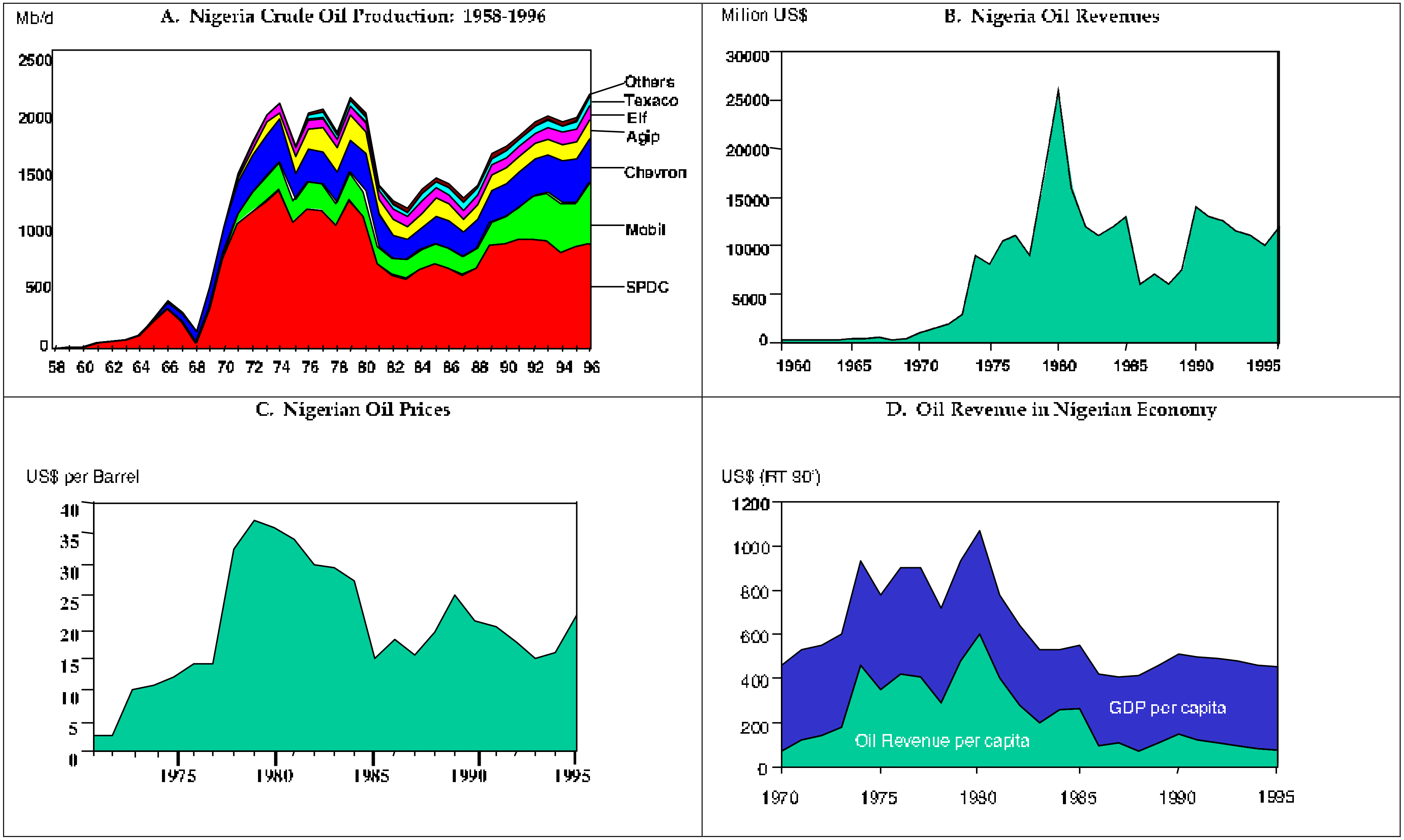
NB: Private partners' share is insensitive to oil price movements between $12.50 and $23.00 per barrel.

Exhibit 5 General State Take Comparison



Source: Company Document

Exhibit 6 Nigerian Oil



Source: Company documents.

Exhibit 7 Selected Data on Nigerian Economy

Economic Structure (latest available figures)

Economic Indicators	1992	1993	1994	1995	1996[a]
GDP at market prices N (billion)	549.8	701.5	914.3	1,615.0	2,135.8
Real GDP growth at market prices %	3.0	2.3	1.0	2.2	3.3[b]
Consumer price inflation %	44.6	57.2	57.0	72.8	28.0[b]
Population[c] (million)	91.0	93.6	96.2	99.0	101.8
Exports fob $ (billion)	11.79	9.91	9.46	10.64	15.36
Imports fob $ (billion)	7.18	6.66	6.51	8.22	7.60
Current account $ (billion)	2.27	-0.78	-2.13	-3.62	2.13
Reserves excluding gold $ (million)	967	1,372	1,386	1,443	2,706[d]
Total external debt $ (billion)	29.02	30.70	33.49	36.1[a]	38.5
External debt-service ratio %	28.8	13.4	19.4	18.0[a]	12.6
Crude oil production[e] (million b/d)	1.88	1.91	1.90	1.93	2.06
Manufacturing output index 1990 = 100	111.0	99.7	89.2	83.7	84.8[f]
Average exchange rate (av) N:$	17.30	22.07	22.00	82.3[g]	81.0[g]

Origins of Gross Domestic Product 1995	% of Total
Agriculture	31.0
Livestock	5.8
Crude petroleum	12.4
Manufacturing	6.9
Wholesale and retail trade	12.2
Government services	10.2
Finance and insurance	9.2
GDP at factor cost including others	100.0

Principal Exports 1995	$ Billion	Principal Imports CIF 1995	$ Billion
Petroleum	10.35	Machinery and transport equipment	2.57
Cocoa beans	0.08	Chemicals	2.45
Rubber	0.06	Manufactured goods	2.16
Textiles	0.02	Food and live animals	1.09
Main Destinations of Exports 1995	**% of Total**	**Main Origins of Imports 1995**	**% of Total**
U.S.A.	39.4	United Kingdom	13.4
Spain	8.9	U.S.A.	11.8
France	6.3	Germany	10.9
India	4.9	France	8.2
Germany	4.9	Netherlands	5.7

Source: The Economist Intelligence Unit, Country Report, Nigeria, First Quarter 1997.

[a]EIU estimates.

[b]Official estimate.

[c]This series follows the official census held in November 1991. The UN estimated the population in mid-1994 at 108.5 million.

[d]End-September.

[e]Excluding condensates.

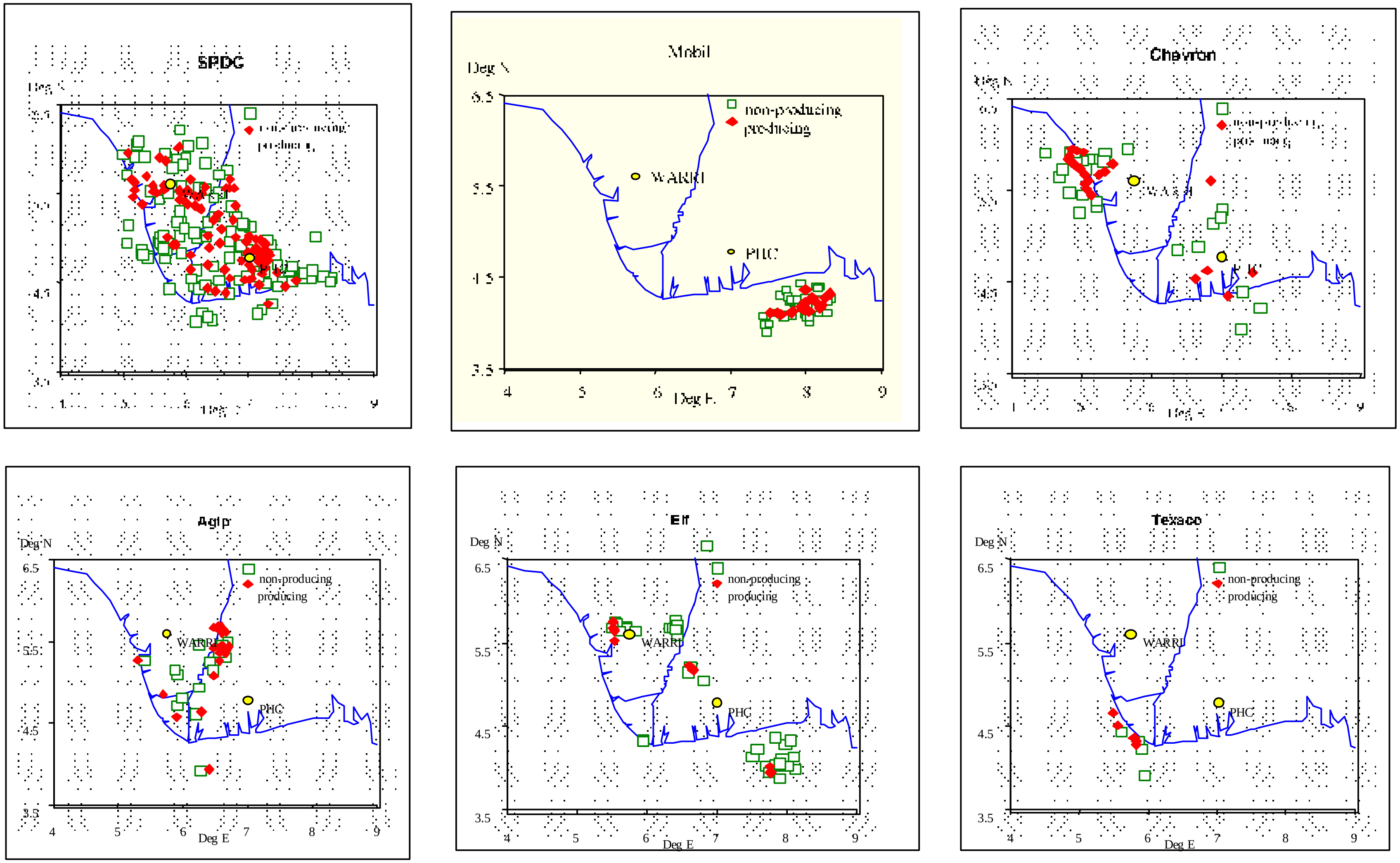
[f]June.

[g]Autonomous rate. The official rate, applicable to selected government transactions, remained at N21.9:$1.

Exhibit 8 Map of Nigeria

Source: CIA public map.

Exhibit 9 Location of the Six Majors in the Niger Delta Region



Source: Company documents.

Exhibit 10 World Bank Report Ranking of Environmental Issues in Nigeria

Category	High Priority	Moderate Priority	Lower Priority
Land Resource	Agricultural land degradation Flooding (moderate-high).	Coastal erosion Riverbank erosion.	Sea level rise.
Renewal Resource Degradation	Fisheries depletion Deforestation. Biodiveristy loss Water hyacinth expansion.	Fisheries habitat degradation	Mangrove degradation. Nypa palm expansion
Environmental Pollution	Sewage Vehicular emissions Municipal solid wastes Toxic and hazardous substances	Oil pollution Industrial effluents Industrial air emissions Industrial solid wastes	Gas flaring[a]

Source: Jasdip Singh, David Moffat, Olof Linden, *Defining an Environmental Development Strategy for the Niger Delta, May 25th, 1995*, The World Bank, West Central Africa Dept., Industry and Energy Operations Division, vol. I, p. viii.

[a]While the local environmental impact of gas flaring in the Niger Delta is assessed as low, its contribution to the international problem of greenhouse gas emissions is substantial.

Exhibit 11 Ogoni Bill of Rights (October 1990)

OGONI BILL OF RIGHTS

PRESENTED TO THE GOVERNMENT AND PEOPLE OF NIGERIA

We, the people of Ogoni (Babbe, Gokana, Ken Khana, Nyo Khana and Tai) numbering about 500,000 being a separate and distinct ethnic nationality within the Federal Republic of Nigeria, wish to draw the attention of the Governments and people of Nigeria to the undermentioned facts:

1. That the Ogoni people, before the advent of British colonialism, were not conquered or colonized by any other ethnic group in present-day Nigeria.

2. That British colonization forced us into the administrative division of Opobo from 1908 to 1947.

3. That we protested against this forced union until the Ogoni Native Authority was created in 1947 and placed under the then Rivers Province.

4. That in 1951 we were forcibly included in the Eastern Region of Nigeria where we suffered utter neglect.

5. That we protested against this neglect by voting against the party in power in the Region in 1957, and against the forced union by testimony before the Willink Commission of Inquiry into Minority Fears in 1958.

6. That this protest led to the inclusion of our nationality in Rivers State in 1967, which State consists of several ethnic nationalities with differing cultures, languages and aspirations.

7. That oil was struck and produced in commercial quantities on our land in 1958 at K. Dere (Bomu oilfield).

8. That oil has been mined on our land since 1958 to this day from the following oilfields: (i) Bomu (ii) Bodo West (iii) Tai (iv) Korokoro (v) Yorla (vi) Lubara Creek and (vii) Afam by Shell Petroleum Development Company (Nigeria) Limited.

9. That in over 30 years of oil mining, (the Ogoni nationality have provided the Nigerian nation with a total revenue estimated at over 40 billion Naira (∟40 billion) or 30 billion dollars.

10. That in return for the above contribution, the Ogoni people have received NOTHING.

11. That today, the Ogoni people have:
    - (i) No representation whatsoever in ALL institutions of the Federal Government of Nigeria.
    - (ii) No pipe-borne water.
    - (iii) No electricity
    - (iv) No job opportunities for the citizens in Federal, State, public sector or private sector companies.
    - (v) No social or economic project of the Federal Government.

12. That the Ogoni languages of Gokana and Khana are undeveloped and are about to disappear, whereas other Nigerian languages are being forced on us.

13. That the ethnic policies of successive Federal and State Governments are gradually pushing the Ogoni people to slavery and possible extinction.

14. That the Shell Petroleum Development Company of Nigeria Limited does not employ Ogoni people at a meaningful or any level at all, in defiance of the Federal government's regulations.

15. That the search for oil has caused severe land and food shortages in Ogoni one of the most densely populated areas of Africa (average: 1,500 per square mile; national average: 300 per square mile).

16. That neglectful environmental pollution laws and substandard inspection techniques of the Federal authorities have led to the complete degradation of the

Exhibit 11 (continued)

Ogoni environment, turning our homeland into an ecological disaster.

17. That the Ogoni people lack education, health and other social facilities.

18. That it is intolerable that one of the richest areas of Nigeria should wallow in abject poverty and destitution.

19. That successive Federal administrations have trampled on every minority right enshrined in the Nigerian Constitution to the detriment of the Ogoni and have by administrative structuring and other noxious acts transferred Ogoni wealth exclusively to other parts of the Republic

20. That the Ogoni people wish to manage their own affairs,

Now, therefore, while reaffirming our wish to remain a part of the Federal Republic of Nigeria, we make demand upon the Republic as follows:

That the Ogoni people be granted POLITICAL AUTONOMY to participate in the affairs of the Republic as a distinct and separate unit by whatever name called, provided that this Autonomy guarantees the following:

(a) Political control of Ogoni affairs by Ogoni people.
(b) The right to the control and use of a fair proportion of OGONI economic resources for Ogoni development.
(c) Adequate and direct representation as of right in all Nigerian national institutions.
(d) The use and development of Ogoni languages in all Nigerian territory.
(e) The full development of Ogoni culture
(f) The right to religious freedom.
(g) The right to protect the OGONI environment and ecology from further degradation.

We make the above demand in the knowledge that it does not deny any other ethnic group in the Nigerian Federation of their rights and that it can only conduce to peace, justice and fair play and hence stability and progress in the Nigerian nation.

We make the demand in the belief that, as Obafemi Awolowo has written: *In a true Federation, each ethnic group no matter how small, is entitled to the same treatment as any other ethnic group, no matter how large.*

We demand these rights as equal members of the Nigerian Federation who contribute and have contributed to the growth of the Federation and have a right to expect full returns from that Federation.

Adopted by general acclaim of the Ogoni people on the 26th day of August, 1990 at Bori, Rivers State and signed by: (see under).

Source: Ogoni Bill of Rights, London: MOSOP and the Ogoni Community Association, 1995, pp. 9-12.

Exhibit 12 Saro-Wiwa's Foreword, Addendum to Ogoni Bill of Rights (December 1991)

FOREWORD

In August 1990 the Chiefs and people of Ogoni in Nigeria met to sign one of the most important declarations to come out of Africa in recent times: the Ogoni Bill of Rights. By the Bill, the Ogoni people, while underlining their loyalty to the Nigerian nation, laid claim as a people to their independence which British colonialism had first violated and then handed over to some other Nigerian ethnic groups in October 1960.

The Bill of Rights presented to the Government and people of Nigeria called for political control of Ogoni affairs by Ogoni people, control and use of Ogoni economic resources for Ogoni development, adequate and direct representation as of right for Ogoni people in all Nigerian national institutions and the right to protect the Ogoni environment and ecology from further degradation.

These rights which should have reverted to the Ogoni after the termination of British rule, have been usurped in the past thirty years by the majority ethnic groups of Nigeria. They have not only been usurped; they have been misused and abused, turning Nigeria into a hell on earth for the Ogoni and similar ethnic minorities. Thirty years of Nigerian independence has done no more than outline the wretched quality of the leadership of the Nigerian majority ethnic groups and their cruelty as they have plunged the nation into ethnic strife, carnage, war, dictatorship, retrogression and the greatest waste of national resources ever witnessed in world history, turning generations of Nigerians, born and unborn into perpetual debtors.

The Ogoni Bill of Rights rejects once and for all this incompetent indigenous colonialism and calls for a new order in Nigeria, an order in which each ethnic group will have full responsibility for its own affairs and competition between the various peoples of Nigeria will be fair, thus ushering in a new era of peaceful co-existence, cooperation and national progress.

This is the path which has been chosen by the European tribes in the European Community, and by the Russians and their neighbours in the new Commonwealth which they are now fashioning. The Yugoslav tribes are being forced into similar ways. The lesson is that high fences make good neighbours. The Ogoni people are therefore in the mainstream of international thought.

It is well-known that since the issuance of the Bill of Rights the Babangida administration has continued in the reactionary ways of all the military rulers of Nigeria from Ironsi through Gowon, Obasanjo and Buhari, seeking to turn Nigeria into a unitary state against the wishes of the Nigerian peoples and trends in world history. The split of the country into 30 states and 600 local governments in 1991 is a waste of resources, a veritable exercise in futility. It is a further attempt to transfer the seized resources of the Ogoni and other minority ethnic groups in the Delta to the majority ethnic groups of the country. Without oil, these states and local governments will not exist for one day longer.

The import of the creation of these states is that the Ogoni and other minority groups will continue to be slaves of the majority ethnic groups. It is a gross abuse of human rights, a notably undemocratic act which flies in the face of modern history. The Ogoni people are right to reject it. While they are willing, for the reasons of Africa, to share their resources with other Africans, they insist that it must be on the principles of mutuality, of fairness, of equity and justice.

It has been assumed that because the Ogoni are few in number, they can be abused and denied their rights and that their environment can be destroyed without compunction. This has been the received wisdom of Nigeria according to military dictatorships. 1992 will put paid to this as the Ogoni put their case to the international community.

Exhibit 12 (continued)

It is the intention of the Ogoni people to draw the attention of the American government and people to the fact that the oil which they buy from Nigeria is stolen property and that it is against American law to receive stolen goods.

The Ogoni people will be telling the European Community that their demand of the Yugoslav tribes that they respect human rights, minority rights and democracy should also apply to Nigeria and that they should not wait for Nigeria to burst into ethnic strife and carnage before enjoining these civilized values on a Nigeria which depends on European investment, technology and credit.

The Ogoni people will be appealing to the British Government and the leaders of the Commonwealth who have urged on Commonwealth countries the virtues of good government, democracy, human rights and environmental protection that no government can be good if it imposes and operates laws which cheat a section of its peoples; that democracy does not exist where laws do not protect minorities and the environment of the Ogoni and other Delta minorities have been ruined beyond repair by multi-national oil companies under the protection of successive Nigerian administrations run by Nigerians of the majority ethnic groups.

The Ogoni people will make representation to the World Bank and the International Monetary Fund to the effect that giving loans and credit to the Nigerian government on the understanding that oil money will be used to repay such loans is to encourage the Nigerian government to continue to dehumanize the Ogoni people and to devastate the environment and ecology of the Ogoni and other Delta minorities among whom oil is found.

The Ogoni people will inform the United Nations and the Organization of African Unity that the Nigerian Constitution and the actions of the power elite in Nigeria flagrantly violate the UN Declaration of Human Rights and the African Charter of Human and Peoples Rights; and that Nigeria in 1992 is no different from Apartheid South Africa. The Ogoni people will ask that Nigeria be duly chastised by both organizations for its inhuman actions and uncivilized behaviour. And if Nigeria persists in its perversity, then it should be expelled from both organizations.

These actions of the Ogoni people aim at the restoration of the inalienable rights of the Ogoni people as a distinct ethnic community in Nigeria, and at the establishment of a democratic Nigeria, a progressive multi-ethnic nation, a realistic society of equals, a just nation.

What the Ogoni demand for themselves, namely, autonomy, they also ask for others throughout Nigeria and, indeed, the continent of Africa.

It is their hope that the international community will respond to these just demands as they have done to similar demands in other parts of the world.

Ken Saro-Wiwa
Port Harcourt 24/12/91

Source: Ogoni Bill of Rights, London: MOSOP and the Ogoni Community Association, 1995, pp. 2-5.

Exhibit 13 Appeal to the International Community, Addendum to Ogoni Bill of Rights (December 1991)

THE INTERNATIONAL COMMUNITY SHOULD:

1. Prevail on the American Government to stop buying Nigerian oil. It is stolen property.

2. Prevail on Shell and Chevron to stop flaring gas in Ogoni.

3. Prevail on the Federal Government of Nigeria to honour the rights of the Ogoni people to self-determination and AUTONOMY.

4. Prevail on the Federal Government of Nigeria to pay all royalties and mining rents collected on oil mined form Ogoni since 1958.

5. Prevail on the World Bank and the International Monetary Fund to stop giving loans to the Federal Government of Nigeria; all loans which depend for their repayment on the exploitation of Ogoni oil resources.

6. Send urgent medical and other aid to the Ogoni People.

7. Prevail on the United Nations, The Organisation of African Unity and the Commonwealth of Nations to either get the Federal Government of Nigeria to obey the rules and mores of these organisations, face sanctions or be expelled from them.

8. Prevail on European and American Governments to stop giving aid and credit to the Federal Government of Nigeria as aid and credit only go to encourage the further dehumanization of the Ogoni people.

9. Prevail on European and American Governments to grant political refugee status to all Ogoni people seeking protection from the political persecution and genocide at the hands of the Federal Government of Nigeria.

10. Prevail on Shell and Chevron to pay compensation to the Ogoni People for ruining the Ogoni environment and the health of Ogoni men, women and children.

Source: Ogoni Bill of Rights, London: MOSOP and the Ogoni Community Association, 1995, pp. 15-16.