



Statoil in Nigeria

Transparency and local content

Report number 1/2006

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Executive summary

After working in the country since 1992, Statoil now has solid expectations for oil and gas production offshore Nigeria in a few years time. At the same time, onshore, parts of the oil producing Niger Delta are in turmoil, and Nigeria's oil production currently is down by around 25 percent.

The Nigerian government, civilian since 1999, show high ambitions for increased Nigerian content in goods and services delivery within the next four years. It also seems ambitious when it comes to increasing transparency in oil and gas finances and operations.

The Norwegian government created Statoil to ensure national control over the Norwegian petroleum resources and facilitate the highest possible local content in the Norwegian oil and gas industry. Statoil is now an international oil company, pursuing Norwegian national objectives in Nigeria, amongst other countries.

Statoil states it intends to deliver on the promises it has made towards the Nigerian government regarding Nigerian content in goods and services deliveries. The question is whether this will turn into reality, considering Statoil's current level of engagement in capacity building in the Nigerian manufacturing industry.

Many consider Statoil to be in front among the oil companies when it comes to financial transparency. To us, the company does not seem to have any problems fulfilling the requirements of the Nigerian Extractive Industries Initiative. The fact that Statoil follows what seems to be the general Nigerian modus and does not make the Environmental Impact Assessments for their Nigerian operations publicly available, to environmental organizations or any other stakeholders apart from the Nigerian Department of Petroleum Resources, weakens Statoil's image of transparency, however. It thus seems clear that Statoil runs on double standards from its country of origin, where it would be unacceptable not to disclose such environmental information of public interest.

Because of past and present experiences with petroleum activity in the Niger Delta, with widespread environmental destruction and little or no economic development, the population is deeply suspicious towards the oil companies. Because of this, Statoil has to prove itself when it comes to corporate social responsibility in Nigeria. Some Nigerian stakeholders look upon the company as a somewhat friendlier player because of their somewhat innovative (in the context of Nigerian oil sector) human rights work. But to expand this sentiment, and reduce the public's suspicion would require improved information flows and a continuous dialogue vis-a-vis civil society.

Lastly, it is worth noting the paradox of Statoil fronting the most, and receiving most recognition for, their community development project in Akassa. It is not really part of Statoil's own CSR-definition or mainstream definitions of the concept for that matter. While Statoil's sponsorship work is commendable, core CSR is about using the assets of the company; its business skills and technological competence to develop the host nation and host communities, not to double as charitable aid workers.

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1. Introduction

Changing Nigerian governments have for decades communicated a national development dream based on petroleum. For the population of the Niger Delta, however, the dream very soon turned into a nightmare of environmental degradation and human rights violations, without any real economic benefits. In short, Nigerian petroleum is a long story of weak regulation and weak enforcement, resulting in people having difficulties seeing which is which between the government and the oil companies.

The will for change however seems present. The Federal Government of Nigeria, with president Olusegun Obasanjo in front, currently works via two new policies to use the petroleum sector as a development tool for Nigeria. One is transparency in finances and operations within the petroleum sector. The other is increasing the share of Nigerian content in services and goods delivery.

This report consists of three parts:

Part one: An introduction to petroleum in Nigeria

This part is for those who do not know the subject well in advance, or are curious on recent developments. It answers questions like: What is the level of petroleum production in Nigeria? How is it conducted? How many jobs does it create? How large government revenues does the petroleum sector create? How is the revenue shared throughout the country? What is the situation for the population of the petroleum producing Niger Delta? This part does not describe any Statoil activity, but aims to give a necessary insight into the context of Nigeria and petroleum.

Part one is based on a survey of available information from the Nigerian National Petroleum Company (NNPC), the Federal Ministry of Finance, Nigeria (FMF), the Nigerian Extractive Industries Transparency Initiative (NEITI), and also extensive internet research among sources, like the Energy Information Administration of the US Department of Energy, the international oil companies and their Nigerian Branches, Environmental Rights Action (ERA), Amnesty International and other internet sources. The desk research is complemented with field studies in and around the Port Harcourt area of Delta State. For more information see the text and also the complete list of references in the back.

Part two: Statoil's history and current activities in Nigeria.

This part tries to answer two questions, which also are the main questions of this study:

- Will Statoil contribute to the government's goal of increasing Nigerian content development?
- Will Statoil contribute to increased openness on finances and operations in Nigeria's petroleum sector?

Part two is based on a combination of documents from the NNPC, sustainability reports and documents made available from Statoil ASA and Statoil (Nigeria) Ltd. There are also a number of interviews made with senior Statoil staff both in Nigeria and in Norway. These have been complemented with information from staff from Norwegian Oil and Gas Partners (INTSOK). For further details, see *Part two: Statoil, local content and transparency in Nigeria*.

Part three: Expectations and demands towards new offshore petroleum development

This part examines what expectations exist among different stakeholders concerning future petroleum development in Nigeria. In particular: What are the views on the new offshore developments? How has past experience coloured the views?

Focus group discussions were organized, in three different sessions. Two with representatives from host communities in the southern part of Nigeria¹. The third session featured representatives from different civil society groups. See *Part three: Stakeholder perceptions...* for details.

¹ Host communities are those communities where oil companies have some presence due to drilling or other activities relating to oil prospecting or production.



Key informant interviews were conducted, comprising sessions with representatives of the government agencies responsible for monitoring performance in the oil industry in Nigeria². Methodology also included key interviews with two senior academics in Nigeria who are involved in related work in Nigeria.

Considerable effort went into conducting key informant interviews at the level of the Directorate of Petroleum Resources, which is the primary body responsible for monitoring oil company activity in Nigeria. This was not possible, which means in effect that a lot of the information relating to the DPR was obtained from existing literature, news reports and the perceptions of those who are working closely with them in the oil industry.

Desk research compiled factual information and data to complement the focus group discussion and key informant interviews above.

Appendices

At the back of the report, we have attached a number of encyclopaedic style texts, to accommodate more detailed studies. The first appendix gives a brief overview of Nigerian petroleum legislation. The second deals with the question of fundamental rights of the citizen in the Nigerian Constitution. The third looks at common contract types regulating rights and obligations between host governments and oil companies when developing petroleum resources and sharing rents. The fourth and last appendix briefly runs through the Norwegian oil history and draws some lines of comparison back to Nigeria.

About the writers

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² These included representatives from the Nigeria Extractive Industry Transparency Initiative (NEITI), from the Parliament, as well as representatives from Shell and the Legal Adviser for Nigerian National Petroleum Company.



Part one

- Nigeria: Oil, revenues and employment
- The Niger Delta: Oil production, gas flaring, spills and unrest

2. Nigeria and oil³



Map: Urhobo (2006). ©Urhobo Historical Society 1999-2006

democracy (if one can call it that) is still frail.

Nigeria is among the world's major oil producers. Large reserves and rising petroleum prices connected to the continued instability in the Middle East has increased the world's attention on the country. Despite 47 years experience of petroleum production, Nigeria still faces considerable challenges in transforming the oil sector into a substantial value adding activity for Nigerian business, not to say for the Nigerian society as a whole.

Nigeria is Africa's most populous country, with around 130 million inhabitants. Its political history since independence in 1960 has mainly been one of military dictatorships. The Biafran secessionist war from 1967 to 1970, where fresh oil producing areas tried to break free also adds to Nigeria's historical legacy. The longest period of civilian rule to date is the one of current President Olusegun Obasanjo (since 1999). The Nigerian

| World's largest oil producers 2004 (Thousand barrels per day) | | World's largest proven oil reserves 2006 ⁴ (Billion barrels) | | World's largest proven gas reserves ⁵ 2006 (Trillion cubic feet) | | |
|---|----------------|---|----------------|---|----------------|-----------|
| 1 | Saudi Arabia | 9 101 | Saudi Arabia | 266 810 | Russia | 1 680 000 |
| 2 | Russia | 8 805 | Iran | 132 460 | Iran | 971 150 |
| 3 | United States | 5 419 | Iraq | 115 000 | Qatar | 910 520 |
| 4 | Iran | 4 001 | Kuwait | 104 000 | Saudi Arabia | 241 840 |
| 5 | China | 3 485 | U. A. Emirates | 97 800 | U. A. Emirates | 214 400 |
| 6 | Mexico | 3 383 | Venezuela | 79 729 | United States | 192 513 |
| 7 | Norway | 2 973 | Russia | 60 000 | NIGERIA | 184 660 |
| 8 | Venezuela | 2 557 | Libya | 39 126 | Algeria | 160 505 |
| 9 | NIGERIA | 2 509 | NIGERIA | 35 876 | Venezuela | 151 395 |
| 10 | U. A. Emirates | 2 478 | United States | 21 371 | Iraq | 111 950 |

Sources: EIA 2006, PennWell 2005

³ Note: Part One of this report does not concern itself with any Statoil activity. Statoil operates offshore, and has not yet commenced any production. Nevertheless, a description of Nigeria's primarily onshore oil context is necessary to understand the dynamics of the country and of the population's attitude towards petroleum companies in general.

⁴ Canada's oil sands reserves of 174 billion barrels oil equivalent not included, otherwise Canada would be in second place, with reserves of 178.8 billion barrels.

⁵ The table does not show gas production. EIA (2006) figures show Nigeria was in 28th place among the world's gas producers in 2003, with a total production of 0.68 trillion cubic feet dry natural gas. To compare; the two countries listed with the most similar gas reserves, USA and Algeria, is listed with a production of 19.04 and 2.91 trillion cubic feet respectively. EIA's recorded "gas production" is actually only one third of what NNPC has recorded being lifted from Nigeria's wells. The modest "production" is partly due to re-injection of gas, but mainly a result



The country has a mainly Muslim northern part, while the south is mainly Christian and traditional religions. It is a federal state, consisting of 36 States, subdivided into 774 Local Government areas. The 36 states are also grouped into six so-called *geo-political zones*. The working together and holding together of the country across religious, ethnic, geographical and historical lines is a constant challenge for any federal leader. As we will see, the distribution of the oil revenues has been a very important arena to match out these differences.

2.1. Oil revenues

There have been made many more or less well founded claims about Nigeria's oil wealth or to what extent international oil companies take an unjustifiable high share of the rents from Nigeria's oil resources. While not claiming to present the only truth about Nigeria and oil revenues, we will in the following nevertheless bring some figures to try and shed some light on the issue.

2.1.1. The government Take

The share of the value of the petroleum production collected as revenue by the host government, is often referred to as the *government take*. Nigeria's system of calculating taxes, royalties and tax rebates is mainly structured around Joint Venture agreements and Production Sharing Agreements between the government and the oil companies. All in all, these decide the level of the government take. The system is to secure the oil companies cost recovery plus a surplus attractive enough to attract investment. However, of interest here is what the Government of Nigeria gets from exploiting its petroleum resources.

The government take will differ between different fields according to their projected profitability. A high-risk expensive development will typically have a lower government take, while a low-risk, less expensive development will have a higher government take specified in the contract between government and the oil company. The overall conditions in the Nigerian system has been rated to be on the tough side for the oil companies, with ratings in line with countries like Angola, Norway and some of the Russian and American contracts (see e.g. World Bank 1995 and Van Meurs 1997).

The Nigerian system is (like in many other petroleum producing countries) arranged such that the oil companies get some extra profit if the oil price goes up, but the government receive the bulk of it. Financial Times, in its 2005 Nigeria Report (FT 2005), cited Shell on the ladder of *government take* in Nigeria shown below. What the percentage is under the current US\$ 60+ price range, we do not know. For a further explanation of *government take* and a discussion on fiscal regimes and contract types, also in light of the recent price hikes in world oil markets, see Appendix 3: Oil revenues and oil contracts.

| Oil price level per barrel | Nigerian government take |
|----------------------------|--------------------------|
| US\$ 50 | 88 % |
| US\$ 30 | 80 % |
| US\$ 20 | 74 % |
| US\$ 10 | 51 % |

Source: FT 2005

2.1.2. Revenue collected by Government

The Petroleum Act of 1969 places the entire ownership and control of all oil and gas in place within any land in Nigeria, under its territorial waters and continental shelf is vested in the state of Nigeria. The Constitution of the Federal Republic of Nigeria 1979 further emphasized the state ownership (See Annex: Petroleum legislation in Nigeria). Following the principles of federal principal ownership of all petroleum resources, the federal government collects all petroleum related revenue. From the Nigeria Extractive Transparency Initiative, we collect the following oversight of petroleum revenue sources and figures for the Federation of Nigeria up until and including 2004⁶:

of extensive routine flaring of so-called "associated gas" (see "Flaring"). If all flared gas instead was sold as products, Nigeria could possibly double its production, to around 1,4 trillion cubic feet, and rise from 28th to about 17th place among the world's gas producers - even without opening any new gas-only fields (EIA 2006, NNPC 2006, writer's estimate).

⁶ Revenues are collected partly in Naira but mostly in US dollars. For simplicity we use the figures where all revenues are expressed in dollars.



Financial flows to the Federation of Nigeria from petroleum

| Revenue collected from oil companies, as recorded by the Central Bank of Nigeria ⁷ | | | | | | |
|---|--------------|--------------|--------------|--------------|--------------|--------------|
| US\$ millions | 1999 | 2000 | 2001 | 2002 | 2003 | 2004 |
| Petroleum Profits Tax | 810 | 3 586 | 3 293 | 1 637 | 3 703 | 7 161 |
| Royalty | 953 | 1 694 | 1 794 | 1 273 | 1 849 | 2 781 |
| Gas Flaring Penalty | 21 | 28 | 25 | 21 | 18 | 20 |
| TOTAL | 1 784 | 5 308 | 5 112 | 2 931 | 5 570 | 9 962 |

| Aggregate income from (government's) crude sales | | | | | | |
|--|--------------|---------------|--------------|--------------|---------------|---------------|
| US\$ millions | 1999 | 2000 | 2001 | 2002 | 2003 | 2004 |
| Proceeds of sale of Crude oil | 5 768 | 9 615 | 8 030 | 5 891 | 7 758 | 11 569 |
| Domestic Crude | 975 | 1 033 | 1 363 | 2 942 | 3 351 | 5 586 |
| Proceeds of sale of gas | 102 | 291 | 241 | 267 | 259 | 426 |
| TOTAL | 6 845 | 10 939 | 9 634 | 9 100 | 11 368 | 17 581 |

Source: NEITI 2006a p11-12

Financial flows from the Federation of Nigeria to Joint Ventures (cash calls)

| US\$ millions | 1999 | 2000 | 2001 | 2002 | 2003 | 2004 |
|---------------|-------|-------|-------|-------|-------|-------|
| | 1 982 | 2 252 | 2 417 | 3 800 | 3 007 | 2 741 |

Source: NEITI 2006a p4

Summarized: Net inflow to the Federation of Nigeria from the petroleum sector

| US\$ billions | 1999 | 2000 | 2001 | 2002 | 2003 | 2004 |
|-------------------|----------|-----------|-----------|----------|-----------|-----------|
| Inflow | 9 | 17 | 15 | 13 | 18 | 28 |
| Outflow | -2 | -2 | -4 | -3 | -3 | -3 |
| Net inflow | 7 | 15 | 13 | 9 | 15 | 25 |

Source: NEITI 2006a p4

A net inflow of 25 billion dollars to the government in a single year is a significant amount of money, but divided on 130 million inhabitants, it only amounts to US\$ 192 per capita per year (i.e. 53 cents per day). One also has to take into account the lack of other sources of revenue. At that oil price level petroleum constitutes around 65 % of the total budgetary revenue⁸. The revenues are to cover all expenses from education and health to infrastructure, the military and administration. It shows the petroleum revenues are really not that big for a country as large and populous as Nigeria. On the other hand: Petroleum revenue has become paramount in the Nigerian society, as it finances so much of the public expenditure, on all government levels. The government has been so focused on oil that it seems to have had too little attention to the other economic sectors of the country. The other problem relating to funneling petroleum revenue into government spending on such a scale is that it pushes up price levels and affects the exchange rate for the national currency in such a way that it affects the other production sectors in the country in a negative way⁹. We will get back to Nigeria's historical experience with petroleum revenue below.

The extremely uneven income distribution in Nigeria adds to the problem, with a few people becoming very rich whilst the majority lives in poverty. The impact of corruption on politics and the public's perception of government in general has also been substantial. Individuals on different government levels have become rich on corruption of oil revenue.

⁷ These are the figures stated by the Central Bank of Nigeria. There are differences (up to 10%) between these and those provided by the companies. The differences go both ways. The company figures are the largest for three out of the five years, while CBN figures are the largest for two of the years. The differences are under reconciliation.

⁸ Petroleum is even more important for foreign exchange earnings, around 95 %.

⁹ Economic development often referred to as "Dutch disease", named after the long-term negative economic effects from a large rise in natural gas exports experienced by the Netherlands in the 1960s and 1970s. See IMF 2003b.



Last but not least, you have the oil price rise. In 2004 the net government revenue was 25 billion dollars, like shown above. For that year NNPC reports an average realisable oil price for Nigerian crude varying between US\$ 34.50 and 41.40. Now the oil prices are tipping the 70-dollar mark. This means a dramatic increase in revenues from just two to three years back.

Examples from Nigeria's past show that during such times of crude revenue excesses, the excess has immediately been monetized in Nigeria, creating market distortions and inflationary pressure. It has also been recorded that at such times government is prone to frivolous spending or unnecessary projects, which invariably leads to borrowing. This was the case with the oil revenue boom of the early seventies where the programmes embarked upon did little or nothing to trigger economic growth and strengthen non-oil sector related development. As the country's oil earnings and future prospects in the oil sector increased, so did her external debt profile. Of course the strong cash flow from crude oil sales in Nigeria boosted creditor confidence in the country's ability to repay debts and service credit facilities.

Fiscal indiscipline and corruption resulted in a diversion and squandering of most of the funds borrowed. The lack of correspondence between the revenue benefits accruing from the oil sector and the overall performance of the Nigerian economy was due largely to the consistent lack of a clear economic strategy over the years. Experts from the government side of the stakeholder divide (The Price Monitoring and intelligence Unit of the Presidency and the Economic Team) agree with these conclusions but are quick to point out that the decline in the Nigerian economy today, is the result of decades of fiscal indiscipline from previous governments. They also point out that things are now different with the design of a National economic and development agenda, called the New Economic Empowerment And Development Strategy (NEEDS)¹⁰.

In the Nigerian case, the NEEDS seeks to implement series of reforms that would lay a foundation for a diversified economy come 2007. The major growth indices within NEEDS are wealth creation, employment generation, institutional reforms, and social charter. In a country where good policy content has often been overcome by weak implementing institutions, corruption and a lack of political will, there is a lot of scepticism as to whether the goals and priorities articulated within NEEDS would actually bear fruit.

2.1.3. Allocation of revenues between government levels

The federally collected revenue is shared among the federal level and the states, according to a given formula. The formula has been contested time and time again, and is constantly under debate. Between 1946 and 2003, the formula was changed eighteen times (Ross 2004).

All allocation figures to from the *Federal Allocation Account* to the Federal, the 36 State Governments and the 774 Local Governments are currently being published on a per-month basis on the Federal Ministry of Finance's web page¹¹ (FMF 2006). These figures can be used as a tool to track the money; to do further investigations as to what the state and local governments do with them.

The latest publicised allocation pattern looks like this: Firstly, 13 % of the onshore oil revenue is shared among the nine states where production takes place¹². In October 2005 (shared in November the same year), this constituted Naira 30.5 billion (30,579,956,853.24 to be exact). The remainder, plus all offshore oil revenues¹³, was distributed as follows (same month):

¹⁰ NEEDS is Nigeria's poverty reduction strategy and was drawn up in response to the prerequisite for a poverty reduction and development plan by the International Finance Institutions for countries in need of concessional/other lending, or falling within the World Bank's debt cancellation programs. The architects of the PRSP concept insist that this would not have the devastating consequences that the Structural Adjustment Programs have had.

¹¹ <http://www.fmf.gov.ng/detail.php?link=faac> When the author visited the web page on the 24 of March 2006, all figures from May 1999 through October 2005 were available.

¹² According to yet another calculation of how the 13 % share is to be distributed among these states

¹³ On April 5- 2002, the Supreme Court of Nigeria unanimously ruled against the 36 States and in favour of the Federal Government regarding control of offshore resources.



| | Naira | Share |
|----------------------------------|--------------------|--------|
| Federal government | 123 930 302 814.86 | 49.9 % |
| States | 68 197 406 698.28 | 27.5 % |
| Local Governments | 52 130 562 648.83 | 20.0 % |
| Cost of collections (FIRS & NCS) | 3 884 541 043.67 | 1.6 % |

Source: FMF 2006, numbers for October 2005

2.2. Employment

The aggregate number of people employed in the petroleum sector of Nigeria seems hard to find. Of course you have the initial problem of delimitation, for instance upstream (prospecting and production) vs. downstream (refining, petrochemical, products marketing). What is common knowledge is that upstream petroleum does not create many jobs, at least not on-site. It seems many of the petroleum companies active in Nigeria are not so eager on telling, even not in their sustainability reporting – where one would expect job creation per country would be a pretty important parameter. Government or its subsidiaries did not seem to be so informative either. When we asked the trade union representatives, even they did not give a clear answer.

Some of the petroleum companies however, report some figures, even with an indication of the share of Nigerian nationals included. See table below. These are just a few of the oil companies, although the two employers who most likely are the largest, i.e. Shell (SPDC) and the national oil company NNPC, are included. A whole range of smaller service and goods supply companies comes in addition to these.

| Company | Employees | Share Nigerians |
|-------------|-----------|-----------------|
| Chevron | 2 000 | 90 % |
| Mobil* | 1 900 | 96 % |
| NNPC* | 16 000 | Not reported |
| Shell* | 10 000 | Not reported |
| Statoil** | 43 | 95 % |
| Petrobras** | 30 | Not reported |

Sources: Companies' web pages¹⁴

* Includes downstream activities

** Not in operation yet, so mainly employs senior administrative and engineering staff

According to trade union representatives, the big oil companies cheat when it comes to allocation of jobs to Nigerian Nationals. Several spoke about the quota rules for ex-pats vs Nigerian nationals on different levels of seniority, and how these rules are broken, when international oil companies bring in foreign workers to do Nigerian quota jobs where qualified Nigerian nationals are available. The trade union representatives said the most common way of doing this was through making false qualification statements in the work permit applications, so that they could bring in, say a drilling technician on an engineer quota¹⁵.

Taking into account these contemporary problems, and considering the current relatively low level of Nigerian content in service and goods deliveries, a very rough estimate would place direct employment in petroleum in Nigeria well below 100,000 workers (0.17 % of the available labour force¹⁶). Even with a high level of Nigerian content, but depending on the success of the

¹⁴ Except NNPC: www.petroinfonigeria.com and Statoil: Sustainability Report for 2004 complemented by direct communication with Statoil staff

¹⁵ We have no indication of Statoil doing this. Not from the trade unions or any other source.

¹⁶ Nigeria's work force is estimated at 57.21 million people, according to CIA World Factbook (2005).



government's export strategy for petroleum equipment and services to other African countries, it is not very likely that the employment figures in the petroleum sector would exceed 200,000 not to say 300,000 in the foreseeable future, possibly not ever. This means that even though petroleum probably will be an important source of revenue and technological development in the future, it cannot in itself reduce unemployment in any significant way. This applies both to Nigeria as a whole, and to the Niger Delta. The revenues and technology build-up from petroleum can however, if used wisely, help in building activity and employment in other sectors, like non-petroleum manufacturing and services, where the bulk of jobs has to be created.

2.3. INTSOK: Norwegian public / private involvement in Nigeria

Who are INTSOK? Norwegian public-private partnership INTSOK's objective is to work with companies throughout the industry to expand Norwegian business activities in the international oil and gas markets on the basis of the industry's "leading edge experience, technology and expertise". INTSOK also organises workshops, seminars and activities where the Norwegian partners' experience, technology and expertise are transferred to local partners. The main focus will continue to be on Angola, Nigeria and Kazakhstan, but the initiative may also be launched in other countries (INTSOK 2004). West Africa is considered to be the world's most promising region for Norwegian oil companies¹⁷.

INTSOK believes that when it comes to developing Nigerian content, the Nigerian manufacturing- and mechanical industry is the easiest to develop. Out of 60 Nigerian companies evaluated, the INTSOK-staff identified five companies that will receive further assistance, and hopefully will become attractive JV-partners for international contractors and products suppliers (INTSOK 2005). The survey is part of a project financed partly by the Nigerian government, partly by the Norwegian government and partly by Statoil. The chosen Nigerian companies will receive assistance to improve their skills and safety standards to prepare them for certification as suppliers to the international petroleum industry (Statoil 2005i).

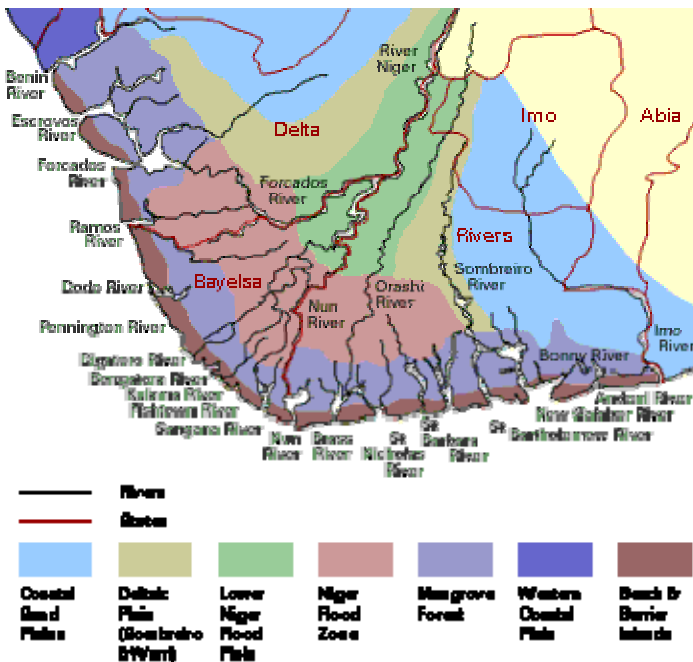
It is not a new thing that government and oil companies are collaborating closely in the petroleum sector, also when it comes to internationalisation. The public/private relationship has been very close for the major part of the oil producing history of both Nigeria and Norway. Referring to the INTSOK case above, the question is what will happen under the new Norwegian aid policy area known as the *Oil for development* programme, where undertakings like the INTSOK fabrication project mentioned above can be part of the activities. In April 2004, one and a half year before the Norwegian Government's Oil for development programme was launched, the Norwegian Petroleum Directorate signed a NOK 15 million development agreement with the Nigerian Department of Petroleum Resources. The agreement involved assistance on i.a. resource management, data management, HSE and metering. The work is financed by The Norwegian Agency for Development Cooperation (Norad), and at that time said to run at least through 2005 (Source: NPD 2004).

The experts who will be used to transfer expertise and help oil producing developing countries around the world are in many cases the same ones that help or have helped Norwegian oil companies set up and do business in the same countries. Will there be conflicts of interests here? In many other sectors the conflict would have been very clear. In petroleum the connections between government and business is so close that the intertwining of government and business in development policy also is a more continuation of traditional politics. A country like Nigeria is used to this, and is thus probably more prepared to tackle this than oil nations that are emerging today.

¹⁷ Oral notification from Per Hagen in INTSOK.



3. The Niger Delta



Map: Urhobo (2006). ©Urhobo Historical Society 1999-2006

The recent eruption of sabotage and kidnappings of foreign oil workers in the petroleum producing Niger Delta has raised insecurities about Nigeria’s status as a stable supplier, increasing the World’s attention on Nigeria even more. According to press reports, Nigeria’s oil production is currently reduced by around 500,000 barrels per day (bpd) (i.e. around 25 %). However, the Nigerian government has not confirmed this information. The armed group *The Movement for the Emancipation of the Niger Delta* (MEND), has increased its activities since January 2006, and promised to cut Nigeria’s oil production by at least 1 million bpd. MEND has taken responsibility for sabotage of at least one flow station and to other facilities as well. However, when it comes to pipeline breaks, the causes are contested in several of the cases; the companies say it is sabotage, the local population say it is old and dilapidated equipment breaking up.

The Niger Delta region is comprised of nine states, covering an area of 112,110 km², with the geological delta area itself covering some 70,000 km². The population estimate for the nine states for the year 2005 was 28.9 million people (see table).

| State | Land Area km ² | Population projection ¹⁸ 2005 | State Capital |
|---------------|---------------------------|--|---------------|
| Abia State | 4 877 | 3 230 000 | Umuahia. |
| Akwa Ibom | 6 806 | 3 343 000 | Uyo |
| Bayelsa | 11 007 | 1 710 000 | Yenagoa |
| Cross River | 21 930 | 2 736 000 | Calabar |
| Delta | 17 163 | 3 594 000 | Asaba |
| Edo | 19 698 | 3 018 000 | Benin |
| Imo | 5 165 | 3 342 000 | Owerri |
| Ondo | 15 086 | 3 025 000 | Akure |
| Rivers | 10 378 | 4 858 000 | Port Harcourt |
| Totals | 112 110 | 28 856 000 | |

Source: NDDC 2004

The landscape is (from the sea inwards): low sandy barrier islands (< 1m above sea level), then a 40 km wide (at its widest) freshwater mangrove / brackish marsh zone, criss-crossed by estuaries, rivers, and smaller creeks. Further inland, the landscape rises into rainforest land with drainage, which makes the landscape suitable for agriculture and larger settlements. The climate is tropical / humid, with temperatures of 28-33°C and annual rainfall of 4,000 mm on the coast (towns of Bonny and Brass) decreasing to 1,500 – 2,000 mm farthest inland, in Edo and Ondo states.

¹⁸ The last census was done in 1991. A new census is currently underway, but not complete



Key data

| | | |
|--|------------------------------------|--------|
| Population below 30 yrs | 62 % | |
| Current pop growth rate / yr | 3,1 % | |
| Pop projection | 39 million (2015) | |
| Average household size | 6 people (8 in rural areas) | |
| Pop density | 256/km (Imo 700, C. Rivers 120) | |
| Life expectancy | 46.8 yrs (N), lower in outer Delta | |
| Rural pop below poverty line | 88 % | |
| Number unemployed per household (as share of households) | 5 persons + | 73 % |
| | 3-4 persons | 15 % |
| | 1-2 persons | 6 % |
| Income of employed persons ¹⁹ Naira per month, estimate, (1,000 Naira equals 8.16 US\$) | < 5,000 | 46 % |
| | 5,001-10,000 | 20 % |
| | 10,001-15,000 | 11 % |
| | 15,001-20,000 | 9 % |
| | > 20,000 | 14 % |
| Employed persons by sector | Agri., fish., forestry | 44.2 % |
| | Trade/selling | 17.4 % |
| | Services | 9.8 % |
| | Education & health | 7.1 % |
| | Administration | 5.4 % |
| | Construction | 2.8 % |
| | Transport | 2.2 % |
| | Other | 11.1 % |

(N) means Nigerian average

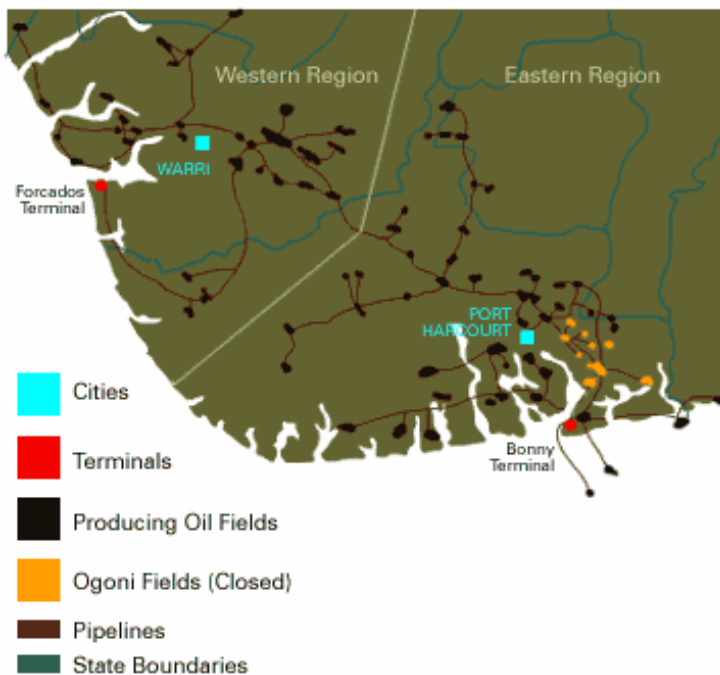
Source: NDDC 2004

The Niger Delta Region contains around 40 different ethnic groups, speaking 250 different languages and dialects, spread out on 3,000 communities. Each community normally consists of several dispersed settlements, containing 50-500 people. The Niger Delta Development Commission has recorded 13,231 settlements all in all (NDDC 2004). Traditional economic activities of the communities are farming, fishing (rivers), collecting and hunting in the upland areas, and a narrower economic base of fishing and trading closer to the coast.

The population is young and growing fast. Unemployment is high and health care is underdeveloped. People are poor, especially in the rural areas, something that causes a high pace of migration to the urban centres.

¹⁹ Value of products from sustenance farming / fishing a.s.f. not calculated or included.

3.1. Niger Delta Oil



Map: Urhobo (2006). ©Urhobo Historical Society 1999-2006

Almost all of Nigeria's oil is produced in and around the Niger Delta. Production takes place on dry land, in shallow waters in rivers and swamps, and in shallow seas close to the coast. The map²⁰ shows some of the oil fields, pipelines and export terminals. In addition there are some deep-sea offshore developments off the Delta coast. The main new prospecting and developments are happening in this deep-sea area.

The Niger Delta has 606 oil fields (355 onshore, 251 offshore)²¹. 193 of these are currently operational, while 23 have been abandoned due to bad prospects or total drying up (NNPC 2006c). From 1999 to 2004, an average of 180 wells was drilled annually, the rate differing from year to year in relation to the prospects of filling Nigeria's OPEC-quota (NNPC 2006b). All in all, 5,284 wells have been drilled throughout the Niger Delta Region (NDDC 2004).

Petroleum activities are indeed very visible. The landscape is criss-crossed by pipelines. Some lie on the surface. Other are dug down, visible by the clear-cut paths through the vegetation ("Right of Way"), owned by the pipeline company and marked with signs. Along the roads you can see different supply bases, and in the rivers and along the coast, barges and other vessels are moored. At night, gas flares light up the sky in many places, being visible from far distances.

Over 1,500 of the aforementioned 3,000 communities host some kind of oil and / or gas facility (NDDC 2004). What once only was farming and fishing communities now have become communities on top of oil fields. Since petroleum is paramount to the Niger Delta, we have to understand the Niger Delta petroleum production to understand the Delta societal realities.

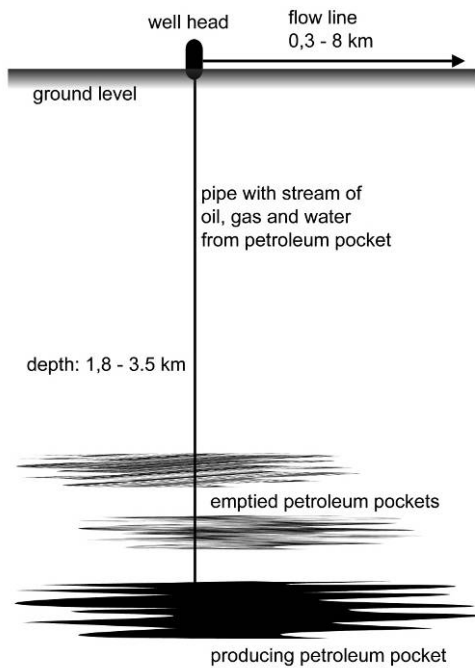
An oil field normally consists of several wells, which in the Niger Delta are deep lying, at around 2-3 km depth. When the drilling of a production well is finished, a valve (*well head*) is placed on top of the pipe in the borehole, and the drilling rig is removed. A flow line (10-15 cm in diameter) is attached to the wellhead, to allow the mixture of oil, gas and water from the petroleum pocket to be transported to a *flow station* (see next illustration). Black oil of varying thickness is called *crude*. Very light, clear oil is called *condensate*. The Niger Delta mostly has medium viscosity crudes, given names like *Escravos light* and *Brass Blend*. These crudes fetch better prices on the world market than many of the thick, sulphur-rich crudes from the Persian Gulf.

²⁰ By no means all-inclusive. Serves as illustration only.

²¹ Some fields are in water even though they are onshore, and most of the offshore fields are not in the high seas, but in shallow water near land.



Oil well



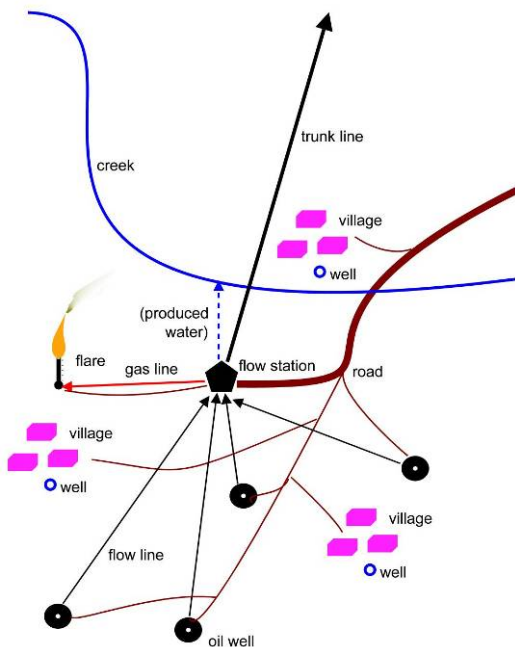
Ill.n based on data from NEITI 2006b, NNPC 2006

“An oil well, of course, produces mainly oil” (NEITI 2006b), but many of the Niger Delta wells produce a lot of the other stuff as well. Some fields produce ten times more gas than oil (measured in m³) (NNPC 2006b). This illustrates how the naming of this gas as “associated” (with the oil) often is more a result of commercial valuations than of physical realities.

It is normal for petroleum pockets to contain some water. As wells go older, the water to oil ratio normally increase. In 2003, Mobil (Nigeria) had a water-to-oil ration in their production of about 1 to 6, while Elf and Texaco had a ratio at almost 1 to 1. Some individual fields are actually recorded producing seven times more water than oil (NNPC 2006b).

At the flow station the gas is separated from the liquid. Sometimes some of the gas is used as fuel to run the flow station, or some may also be piped away to a third party buyer, or to a separate injection well where it is pumped down into the reservoir again to extract more oil. But in Nigeria the associated gas is most often flared off at a nearby flaring site. The flares (at least the big ones) make quite a lot of noise, and light up the neighbouring area at night. In addition, it causes quite a lot of air pollution (see “Flaring”).

Onshore Host Community



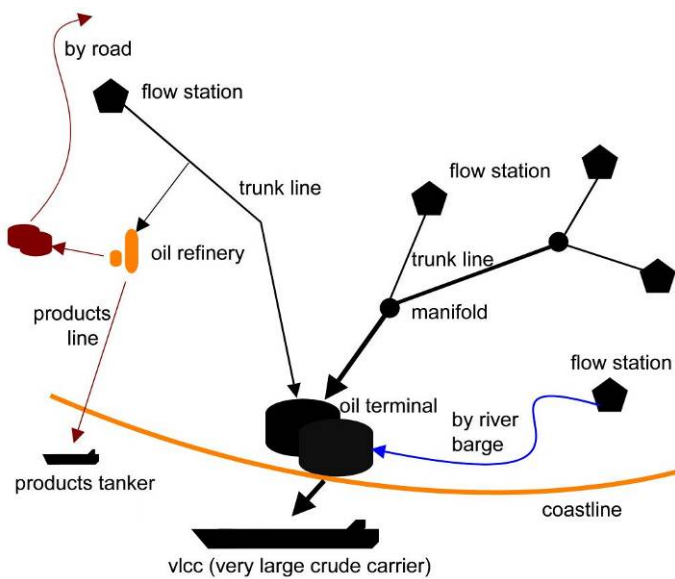
Based on data from NEITI 2006b and field research

The water and crude mix is normally piped away through the *trunk line* to the export terminal “as is”, but “occasionally the water is separated from the oil at the Flow Station and disposed of locally” (NEITI 2006b). In the local community we visited, we heard that the produced water was indeed “disposed of locally”: It was dumped into the nearest creek.

The produced water contains varying levels of hydrocarbons (i.e. oil pollution), depending on the quality of the separation equipment. Other pollutants in this water are heavy metals and in some cases also radioactivity. In a narrow, on-shore water system, the concentrations can become high, contaminating the ground water, where so many of the local population get their drinking water. Many villages also draw their drinking water directly from the streams. Other sources of groundwater pollution can be the chemicals being pumped down into the hole during drilling (a.k.a. *drilling fluid*). These come up again, and if not properly cleaned and recycled, they will spill out on the ground around the well and seep into the ground. The 5,284 aforementioned wells drilled in the region, have very likely had a negative effect on the ground water from which the local population sources its drinking water.



Onshore oil flows to export terminals & refineries



Based on data from NEITI 2006b

From the flow stations, the oil (sometimes mixed with produced water) continues via trunk lines, from 20 to 90 cm in diameter, onwards to export terminals along the coast. The owner of the pipelines is in many cases the *Pipelines and Products Marketing Company (PPMC)*, a subsidiary of government petroleum company NNPC, but the other oil majors also owns and operates pipelines. Some of the oil is also transported in barges on the rivers.

Nigeria currently has 15 oil export terminals, where crude carriers moor to load. Six of the terminals are onshore, and nine are offshore.

Nigeria's oil export terminals (2004)

| Operator | Onshore oil terminals | Offshore oil terminals | |
|--|-----------------------|------------------------|----------------------|
| | | Name | Vessel |
| Addax | | Antan | FPSO "Knock Taggart" |
| Agip | Brass | | |
| Amni | | Ima | FPSO "Ailsa Craig" |
| Cavendish | | Obe | "James Town" |
| Chevron | Escravos | | |
| Express/Conoco | | Ukpokiti | "Independence" |
| Mobil | Qua Ibo | Yoho | FPSO "Falcon" |
| NAE ²² | | Abo | FPSO "Gray Warrior" |
| NPDC ²³ /AENR ²⁴ | | Okono | FPSO "Mystras" |
| Shell | Bonny, Forcados | EA | "Sea Eagle" |
| Texaco | Olobiri | | |
| Total/Elf | | Ododu | FPSO "Unity" |

Source: NEITI 2006b

Most of the offshore terminals are so-called *Floating Production Storage and Offloading facilities* (FPSOs). An FPSO is essentially a crude carrier and floating flow station in one (see next page for an illustration of a deep water offshore production system). Occasionally you also have Floating Storage and Offloading facilities (FSOs), which simply are permanently anchored tankers that serves as an intermediate crude storage. It can either receive oil by smaller tankers or barges, be connected to a trunk line carrying dry (waterless) crude from land, or the same kind of crude from nearby offshore stationary production platforms (a flow station placed on a platform standing on the sea-bed). As such, the shallow water offshore developments can be seen as intermediates between the onshore system described above and the deepwater offshore system described below.

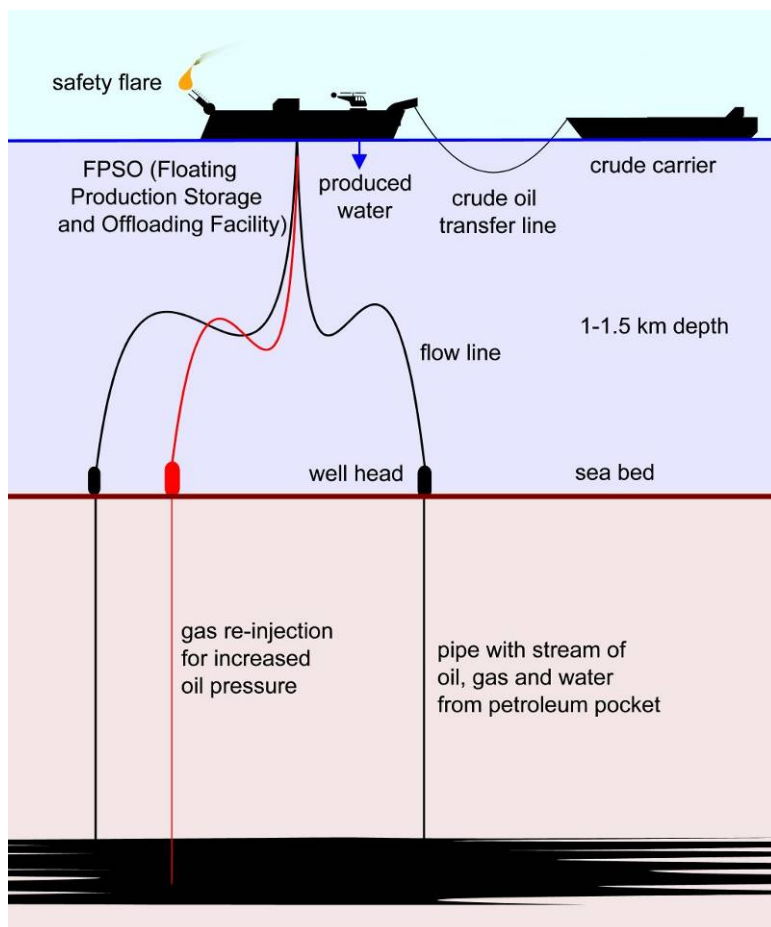
²² Nigerian Agip Exploration

²³ Nigerian Petroleum Development Company. Subsidiary of NNPC

²⁴ Agip Energy and Natural Resources



Offshore deepwater system²⁵



Ill.: Author

The development of a deepwater offshore oil field is essentially the same as onshore, although it involves higher technological and financial challenges. A floating drilling rig prepares the holes, pipes and put the well heads in place. This rig is towed away afterwards, and an FPSO is anchored on top of the field, connecting flow lines to the well heads. It can then start production, and crude carriers moor to offload the crude and take it to market around the world.

This kind of technology is the most common on the new oil fields being developed now and in the next years to come, across the Bight of Benin off the coast of the Niger Delta.

As one can understand, there are both pros and cons for the new, deepwater offshore developments. On one hand, they are far away from the population, reducing the risk of environmental damage for them. On the other hand, these fields are more demanding in terms of securing value-adding activity for the host state. The higher

technological level is one challenge that has to be overcome. Another is the geographical operational reality: In principle, the whole field can be developed and emptied without any personnel or equipment ever touching the soil of the host country. Therefore, extra strict laws and enforcement is required to assure a proper level of local content in connected activities.

3.2. Flaring

Flaring has been a long-standing issue in the Niger Delta. It is a very explicit sign of natural resource waste (and hence economic mismanagement), also causing environmental problems. The oil companies have mainly been interested in the oil, because of low local market prices for gas (and up until recently also international price levels not sufficiently high to facilitate large-scale transformation into liquid natural gas (LNG)). Also the Nigerian judicial context has been a lack of tax regimes or legislation sufficiently strong to discourage flaring.

The air pollution stems firstly from the sheer quantities of hydrocarbons being burnt off, but also because the gas being burnt is not only natural gas (mostly methane), but also heavier gas types and pollutants like hydrogen sulphide (H_2S), which give off more air pollution. In addition to nitrogen and sulphur oxides (which cause respiratory problems and acid rain) and unburnt methane²⁶, the flaring also gives off cancer-inducing benzene and other toxic gases (SEJ 2004). In addition you have CO_2 , which is not a big local problem, but should worry the global community, and indeed Africa and Nigeria, which can be hit pretty hard by global warming. The CO_2 emissions from flaring

²⁵ The system that ChevronTexaco is going to use at the Agbami field, where Statoil has an 18.85 % stake as a partner.

²⁶ Between two and ten percent of the methane escapes the flame without being burnt



in Nigeria were estimated at 34 million tons for the year 2002 (ERA 2005).

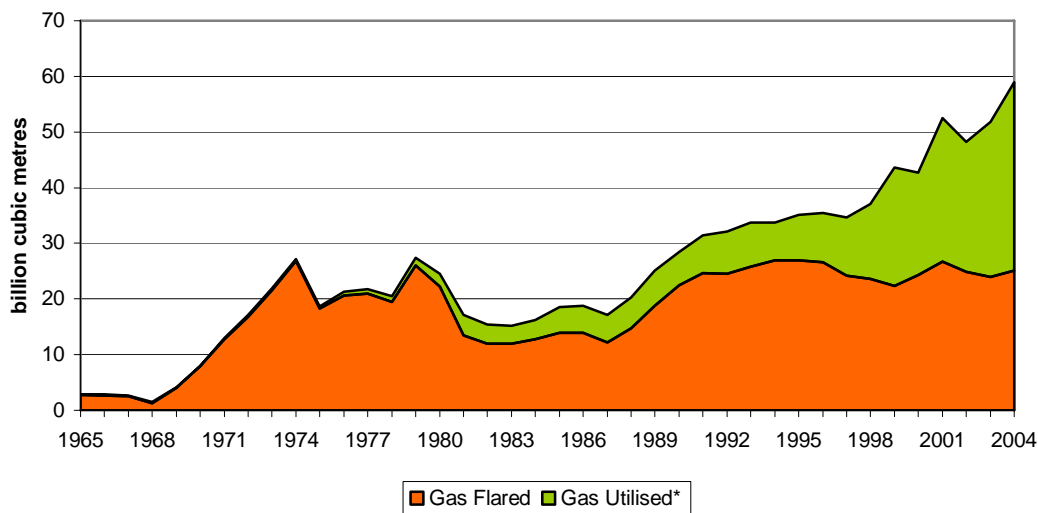
The *Associated Gas Re-Injection Act of 1979* (amended 1984 and 1985, see Annex: *Petroleum legislation in Nigeria*) is the judicial framework for flaring regulations. Flaring is currently taxed by a *Gas Flaring Penalty* that fetched US\$ 20 million in government revenue in 2004 (NEITI 2006a). It is however clear that this penalty is incredibly cheap compared to penalties in some other countries²⁷.



Flare at Kaloa-lu. Picture: FOEI 2005

The federal government launched its “flares out by 2008” vision in 1996, saying that all routine flaring must stop by the year 2008. Nigeria’s largest petroleum operating company Shell Petroleum Development Company (SPDC) soon stated they had adopted the same target. The vision has until now not been put into law, however. SPDC now has stated it will not be able to reach the 2008 target, and has asked for an extension of the government’s deadline. However, more general laws also apply, which was proved by the Federal High Court on the 14th of November 2005, when it ruled that all flaring, by all oil companies, must stop on grounds it violates constitutional rights to life and dignity. The ruling came after members of Iwerekani community in Delta State forwarded the case (FOEI 2005). SPDC has also appealed the Federal High Court ruling.

Chart: Gas utilization in Nigeria, 1965 to 2004



* Utilisation includes re-injection, i.a. for increased oil extraction. 12 % of the total gas volume is currently being re-injected. (NNPC 2006b)

²⁷ Norway levied a tax on CO-emissions from petroleum installations on the continental shelf in 1991. It currently stands at US\$ 56.7 per ton. Applying this tax to flaring in Nigeria would bring in more than US\$ 1.9 billion per year, almost a hundred times more than the current Flaring Penalty. (Note that this is a gross figure. As the increased penalty would depreciate company profits somewhat. Depending on taxation rules, this would modify the revenue from Petroleum Profits Tax). Regarding flaring in Norway: Routine flaring was banned in 1996 (See Appendix 4: Norwegian oil history).



Over the last few years, a number of gas gathering projects have been put in place, and the Nigeria Liquefied Natural Gas (NLNG) plant on Bonny Island has been expanded numerous times. Time and time again, web and newspaper articles have promised a decrease in flaring would be the result. Were these predictions truthful? Well, it depends on how you define “decrease”. If you are a bit creative, you can define an increase in utilized quantities of gas (which reduce the relative share of gas being flared) as a “reduction in flaring”. But we doubt the people of the Delta would see it the same way, as the actual number of cubic meters of gas stays the same. The new thing seems to be that the recent gas developments at least seem to have *decoupled* the growth in flaring from the growth in oil production. NNPCs figures show stabilization, but *no overall decrease* in the quantities of gas being flared (NNPC 2006b).

3.3. Pipeline breaks

Pipelines have limited lifespans, and if they are not replaced after some years, they will start to leak, or even experience a rupture from the internal pressure. Oil is corrosive to metals, depending on i.a. carbon dioxide and hydrogen sulphide content. Pipelines, manifolds and other equipment also corrode from the outside in the hot and humid climate. Any acid rain stemming from gas flaring exacerbates this problem. Combined with lack of maintenance from the owners of the pipelines, ruptures and leakages are not uncommon. In addition, you have leakages connected to people puncturing product pipelines to steal fuel. Last, but not least, you have straight up sabotage from armed groups, blowing up pipelines and facilities. The reasons for pipeline breaks are in many cases highly contested. Local communities often claim it is ruptures due to old and corroded equipment, while oil companies often claim it is vandalization done by saboteurs, or by local community members in order to claim financial compensation.

Trends of Pipeline Breaks from ruptures²⁸

| Area | 1999 | 2000 | 2001 | 2002 | 2003 | 2004 |
|---------------|-----------|-----------|-----------|-----------|-----------|-----------|
| Port Harcourt | | | 1 | 1 | 16 | 33 |
| Warri | | | 8 | 4 | 14 | 25 |
| Mosimi | | | 17 | 16 | 8 | 5 |
| Kaduna | | | 0 | 5 | 9 | 12 |
| Gombe | | | 0 | 0 | 1 | 1 |
| TOTAL | 27 | 18 | 26 | 26 | 48 | 76 |

Source: NNPC 2006b

We see that the numbers of ruptures are on the increase. Some of the pipelines are getting way past their reasonable lifetime. The existence or enforcement of large-scale maintenance programmes, or government requirements of such, has not been visible to us, neither in the oil companies’ information material nor “on the ground”. It seems much of the equipment simply is run until it

breaks down, and then repaired afterwards. The spills often lead to compensation cases between the oil companies and the affected communities, but we have not heard of the authorities punishing oil companies for spills on grounds of neglect for the environment or safety. The compensations paid to affected farmers or communities have been extremely modest (see *Crude oil spill in Rukpokwu, December 2003*). As an exception, SPDC was ordered by the Senate to pay US\$ 1.5 billion to the Ijaw people as compensation for overall damages. SPDC appealed, but the Federal High court upheld the fine, and ordered SPDC to pay. The oil company is still stalling on the payment, however, considering further appeals and having a parallel strategy of remaining “committed to dialogue with the Ijaw people (Times 2006).

The concept “vandalization” covers both sabotage and destruction connected to illegal siphoning of products. Again, note that the figures (including the allocation on causes) are gathered from pipeline owner PPMC. We do not know whether an independent third party has verified these figures.

²⁸ Note that the figures (including the allocation on causes) are gathered from pipeline owner PPMC. We do not know whether an independent third party has verified these figures.



Trends of Pipeline Breaks from vandalization

| Area | 1999 | 2000 | 2001 | 2002 | 2003 | 2004 |
|---------------|------------|------------|------------|------------|------------|------------|
| Port Harcourt | 355 | 730 | 381 | 444 | 608 | 396 |
| Warri | 78 | 215 | 56 | 26 | 90 | 241 |
| Mosimi | 50 | 36 | 29 | 40 | 70 | 147 |
| Kaduna | 7 | 3 | 8 | 2 | 11 | 110 |
| Gombe | 7 | 0 | 0 | 4 | 0 | 1 |
| TOTAL | 497 | 984 | 474 | 516 | 779 | 895 |

Source: NNPC 2006b

The rise in recorded pipeline vandalization in 2003 coincided with the bad sentiment, social unrest and violence that same year. The figures indicate a further rise in 2004. As written above (*The Niger Delta*), oil production is currently down by between a fifth and a quarter of the original capacity, and the press mostly associates this with the sabotage and kidnappings of oil workers done by

MEND. This group, like others in the Niger Delta, attacks oil installations – the heart of the Nigerian economy, as a way to target the federal government to draw attention and put power behind their demands of changed revenue allocation and more. A clear overall picture of the reasons behind the production reduction remains somewhat unclear, and is hard to grapple. How much of it is *not* due to sabotage, but due to lack of maintenance of pipelines and other equipment?

3.4. Reports on environmental degradation

A recent environmental evaluation review conducted by the Centre for Social and Corporate responsibility in Nigeria (Emmanuel, 2004) indicates the following:

- That about 300 spills occur annually in the Niger Delta
- Less than 50% of these spills are cleaned up
- Less than 25% of affected environments is remediated

There have been huge losses of arable land to oil spills from petroleum activity, and loss of livelihood security occasioned by oil-related environmental devastation. The latter have become more frequent in oil producing areas such as Brass in Bayelsa state and Bonny in Rivers State in the past decade. Other examples are:

- In early 2000, Omoku community in Rivers State reported “daytime-light” at night, due to intense gas flaring in the area.
- In Yorla oilfields in Ogoni Land on the 22nd July 1999, an explosion resulting from the deterioration of the wellhead caused a fire, which lasted for several days, unchecked. Dark smoke from the fire contaminated the air within the community, while chemical effluents used later to contain the fire, seeped into streams of drinking water and fishing ponds.
- This same oil field has been the site for several massive spillages of crude and pollution resulting from gas explosions: Between 1995 and 2001, the Kpean and Kwawa communities which host the Yorla oil fields have suffered similar effects with not less than three spillages.
- Community dwellers in some oil producing areas in the Niger Delta region have also had to contend with health challenges ranging from induced abortions to tumor growths.



Shell’s abandoned wellheads leaking. K-dere, Ogoni. (FOEI 2006)



Products spill at Elume, November 2000

ERA Field Report Number 73

Subject: Pipeline spill sparks fire

Dispatchline: Ibada-Elume, Sapele Local Gov., Okolowwo, Okpe Local Gov. Areas, Delta State

From: Israel Aloja

Date: November 16, 2000

- * Several communities affected
- * Farmlands, rivers and aquatic lives destroyed
- * Ibada-Elume bridge collapses
- * NEPA²⁹ Transmission Lines burnt/cut

"...I thought the world was coming to an end. The entire community was thrown into confusion. We lost our farmlands and major source of water. We are seriously devastated."

- Patience Adija, Orange seller from Elume



The people were woken from sleep at about 2.00 A.M. by a loud bang from the Echon River on Wednesday, 8th November 2000. The noise alerted everyone in the community and everyone rushed to the direction of the river. They found the river on fire...

...This was a fire waiting to happen. Four months ago a PPMC (...) pipeline ruptured and spilled refined petroleum products (...) The spill spread to nearby rivers/streams and farmlands. PPMC was alerted and they responded by mending the pipes without cleaning up the spill. The petroleum products continued to flow to several other communities in other local Government Areas.

Until the time of this report, large volumes of diesel could still be seen on the affected rivers and streams. The implication is that there is likely to be another fire out-break. The destroyed bridge is yet to receive any attention. (...) The traffic situation is chaotic as motorists now use the unfinished section of the Warri-Sapele highway here. The high-tension electricity transmission lines cut by the fire still lie across the road. Some parts of the Edo and Delta states remain in total blackout as a result of this incident. The Chairman of NEPA Technical board has estimated that about N20m will be needed to reconstruct and replace the NEPA components destroyed by the fire. Nothing is heard about how much will be invested to clean up the spill, restore the environment and rehabilitate the people³⁰.

Source: ERA 2000, taken from Urhobo 2006

²⁹ NEPA: National Electricity Power Authority

³⁰ Note: Excerpts from longer, original text



Crude oil spill in Rukpokwu, December 2003

On 3 December 2003, a 40-year-old underground trunk line in Rukpokwu, Rivers State, burst for the third time in seven years, devastating the once fertile land around it. The spill went on uninterrupted for weeks, burning, damaging vast tracts of land belonging to several communities.

I was going to my farmland with my wife...to harvest cassava and check my traps in the Mini-lhe forest to see whether the traps had caught some bush pigs and grass cutters we use for food. At about 10 a.m., just in front of us we heard a huge explosion and suddenly bad odour of gas mixed with fuel, and later a big tongue of fire ravaging nearby farmlands, forests, including my own. See! All my farmlands of cassava, traps and fishponds are all burnt.

Mr. Woke; farmer/hunter/fisherman



"...our only source of drinking water, fishing stream and farmlands covering over 300 hectares of land with aquatic lives, fishing nets and traps, farm crops, animals and economic trees worth several billion naira are completely destroyed by the spillage and was made worse by the three separate fires that broke out of the spill site".

Chief Clifford E. Enyinda, Mgbuchi community, and Azunda Aaron speaking to the Nigerian daily *This Day*

"Having excavated the pipeline and seen it was caused by corrosion, Shell promised to come on 22 December to clamp it," Azunda said. "But until now (12 Jan, ed note) it has done nothing about it." A Shell official confirmed the rupture was caused by corroded equipment. "We're committed to high standards, but equipment can still fail, there's no magic to it," he said. He also said the local communities deliberately set the oil spill alight in order to claim a higher compensation, and that the leak was not clamped because the technicians were denied access because the communities demanded the compensation first.

"After the first and second oil spills, in 1996 and 2001, Chief Jonathan Wanyanwu lost all his trees. He was offered 9,400 naira (approximately US\$70). But in a normal season, these trees would provide him and his family an income of about 500,000 naira (approximately US\$3,770) a year. Now, following the third oil spill the trees are completely useless."

Note: When the author visited the site in October 2005, more than 22 months after the spill, oil was still visible, coming up from the ground because of the rains. The compensation case is still not settled. Shell's top-notch lawyers are, as so often before, doing all they can to stall the case. Discussions resumed for some time, however, after local community members entered and shut down several Shell flow stations in late 2005.

(Sources: Amnesty 2006, IRIN 2004, Oilwatch 2004, Pictures: FOEI 2006)



3.5. Crude and products leaked and stolen

The products loss figures are incredible. The total pipeline breakage loss figure of 396,900 metric tons in 2004 equals almost four complete supertankers (vlcc) in volume. We do not know how much of this is from ruptures and how much are connected to puncturing / siphoning and other vandalization. Compare with the Exxon Valdez spill in Alaska of 38,800 metric tons of crude (EVOSTC 2006). Even if only twenty per cent of the products are spilled, it means Nigeria has a constant ecological disaster on its hands, year in, year out. Consider also trunk line ruptures: We don't know for instance how much crude is needed to destroy 300 hectares of land, like in Rukpokwu in 2003/2004, but the quantity must be significant.

Products Loss through pipeline breakages ('000 mt)

| | 1999 | 2000 | 2001 | 2002 | 2003 | 2004 |
|---------------|--------------|--------------|--------------|--------------|--------------|--------------|
| Port Harcourt | 38.7 | 319.8 | 132.9 | 222.3 | 225.8 | 150.3 |
| Warri | 68.3 | 17.3 | 30.5 | 12.0 | 27.9 | 73.2 |
| Mosimi | 68.9 | 54.7 | 44.7 | 70.6 | 109.1 | 156.9 |
| Kaduna | 1.5 | 4.3 | 2.2 | 2.6 | 0.2 | 3.2 |
| Gombe | 2.1 | 1.5 | 0.8 | 0.6 | 0.1 | 13.3 |
| Total | 179.5 | 397.6 | 211.1 | 308.2 | 363.1 | 396.9 |

Source: NNPC 2006b

The financial losses from pipeline breakages also seem to be significant. Naira 19.66 billion (2004 figures) equals US\$ 154.4 million. But seemingly they are not big enough for the oil companies to find it worthwhile to do more extensive maintenance, vandalization prevention or other protection of their equipment.

Products Loss through pipeline breakages (Nmillion)

| | 1999 | 2000 | 2001 | 2002 | 2003 | 2004 |
|---------------|---------------|----------------|---------------|---------------|----------------|----------------|
| Port Harcourt | 675.4 | 5785.8 | 2359.9 | 5462.2 | 8121.0 | 7765.0 |
| Warri | 1164.1 | 3201.5 | 581.1 | 296.8 | 1002.0 | 3148.0 |
| Mosimi | 1264.9 | 1035.2 | 829.4 | 1824.6 | 3860.0 | 8011.0 |
| Kaduna | 23.1 | 85.6 | 84.1 | 62.8 | 7.0 | 163.0 |
| Gombe | 31.6 | 15.2 | 13.3 | 14.7 | 0.0 | 573.0 |
| Total | 3159.1 | 10123.3 | 3867.8 | 7661.1 | 12990.0 | 19660.0 |

Source: NNPC 2006b

If we ignore environmental concerns for a second, and look at products loss and financial loss only, it is apparent that these pipeline breakage figures become very small compared with the large-scale illegal bunkering operations going on in the Delta.

People breaking into pipelines to steal some jerry cans, or even a truckload of products are sometimes referred to as *bunkerers*. But this wording only serves to mask what is really going on with the true bunkering business. In those cases we talk about large scale bunkering (like in "filling a ship") from a number of ordinary oil evacuation jetties and ports on different points in the Delta. Around 150 to 200 thousand bpd of crude (more than 5 % of total production) is said to be lost per day in this manner (HRW 2003). At US\$ 50 – 60 a barrel, this means losses of around US\$ 10 billion a year. The government loses far more than the oil companies. This is both because the government's take is much larger than the international oil companies, from the financial investment level in the Joint Ventures and lost Royalties and Petroleum Profits Tax from the international oil companies, who probably can do tax deductions when oil is bunkered. People continue to wonder: Who are stealing, and how is it possible for it to continue on such a large scale? And also: how much of that oil ends up, with false papers, in other African countries, and how much in Europe, USA and Asia?



3.6. Social unrest

Attitude surveys has shown a phenomenal change in public opinion in the Niger Delta from 2000 to 2003. Optimism right after the transition to civilian rule and the adoption of the new constitution in 1999 turned into really bad sentiments just three years later.

Table: Public opininon in Nigeria

| | | | 2000 | 2001 | 2003 |
|--|----------------------------------|-----------------|------|------|------|
| Are (your group's) economic conditions worse, the same or better than other groups in this country | % saying worse / much worse | Niger Delta | 13 | 33 | 60 |
| | | Other Nigerians | 12 | 39 | 31 |
| Overall how satisfied are you with the way democracy works in Nigeria? | % saying fairly / very satisfied | Niger Delta | 84 | 47 | 13 |
| | | Other Nigerians | 84 | 57 | 37 |
| Is "the ability of ordinary people to influence what government does" better now than under military rule? | % saying better / much better | Niger Delta | 63 | 56 | 17 |
| | | Other Nigerians | 67 | 61 | 43 |

Source: AfroBarometer, in Ross (2004)

Local communities have many times protested against the environmental destruction, and because they gain so little from the value production taking place on their former agricultural land. From the local community representatives we spoke to, and from NGO representatives we understood the compensation system contributed to the unrest: Farmers are compensated for the value of the crop on the land at the time of expropriation to petroleum activities, no more. If there is no crop, they receive no compensation at all. Also when fields are destroyed by oil spills, the financial compensations tend to be very small.

Protests are very often met with military force. Oil companies, like SPDC, Chevron and others have called in government military forces to protect the installations and workers, but these forces have been heavily criticised for excessive use of force, with a large number of people killed on several occasions. Human rights groups have also asked the oil companies to ask security forces to dampen the violence (HRW 2003b).

Add to this, long standing ethnic conflicts between the larger ethnic groups and inter-communal and intra-communal conflicts, sometimes over use of "CSR"-funds handed over by oil companies in more or less successful ways, and you have an explosive mix.



Part two

- Petroleum in Nigeria: Two key federal policies
- Statoil and Nigerian content
- Statoil and transparency



4. Petroleum in Nigeria: Two key federal policies

4.1. The Federal Government's Nigerian content policy

Local content is considered an important part of development strategies based on petroleum³¹. The Nigerian petroleum aspirations are apart from growing its proven reserves, production capacity and real production³², to increase the share of *Nigerian content* in the petroleum sector. Nigerian capital is heavily involved in the petroleum sector in Nigeria through the NNPC participation in the joint ventures. However, international oil companies have carried out most operations, and the share of Nigerian goods and services deliveries has been very modest. The government's new local content policy aims at changing this.

Nigerian content is defined as:

The quantum composite value added or created in the Nigerian economy through the utilization of Nigerian human and material resources for the provision of goods and services to the petroleum industry.

NNPC representatives have stated that the new policy raised Nigerian content from around 15 % in 2005 to around 25 % in March 2006. The ambitious aim is to increase the share of local content to 45 % by 2007 and 70 % by 2010. Nigerian content is to be measured as the share of total contracts awarded to Nigerian companies minus costs of importations by these companies. The latter is to avoid having Nigerian companies merely working as import agencies for foreign equipment and personnel.

The government has formulated a whole range of very concrete demands for what kind of equipment and installations should be manufactured in Nigeria, ranging from cables and flow lines to FPSO topside modules (Nwapa 2006). See also the NNPC website (NNPC 2006a).

The policy is to emphasize:

- *Value added in country*
- *Utilization of Nigerian human and material resources*
- *Job creation*³³
- *Investment in local facilities*
- *Stimulate development of indigenous facilities*

One very important aspect remains, and that is passing a Nigerian Content Bill in the National Assembly. The bill is currently being worked on by NNPC and government agencies, with inputs from the oil companies. Without adequate legislation the local content policy will stand the risk of failing its aims.

This aside, the Nigerian government still have the power of negotiating terms for awarding petroleum contracts in an attractive area for the international oil companies. So, the pressure is on these companies to contribute their share in fulfilling the Nigerian government's local content ambitions.

From our experience after listening to different stakeholders, it seems clear that the new local content policy answers part of the local content discussion in Nigeria, but not all of it. First you have the trade unions' case for employment of Nigerian nationals in key competence positions (engineering staff and others) in the oil companies themselves, not only with subcontractors. Secondly you have the local communities' definition of *local content*, which says that at least some people from the host communities should receive training and employment when an oil or gas field is developed on their traditional land. What local communities see as oil companies' repeated

³¹ Local content was indeed very important for the Norwegian government in the build up of petroleum production in Norway. See Appendix 4: Norwegian oil history...

³² In the context of Nigeria's OPEC membership, increased proven reserves are a prerequisite for increasing its production quotas.

³³ Like stated in Part One (*Employment*) of this report, the potential for job creation in upstream petroleum is limited, no matter where in the world operations are going on. We would think the positive consequences of this point in reality would be as much about competence creation and facilitating technology transfer as of job creation.



failures to deliver on employment, adds to the explanation for the hostility between local communities and oil companies.

4.2. Federal Transparency policy

Nigeria was among the first to participate in the Extractive Industries Transparency Initiative (EITI), which encourages governments, companies, international organizations, and other interested parties to work together to develop a framework to promote transparency in payments and revenues arising from extractive natural resources. In February 2004 President Olusegun Obasanjo proclaimed:

I personally have no doubt that Africa's era to be clean, open, transparent and accountable is now. I rejoice greatly that Nigeria is and will continue to be at the forefront of the continent's new transparent dawn (EITI 2005).

Behind this not-quite-so-modest statement by the President lies the fact that by supporting the EITI-principles, President Obasanjo is member of an exclusive group, together with Ghana, Azerbaijan and the donors UK, G8 and Norway (IMF 2005b). By setting up a Nigerian initiative (NEITI) in 2004, the Federal Government has actually put a pressure on the oil companies to step up their reporting practices. The transparency initiative links back to local content by the fact that local content surveys is part of the NEITI implementation plan (NEITI 2006c).

The federal government's anti corruption work serves several purposes. Apart from its obvious developmental benefits, it also serves to please the G8 and the Paris Club, which were able to give Nigeria a beneficial debt-buy-back deal. It can also serve to lessen the corruption image associated with Nigeria, and thus make it easier to attract foreign investments. Nigeria has a legacy of widespread corruption and absence of transparency. The image is still far from good. The 2005 Corruption Perception Index by Transparency International showed that Nigeria still is perceived as one of the most corrupt in the world (TI 2005). While increasing the transparency at the federal level, it also serves to shift the pressure downwards, away from the Federal, and down towards the State and Local Government levels. Some voices say the targeting in corruption cases has not always been without regard to the targeted individual's political standing vis-à-vis the President.

The question is what will become of this new transparency policy as time goes by. Regardless, right now the pressure is on the international oil companies to show they can live up to the demands of the NEITI.



5. Statoil, local content and transparency in Nigeria.

The following people have been interviewed for this section: Senior Statoil staff at Statoil ASA headquarters in Stavanger, Norway, and senior staff of Statoil Nigeria Ltd in Lagos. In addition, other relevant people for Statoil's history in Nigeria, and local content questions regarding Statoil and Nigeria.

- Odd Godal, Project Manager, Country Analysis and Social Responsibilities, Statoil ASA
- Christine Holst, Managing Director, Statoil (Nigeria) Ltd
- Ronke Ibrahim, Financial Operational Manager, Statoil (Nigeria) Ltd
- Caroline Ola Abu, Senior Coordinator for Procurement/Contract, Statoil (Nigeria) Ltd
- Sophia Mbakwe, Senior government- and public affairs coordinator, Statoil (Nigeria) Ltd
- Steinar Njå, The Norwegian Petroleum Directorate
- Per Hagen, INTSOK Norwegian Oil and Gas Partners
- Idar G. Johnsen, former Managing Director Statoil (Nigeria) Ltd

We have also used written material provided by Statoil Nigeria and Statoil ASA upon request. The study is complemented by desk research of different reports, web- and newspaper articles.

Statoil has been present in Nigeria since 1992, has drilled 11 wells and spent significant sums of money. Still there is no oil or gas being produced, but finally things seem to go Statoil's way. Statoil now has an 18.85 % share in the new Agbami field, planned to come online in 2008, going for a plateau production of 250,000 bpd – equal to a 10 % increase in Nigeria's current total production capacity. Statoil's share will be 50,000 bpd, which means US\$ 900 million a year at an oil price of US\$ 50 per barrel. As stated in Part one (and Annex 3) of this report, the Government of Nigeria will take the bulk of the revenue once Statoil's costs for the Agbami development is recovered, but still a nice profit will be left for Statoil to collect.

Statoil ASA is an international company with 25,600 employees, and activities in 33 countries. The bulk of its operations are still in Norway, but Statoil also has activities in Central Asia, the Middle East, North- and West Africa and Latin America. These are both onshore and in shallow waters, but mainly in deep water areas. Statoil's total oil and gas production in 2004 was 1.1 billion barrels oil equivalent, of which ten percent internationally and 90 per cent in Norway. The share of Norwegian employees is currently 50 %. Statoil operates 60 % of all Norwegian oil and gas production, but as Norwegian oil production is declining, Statoil aims outwards, and its international oil production is rapidly increasing. Statoil is now partly privatized. It was quoted on the Oslo Stock Exchange in 2001, and is also traded on the New York Stock Exchange (NYSE). The Norwegian government's ownership stake is currently 70.9 %. Together with its industrial operations³⁴ and its petrol stations, this generated revenue of NOK 393 billion. The net income was NOK 24.9 billion (Statoil 2006).

Statoil came closer to Nigerian waters when BP and Statoil formed an alliance for international operations in 1990 (Statoil, 2005a). Statoil had surplus capital, which it wanted to invest abroad. BP had international experience. Despite BP's doubt, the BP/Statoil alliance chose to accept an invitation to apply for blocks in Nigeria. BP insisted however, on Statoil being the operator.

Statoil Nigeria Ltd was established in Lagos 1992. At that time, the Nigerian authorities used contracts that were more or less copies of the Production sharing agreements (PSAs) offered by Indonesian authorities. (For an explanation of the different types of contracts between governments and oil companies, see *Appendix 3 Oil revenues and oil contracts*.)

Despite the assignments being awarded in the autumn of 1992, the negotiations proceeded for eight months until May 1993. The talks were about the distribution formula in the PSAs and the calculation of the government take. According to the former CEO of Statoil Nigeria, Idar G. Johnsen, the BP/Statoil alliance hired two Nigerian agents, who were well paid to help them through the bureaucracy consisting of the Ministry of Petroleum, Ministry of Justice, Ministry of Finance and the Department of Petroleum Resources (DPR). According to Statoil Nigeria's current MD, Christine Holst, this information is highly inaccurate. The said "agents" were actually consultants hired to

³⁴ Statoil has several petroleum-related technology and service companies. It also operates product pipelines, an oil refinery and a methanol factory, and is currently building an NGL-plant – all of these in Norway. The last project launched is an expansion of the methanol factory and construction of a gas-fired power plant.



assist Statoil in setting up business and getting started in Nigeria, as a standard procedure when entering new and unknown markets. She added that the consultants' contracts are publicly available, and in no way a secret.

The Nigerian authorities' local content policy during the beginning of the 1990's only had limited success. The IOCs were closely affiliated with the international supply and service companies through years of purchasing, and chose to continue business as usual. These had already established subsidiaries in Nigeria. Through a modest Nigerian ownership and Nigerian employees, the international supply and service companies' Nigerian subsidiaries were recognised as local content.

The local content policy at the time also included awarding blocks to local companies. One of these was the Nigerian controlled Allied Energy Resources, which was assigned block 210. In 1993 BP and Statoil (Statoil, 1998) bought 20 per cent each on the block. Allied Energy was to be the operator, while BP and Statoil were to be technical assistants. Allied Energy seemed to have serious ambitions, and employed geologists and equipment to conduct seismic surveys. They also recruited Arve Johnsen; Statoil's newly resigned senior executive as member of the board. According to articles in the Norwegian newspaper Dagbladet (2000, 2003) Allied Energy was owned by Houston based CAMAC Holdings, which again was led by a member of the Nigerian Lawal family, which was said to have close relations to the military regime at the time. In 1995, the partners Allied Energy and BP/Statoil alliance made an oil strike on block 210. According to Statoil Nigeria's MD Cathrine Holst, the find was not considered commercially viable. Both Statoil and BP sold their shares in the block to Allied energy in 1998, but it took very long to settle it financially. Dagbladet in their 2003 article asked whether Statoil ever got their payment. When we visited Statoil Nigeria in October 2005, we were informed that Allied energy now was in the process of settling the deal (Statoil 2005i).

Overview of Nigerian blocks where Statoil is currently active

Block³⁵ 217

- Awarded in 1992
- Signature bonus US\$ 2 mill
- Production Sharing Agreement
- Statoil operator
- Partner: British Petroleum
- Deep water (1500m)
- Oil strike, production in 2008*

Block 315

- Awarded 2005, 45% share
- Signature bonus US\$ 81 mill³⁶
- Operator: Petrobras, 45% share
- Partner: Ask³⁷ (Nig.) 10% share
- Deep water (1500m+)

Block 218

- Awarded 1992
- Signature bonus US\$30 mill
- Production Sharing Agreement
- Statoil operator
- Partner: British Petroleum
- Deep water
- Oil and gas present**

Block 324

- Awarded 2003
- 25% share
- Signature bonus US\$ 5 mill
- Operator: Petrobras, 75 % share

*Agbami oil pocket. Stretches across block 216 and block 217

- Unitization deal signed with ChevronTexaco and Nigerian government February 2005.

³⁵ Blocks are also known as an "OPLs" (Oil Prospecting Lease) or "OML" (Oil Mining Lease). These are different contracts with the government made depending on the stage of development. First you have an OPL. If a commercial find is made, a new contract (OML) is written between the partners and the government. The numbers of the same geographical area sometimes change when an OPL is transformed into an OML, so keeping track on this level of detail can sometimes be a bit confusing.

³⁶ Statoil's 45% share of the total signature bonus of US\$ 180 million

³⁷ Ask was one of the Nigerian companies prequalified by the Nigerian government to be paired with international oil companies in the 2005 licensing round. The company was founded by a group of other Nigerian companies only a few weeks before this round. The NEITI work has so far resulted in i.a. suggestions for more transparency on the local content vehicle companies, to facilitate better pairing of these with the international operating companies.



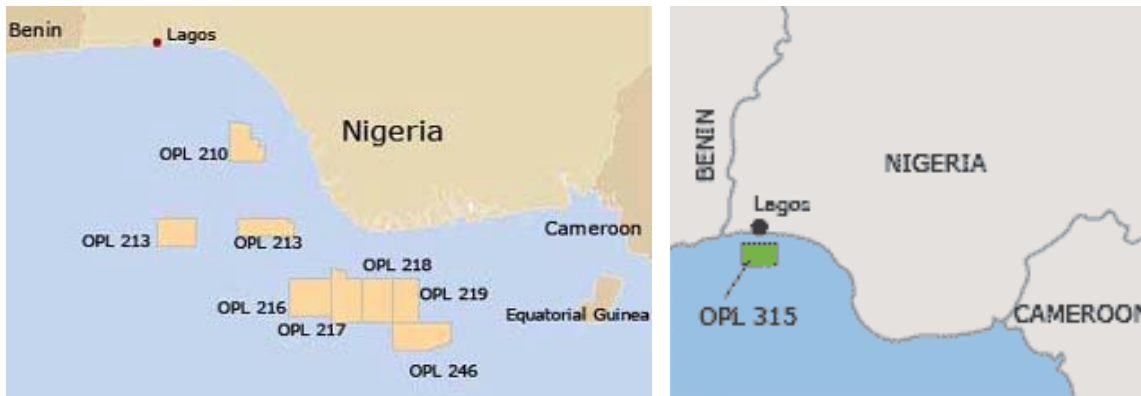
- Operator: Chevron Texaco (68.15%), Partners: Statoil (18.85%). Petrobras (13.0%).
- Development: Sub-sea well developments that will feed a FPSO.
- Production: Start last quarter of 2008. Plateau production of 250 000 bbl/day (Statoil's share in PSA: ~50 000 bbl/day)
- Development costs: Unknown. FPSO prized at NOK 7 bill (~ US\$1 bill)

Sources: Statoil, 2004, Statoil 2005k

****Bilah well and Nnwa wells drilled by Statoil on block 218**

- Bilah: Proved gas condensate. Looks challenging to develop. Statoil is still working towards a decision whether to do this.
- Nnwa proved a considerable gas discovery connected to Shell's Doro well on block 219. Also "straddles" Block 246, so multi-party negotiations must to be done. Statoil has concluded that an offshore LNG-project is technically feasible, but commercial viability is yet to be decided

Source: Statoil 2005k



Maps: © Statoil 2005k. Block 324 not yet indicated

Overview of Nigerian blocks with previous Statoil activity or not currently active

Block 210

- Bought 20 % share in 1993
- Operator: Allied Energy (Nig.)
- Partner: BP, 20% share
- Oil strike, not commercial
- Sold it's share (along with BP) to Allied Energy in 1998

Block 213

- Awarded 1992
- Signature bonus US\$ 10 mill
- Production Sharing Agreement
- Deep water
- Partner: British Petroleum

When we visited Statoil's Nigerian headquarters in October 2005, Statoil had two companies registered: *Statoil Nigeria Ltd* and *Statoil Deepwater*. In addition the company *Statoil Outer Shelf* were in the process of registering.

The increase in number of Statoil companies is connected to Statoil's expansion in Nigeria. The method of setting up separate legal entities for different Production Sharing Contracts is common among the oil companies. It is done, i.a. to accommodate the different tax regimes and other regulations agreed upon with the authorities and private partners in different PSCs. The management of the three Statoil companies is more or less the same, and the outward reporting by country seems to be the sum of all legal entities.



5.1. Statoil and community relations

Statoil declares that they have a responsibility towards both their owners and the society in which it operates. "...shareholders are a company's *owners*, while stakeholders are everyone else with an interest in its operations - employees, the authorities, suppliers, partners, customers and the local community" (Statoil 2004b). The questions here are: Who represents the local community, and should not a broader view from civil society organisations be heard, especially in light of past petroleum experiences in Nigeria?

In 1997 an Environmental Impact Assessment (EIA) regarding exploration drilling on offshore block 217 and 218 identified the Akassa clan, a remote coastal Ijaw community on the southern edge of Nigeria as the community most likely to be impacted in the event of an oil spill. Statoil chose to commence a community development project in Akassa. Statoil worked together with the NGO Pro Natura (International), and the project has put emphasis on involving "the residents of the region in taking decisions and pursuing development projects on their own terms". The project still goes on and in 2005 the World Petroleum Congress (WPC) gave its award for best social project to Statoil in recognition of its support for the Akassa people (Statoil, 2005h). It seems like the Akassa project is a local application and change-to-fit of the overall principles, because charity and development work is not in the Statoil CSR principles.

Statoil's sponsoring of Human Rights work and development work in Akassa seems to be quite successful in itself, and is also looked upon as quite successful by local NGOs and the oil industry. We still confronted Statoil Nigeria with the fact that sponsorship and aid work is not a part of for instance the EU Commission's definition of CSR, stating instead CSR relates to how the core activities of the company are conducted – and how *those* can be made beneficial to the society.

The answer we got from Statoil Nigeria was that the CSR strategy consists of three broad areas: *Labour and human rights*, *transparency* and *local content*, and that they have specific things they do on all those areas, and that work on local content for instance, is part of everyday activity when it comes to prequalification and procurement. The Akassa project and the human rights projects are just spin-offs from these. The question that comes to mind with us, then, is: Why is it so that the mere spin-offs of the CSR strategy are marketed to such an extent, while the "real" and "core" CSR activities seem so hidden? Could it be that the ordinary CSR-work is so internalized that it is and every-day activity which Statoil does not think of marketing, or is it so that the social investment projects are easier to visualize and to market to journalists that uncritically takes the bait?

5.2. Looking ahead: Increased ambitions for local content

Ask was among 15 Nigerian companies, pre-qualified by the government to be paired as a so-called "local content vehicle" with the IOCs during the 2005 bidding round. Statoil chose to work with Ask. The company was founded by a group of other Nigerian companies only a few weeks earlier. When we visited Statoil Nigeria in October 2005, they were in the process of finalizing a due diligence study of Ask.

In addition to the required 10% local content on the investor side (which was to be filled by Ask), Statoil offered 40% local content on the procurement side. That means to channel 40% of purchases of goods and services to local service providers and suppliers. Achieving such a share is however not without challenges. According to Statoil representatives, the main ones are:

- Few (Nigerian) companies have the necessary technological competence.
- Experience is limited, so jobs done are not of the best quality.
- Deadlines are missed quite often, which often leads to cost overruns.

Source: Statoil 2005b

Statoil states their goal nevertheless is to achieve the promised 40% local content. The aim is "to work along with the local content vehicle to achieve the highest possible local content without jeopardizing budgets and time limits" (Statoil 2005i). The strategy to achieve this is to work through



INTSOK³⁸, as well as other means to develop local contractors, in order to improve their competence and business knowledge through training and workshops such that competent capacity is built and hence local content component is progressively increased. (Statoil, 2005i).

In the first Nigerian licensing round where Statoil took part, in 1992, the Nigerian authorities did not set any percentual premise with regards to local content. Clause 12 of the Production Sharing Contract however, addressed employment and training of Nigerian personnel. In addition Appendix E – Article f & h states that preference shall be given to contractors whose companies are registered under the laws of Nigeria, and also to goods manufactured or produced in Nigeria. Statoil’s offer on local content in this licensing round was the same as stipulated in the PSC (Statoil 2005i).

Statoil stated an investment of NOK 176 million, and purchases of goods and services of NOK 286 million for Statoil’s activities in Nigeria in 2004. We asked Statoil about their local content share in Nigeria for that year. Statoil answered this was 24 %, but did not make public to us any documentation or detailing to back up this claim.

To see if the “Nigerian companies” providing the Nigerian content were truly Nigerian, and not just subsidiaries of large international companies, we asked which companies were suppliers to Statoil Nigeria in 2004. Statoil supplied us with a list containing company names and addresses of *prequalified* companies. This means the suppliers are among the companies listed below, but we do not know which of them.

The list shows a mix of indigenous companies and Nigerian subsidies of well-known multinational companies. Note that the list does not include drilling services, as Statoil did not perform any drilling operations in 2004.

List of prequalified contractors. Statoil Nigeria, 2004.

| IT equipment & consumables | Telecommunication | HSEQ* |
|---|--------------------------------------|---------------------------------------|
| Manifold Computers Limited | ICT Solutions Limited | Global Environmental Management Ltd. |
| Sunnet Systems Datacom Services Limited | SDI Broadband Limited | Energy Blocks Limited |
| ICT Solutions Limited | VDT Communication Limited | Summit Energy |
| Sidmach Technologies Nigeria Limited | Omnes Communications Nigeria Limited | SGS Inspection Services Nigeria Ltd. |
| Fees Limited | GS Telecom Nigeria Limited | Halogen Security Company Limited |
| Officetron Company Limited | Telnet Nigeria Limited | Environo Solutions |
| Price Water House Coopers | Radial Circle Telecoms Limited | Citi Source Technologies Limited |
| Apice Investments Limited | Siemens Limited | Toxology Research Lab. Limited. |
| Iteco (Nigeria) Limited | Econet Wireless | Gadgas Limited |
| Radial Circle Telecoms Limited | Pivot GSM/Pivot Eng. Comp. Limited | SAABINC |
| CGG | MC Nair Nigeria Limited | First Marine Engineering Services |
| Micro Products Limited | Aira Technologies Limited | Kenrods Oil Services Limited |
| Tetrad Limited | Tele Mobile | Sadiq Petroleum Nig. Ltd. |
| Modern Business Machine (Nigeria) Limited | Alcatel Nigeria Limited | M & D Products Limited |
| Microworks Nigeria Limited | Dizengoff WA (Nigeria) Limited | International Energy Services Limited |
| Systemtech Limited | ACT Networks Limited | Jaros Inspection Services Limited |
| Dataflex Nigeria Limited | EIL Telecom Limited | Ajamy Oux Gas Limited |

³⁸INTSOK - the Norwegian Oil and Gas Partners - was established in 1997 by the Norwegian oil and gas industry and the Norwegian Government. The upstream oil and gas sector is a vital element in the Norwegian economy, providing employment for some 90.000 people directly in Norway, and INTSOK is to assist its expansion abroad (INTSOK 2004).



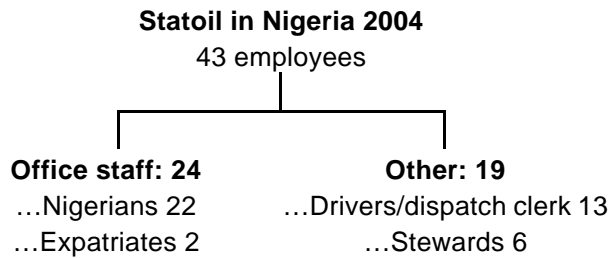
| | | |
|---|------------------------------------|---|
| Octagon Technology Limited | Procomtec | Halston Energy Limited |
| Task Systems Limited | Bacom Communication Limited | Loladson Limited |
| Palette Limited | PCC Limited | Vigeo Limited |
| Arit of Africa | Global Access Technologies Limited | Omrienergy International Limited |
| Allied Computer | Total Telecom Solutions Limited | Beno Engineering Co. Limited |
| CBC | | Yese Safety Company Limited |
| CGG | | |
| Data Sciences Nigeria Limited | | * Health, security, environment and quality assurance |
| Roe Limited | | |
| Joint Komputer Kompany Limited | | |
| Computer Warehouse Limited | | |
| Omnes - Schlumberger Worldwide IT Partner | | |
| Inlaks Computers | | |
| Innovative System Limited | | |
| Orbital Computer Services Limited | | |
| Southgate Technologies Limited | | |

List of prequalified contractors. Statoil Nigeria, 2004. (Continued)

| General goods | Building maintenance | Transport |
|--|---------------------------------------|---|
| Betcy Investments Limited | Intergrated Concept Limited (ICL) | UTC Nigeria Limited |
| Mandilas Electrogas Appliances Limited | Geneks Nigeria Limited | SDV Intertrans Nigeria Joint Venture |
| Wellstocked Nigeria Limited | Bond Concepts Associate Limited | Ideke Shipping Limited |
| C & A Prints Nigeria Limited | Lamod Engineering Services Limited | Sea Petroleum & Gas (SPG) Co. Limited |
| Office City Limited | O'Spaces Nigeria Limited | Remtum Global Services Limited |
| Haniel Limited | Betcy Investments Limited | Tiger Shipping Co. Limited |
| OGTB Limited | Jakkos Engineering Limited | Doyin Motors Limited |
| Technogas Oil Limited | Peddy-lads Associates Limited | Cash Link Finance & Investment Plc. |
| Thriftnet Company Limited | Nosco Oil and Gas services Limited | C & I Leasing Plc |
| International Uniform Nigeria Limited | Advance Coating Tech. Nigeria Limited | Nikky Taurus Nigeria Limited |
| Academy Resources Int. Limited | Rictan Consultants Limited | Premium Investment and Trade Ventures Limited |
| | International Energy Services Limited | Mandilas Enterprises Limited |
| | Vita Construction Limited | Fredpak Services Nigeria Limited |
| | Channel Oil and Petroleum Limited | IAL Nigeria Limited |
| | Yanal Nigeria Limited | CFAO Motors |
| | | Hertz |
| | | Gilola International Agencies Limited |



Another important factor when it comes to Nigerian content is the composition of the staff itself. Statoil reported 43 employees in Nigeria in 2004 (Statoil 2005e). Upon request for a breakdown of the figures, Statoil provided the following details (Statoil 2005b):



5.3. Statoil and transparency in Nigeria

In 2003 Statoil expressed support for Nigerian president Olusegun Obasanjo’s initiative for transparency in extractive industries (Statoil 2003b). EITI involves collaboration between the petroleum industry and the host countries on openness and transparency in financial transactions. Statoil also supports the *Publish what you pay* campaigns for the mandatory disclosure of taxes, fees, royalties and other payments by oil, mining and gas companies to governments and other public agencies.

Statoil publishes a comprehensive sustainability report in accordance with the Global Reporting Initiative (GRI), and in 2000 they affiliated with the UN’s initiative for responsibility in the business, Global Compact.

Statoil received positive comments from the Publish What You Pay campaign in 2005, for publishing in its Sustainability report a breakdown of some of the tax payments, investments and purchases for 26 out of the 29 countries it operates in (PWYP 2005). See table below for relevant figures. However, taxes are one way of income to authorities from oil production, government’s share of production being the other main source of income (See for instance the NEITI-table: “Aggregate income from (government’s) crude sales” above).

In connection with the positive comments from Publish What You Pay, Statoil’s senior vice president for country analysis and social responsibility Rolf Magne Larsen, indicated that the release of the figures quoted in the seven-column table below was only a first step: “Our ambition for next year is to publicise the value of the oil falling to the authorities from the various projects”, he said (Statoil 2005l). The 2005 Sustainability Report recently released shows Profit oil worth NOK 2.7 billion to Algeria, Azerbaijan and Angola.

The sustainability reports for 2004 and 2005 show the following key figures for Nigeria:

Reported Statoil activities in Nigeria 2004. (Currency: NOK millions)

| Year | Investment | Sales and other income | Income taxes paid | Indirect taxes paid | Payroll costs | Employees 31 Dec | Purchases of goods and services |
|------|------------|------------------------|-------------------|---------------------|---------------|------------------|---------------------------------|
| 2004 | 176 | 0 | 0 | 0 | 6 | 43 | 286 |

Source: Statoil 2005e

Reported Statoil activities in Nigeria 2005. (Currency: NOK millions)

| Year | Investment | Sales and other income | Income taxes paid | Indirect taxes paid | Payroll costs | Employees 31 Dec | Purchases of goods and services |
|------|------------|------------------------|-------------------|---------------------|---------------|------------------|---------------------------------|
| 2005 | 1 089 | 0 | 0 | 0 | 9 | 45 | 23 |

Source: Statoil 2006



The zeroes are due to the fact that Statoil has not commenced production yet. No production equals no income - equals no income tax. If we divide the total salary and social cost paid by the number of employees, NOK 6 million in pay and social benefits to 43 employees in Nigeria in 2004 equals an average of NOK 139,535 per employee. Compare for instance with the Norwegian figures in the same table which show an average pay and social cost of NOK 949,482 per employee (Statoil 2005e). Also you have a very abrupt change in the distribution of the figures on investment vs purchases of goods and services from one year to another.

The 2005 figures for *Purchases of goods and services* are allocated on countries by invoice address, meaning it could give an indication of the local content share. However, the figure for Nigeria is very low in 2005. The latter can be due to investment through partnering operating companies (like Chevron or Petrobras), which means goods and services purchases made with these money in Nigeria actually does not show in Statoil's own reporting. The numbers seem a bit confusing, and the question is how much the publicised figures in the sustainability report really tell without further explanation. The good thing about increased transparency is that every figure published spurs new questions. The challenge for a transparent company is to give satisfactory explanations on what the figures actually show.

We have not found that Statoil has had any problems abiding by the rules set by the Nigeria Extractive Industries Transparency Initiative (NEITI). As we have seen above, Statoil got themselves a head start with the 2004 Sustainability report, publicising figures on financial flows, on number of staff, on pay and social benefits, and on procurement per country of origin. When we visited Statoil headquarters in Lagos, the MD Christine Holst also stated Statoil Nigeria had answered all questions Hart consultant group had asked on behalf of NEITI.

We have seen above how Statoil when requested, provided us with a list of prequalified contractors and a breakdown of the work force. In this, the Statoil staff was forthcoming, even though it seemed clear they were not used to having people asking such questions, and did not seem to have much room for such activities in their schedules.

Some requests for information were denied to no surprise, like insight into the production sharing agreements with the Nigerian Government. We have not had access to any production sharing agreements or partnership contracts – whether new or old³⁹. When it comes to oil contracts, the oil and gas industry is a competitive industry and thus it may be argued that individually negotiated contracts entered between IOCs and governments, or IOCs and NOCs have to be treated as business secrets. On the other hand; such contract texts would be a prime source for information on future petroleum revenues, and how good the Government in power is at taking care of national interests.

We were more surprised to learn that Environmental Impact Assessments (EIAs) conducted by Statoil in connection with their projects in Nigeria are not publicly available from them. The EIA documents are transferred to the Government, which decide if, when and how this information will be made public. We were surprised for two reasons. First, a perhaps naïve thought: All Statoil EIAs concerning Norwegian cases are posted on the Internet, for comments to be made by environmental organizations and others to the relevant government agencies. So would it not be logical for Statoil to have the same practice of openness in all its operations, we thought, but no. Second: a particular EIA has been referred to as containing information on oil spill risks for the Akassa community – being the reason why Statoil has funded a rather large development project to help develop Akassa into a more robust community. Statoil has even received an international award for the Akassa project. But the documentation of the environmental risks behind it is not publicly available for instance for environmental organizations to see.

According to Statoil, they abide by Nigerian laws, which say EIAs shall be conducted, and the document handed over to the Government, which then decides whether to publicise or not. The problem is however, according to several NGO-representatives we spoke to, that it is very difficult even to get to see these documents if the Government at all make them “publicly” available, let alone get (to make) a copy. One would think that openness in the environmental field, as in the

³⁹ PSA between NNPC and BP/Statoil entered in 1992 regarding blocks 213, 217 and 218. Contract entered in 2003 on development of block 324. PSA entered in 2005 on development of block 315.



financial, would help fight suspicion and facilitate a more constructive dialogue between stakeholders. The case seems to rest on Government, but it wouldn't hurt if Statoil spoke with the relevant government representatives, asking to get to publicise EIAs as the Norwegian government make them do "back home".

Statoil has made signature fees and national level investment and procurement figures for their Nigerian activities publicly available on the Internet. In addition, they have given us other information upon request. At the meeting at Statoil's head quarter in Stavanger August 31st 2005, and at Statoil (Nigeria) Ltd. in Lagos in October the same year, the relevant Statoil staffs attended and were communicative.

Apart from the Sustainability report, we found it hard to obtain data from- or verified by independent third parties on several of these subjects. Hopefully sustainability reporting will be more detailed in the future as proper transparency hopefully gets foothold throughout the industry.



Part three

- Expectations towards the new offshore developments, including Statoil
- Historical and contextual explanations for these expectations



6. Stakeholder perceptions on international oil company operations in Nigeria

Stakeholder perception on oil industry activity has been presented below per category of stakeholders in order to reflect the range of opinion on the issue as reflected in discussions held with different groups of stakeholders.

Two of them featured 7 - 12 male and female representatives from three host communities in the southern part of Nigeria⁴⁰. The host communities were the Bonny and Egi communities both in Rivers State, and the Uvghorodo Community in Delta State. Bonny is one of the communities in the delta where *offshore* drilling has commenced. Egi is the community where women occupied a Chevron Texaco facility for some days, an event which received international coverage at the time.

The third focus group discussion was held with a wide spectrum of representatives of civil society groups, working directly on issues of oil and governance in Nigeria⁴¹. Also present at this discussion were representatives from a few non-governmental organizations (including community-based organizations) that are at the forefront in terms of advocacy around environmental issues and oil sector related issues in the Niger Delta⁴². The idea was to highlight the expectations of civil society as far as oil company presence in Nigeria is concerned and measuring this against levels of accountability and transparency as they actually exist in the oil sector.

Stakeholder perceptions on Oil Company operations in Nigeria are at present, generally coloured by events that have occurred within the nation's drilling and production terrain in the last decades – meaning mostly onshore.

There have been inter communal, intra communal and corporate/community related conflicts. Whatever shades the agitation or conflict may take, the undertones are often linked to one or a combination of the following:

- **Resource mobilization and control:** There have been widespread calls from the oil producing states for a shift in resource mobilization, allocation and control patterns in Nigeria. The current paradigm, by virtue of the Petroleum Act and the Land use Act, vests all land as well as the ownership of the resources in it in the Federal Government
- **Environmental degradation:** Huge deposits of natural resources in this region have meant an intense and continuous level of extractive industry activity, in this case without the necessary attention being paid to environmental remediation and the cushioning of the negative effects of such activity on the environment.

6.1. Communities and civil society organizations: The case for human rights

For most of civil society in Nigeria, (non state actors) issues relating to oil industry activity in Nigeria cannot be de-linked from the whole question of rights and the broader issues of governance and development.

This was the feedback from the range of discussions held with both community representatives and members of civil society organizations. The consensus, albeit differently expressed, hinges on the argument that development is in itself the right of every human being, regardless of contextual dynamics. Therefore, development ought to be based on the premise that human beings have inherent and inalienable rights and can make rights claim solely by reason of being human.

⁴⁰ Host communities are those communities where oil companies have some presence due to drilling or other activities relating to oil prospecting or production. These host communities were the Bonny and Egi communities both in Rivers State, and the Uvghorodo Community in Delta State. See *Part three* for details.

⁴¹ E.g. the Publish What You Pay Campaign, Transparency in Nigeria (Nigerian arm of Transparency International), the National Union of Petroleum and Natural Gas Workers, (NUPENG).

⁴² Some of these groups include Environmental Rights Action; Friends of the Earth, Community Rights Initiative and the Akpabuyo Bakassi Green Movement, a community based NGO. Others were the African network for Economic Justice, Movement for the Survival of the Ogoni People, ANPEZ center for Environment and Development, and the Kebektache Women Empowerment and resource Center. The researcher took advantage of their presence at a dialogue on the National Energy Report, organized in Abuja by the Center for Democracy and Development with funding support from DFID, to organize a discussion session with them on these issues after the main programme.



Some of the civil society representatives, particularly those from the academia and from the more urban-based environmental activist groups interviewed, expressed the fear that issues of rights are gradually being subsumed by the argument for increased economic efficiency and transparency, as characterized for instance by the Publish What You Pay campaign and the Extractive Industry Transparency Initiative. This block of civil society activists agree that the PWYP and EITI campaigns are useful because they have opened up space for the demand of accountability. However, they fault the initiatives as not being a holistic approach to a multi faceted issue.

Oil sector activity in Nigeria is usually treated as a *security issue* only. As such the response to challenges within the sector as far as the communities are concerned, has always been silent on the broader governance/development issues, and instead leaning towards the militaristic. This was the undertone behind the raid by military personnel of communities such as Ogoni (late nineties) and Odi (2000). Youth⁴³ that seek engagement with those perceived to be in a position to make a difference, are often times labelled miscreants or deviants or even terrorist. Whilst the youths' approaches may not always be ideal, the bottom line still remains that the underlying reasons for the unsettlement in the Niger Delta remain unaddressed.

At the level of *community-based non governmental organizations*, both the government and the oil companies are regarded as "collaborators" or co-conspirators, who have teamed up to exacerbate poverty and strip people of the very basic of rights in terms of dignity and access. One such community based activist alluded to the politics of "divide and rule", so often employed by the oil companies in their dealings with the communities. The divide and rule tactic in this context involves presenting one faction within the community as the chosen group to handle corporate community negotiations and pitching one faction against the other. This is done with scant attention being paid to the fact that most of these communities are not a homogenous group, which throws up the challenge of trying to ensure that the negotiations are as democratic as possible. This in itself casts aspersions on the integrity of the many "stakeholder forums" and other dialogues purportedly organized by oil companies as proof of commitment to community development.

6.1.1. Environmental degradation, remediation and protection

Of major concern to civil society groups and representatives in Nigeria is also the effect of oil company activity on the environment and negligence by the corporate sector and the government to address issues of environmental remediation and protection.

Oil producing communities in Nigeria are subjected to a seeming endless train of negative fallout from extractive industry activity. Repeated oil spills; delays in cleaning them up and associated deforestation have not only contributed to biodiversity loss, but also affected fishing and farming activities, that are the mainstay of the sustenance and livelihood of most of rural Niger Delta.

Amongst the representatives of non governmental groups including groups such as Environmental Rights Action (ERA) and Movement for the Survival of the Ogoni People (MOSOP), the question has been raised as to whether the companies have tried hard enough to abide by acceptable standards, or whether they merely take advantage of the deficits in policy content and enforcement in Nigeria to breach standards they would ordinarily observe in the western world. A corollary to this point of view is also whether the Nigerian country offices of these companies are subjected to adequate compliance monitoring by their international umbrella offices. The fact that the environmental law and policy framework is not strong enough to effectively checkmate issues of corruption and the disregard for due process in the oil sector has only served to facilitate further environmental degradation.

6.1.2. Militarised interaction

The fact that Nigeria has been under military dictatorship for a greater part of her 43 years, have meant a repeated trampling upon the civil liberties of her citizens as well as an erosion of the strength of the institutions that could have enforced accepted standards. For some of the communities where oil production is taking place, military dictatorship encouraged a further

⁴³ In Nigeria, the concept "youth" refers to a (unmarried) person, usually a man, up until the age of 40, i.e. a different meaning of the word from the European "teenager".



militarization of the environment. Some of the larger oil companies, such as Shell, had their own military security outfit, whose responsibility was to primarily to secure oil installations within the communities. Occasionally, they were also deployed to communities where demonstrations were in progress.

The result was too often an excessive display of military zeal, as communities were looted, women and girls raped and some villagers even killed in the process. This is one issue that has cast a perpetual shadow over the company's human rights record in Nigeria. It has not been uncommon for a peaceful citizen's protest, or demand for actualisation of civil and political rights, to be met with an unleashing of state might in military form against the citizens. To a very large extent this has helped foster a perception of "us versus them" as far as corporate - community relations are concerned; even now that Nigeria is in a civilian process.

6.1.3. Civil society response to oil going offshore

Civil society activists remain pessimistic about the possibility of increased profits for the nation from the offshore drilling. The main response from the civil society perspective to the oil companies' shift towards offshore drilling is that this movement is a calculated move; to have oil installations as far away from communities and people as possible, in order to reduce the possibility of community interference. They have also argued further that whether in onshore or offshore operations, oil exploration and production goes with the possibility of certain hazards that could affect the lives of members of the closest communities negatively.

Civil society activists remain pessimistic about the possibility of increased profits for the nation from the offshore drilling. This is because of the historical context: As far as oil sector operations in Nigeria are concerned, it does not indicate that increased oil revenue necessarily means increased development or better standards of living for ordinary people. Clarification as to what exactly happens to oil revenues remains unclear, even as the legal/policy framework for offshore drilling remains even less articulated and updated than what currently exists for onshore production.

6.2. Views from the oil sector

Representatives from the oil companies all agree that Nigeria is one of the more challenging turfs within which to do business, given issues of corruption and politics, which by their very dynamics are peculiar to the Nigerian reality. They argue further that their primary aim is to do business in Nigeria, and make profit from such business, even as they affirm the need to uphold sound corporate practice at the same time.

The huge developmental gaps in the country have led to the placing of developmental demands at the doorsteps of the oil companies, and an expectation sometimes, that they play surrogate government in a society where national and state leadership all too often have failed to deliver the dividends of development.

The oil companies have often referred to the dilemma that citizens in the host communities often expect them to play the role of "alternative government", particularly when it comes to the provision of basic amenities. Community demands range from the construction of roads, schools and provision of safe drinking water, to the provision of scholarship and employment opportunities. Whereas a number of these demands can be located within the context of proper corporate practices, a few of them actually do fall outside of corporate responsibility to the citizenry. As far as the oil companies are concerned, what this shows is a lack of understanding as to the delineation between corporate and state/local/federal government responsibility towards the communities, and also *how* the demands should be placed.

Oil industry representatives also refer to intra-community differences as one of the challenges in trying to improve the practice of corporate social responsibility. In one of the communities visited at the time of preparing this report, an expert hired to clean up an oil spill, was not allowed entry into the affected area due to the fact that he hailed from an ethnic group which is not on friendly terms with the affected community. In other cases, the oil companies have argued that the communities themselves have occasioned delays in the clean up of spills.



Representatives of the oil sector appear however, to prefer to de-link the issue of rights, whether civil, political, social or economic, from the activities that they are in the country to do. They assert that their presence in the country in the first place was motivated by purely mercantilist motives.

Statoil has been known to support, at a certain level, the activities of civil society groups engaged in human rights advocacy, institutional capacity building and policy dialogues. However, the preponderant view of key players within the oil companies appears to be that the whole debate about rights is not really their business, but should rather be confined to discourses between the government and the citizenry. They outline the definitions of classes of rights to prove this. Civil and Political Rights are tied to a person's humanity (human rights) as well as his or her citizenship. On the other hand, the state's responsibility to its citizens is often categorized within the framework of economic, social and cultural (ECOSOC) rights. These include the right of the citizen to state-guaranteed security, environmental preservation and access to basic amenities. As stated before, it is the demand for these rights has been at the base of a lot of the tensions in the Delta.

6.3. Response to offshore development from Government

A spokesperson from the Nigeria National Petroleum Production Corporation explained that the shift to offshore drilling from the Nigerian government's perspective was necessitated by the potential for larger profit margins and the possibilities to increase revenues. She also explained that in relation to corporate community responsibility in offshore drilling in Nigeria, the communities from where the company takes off for drilling operations have been designated host communities. Apparently, there is some recognition of the challenges that this new shift would be confronted with.

6.4. Conclusion and recommendations from the Stakeholder inputs

Within the context of the Niger Delta, the application of voluntary codes of conduct for the corporate sector is not likely to have much success. The dynamics on ground (high incidence of corruption for instance) are such that the oil sector would need operational guidelines with clearly prescribed penalties for non-compliance that would "hurt" offenders, so to speak.

However, there is the need to be very conscious of the fact that Statoil is beginning operations within the historical context discussed earlier. Generally, both community representatives and civil society groups see oil company activity, whether onshore and offshore, as one and the same thing. As such there is the likelihood that suspicion and the demands that have been placed on companies engaged in onshore drilling over the years would be placed on Statoil as well.

One way of addressing this would be for the company to engage in clarifying the distinctions through regular civil society dialogue, especially with credible groups working around issues of accountability and transparency in the oil sector. There are also groups working on alternative law/policy frameworks for oil sector operations, and they could also be encouraged to carry out some work around strengthening the law/policy framework for offshore drilling in Nigeria.

So far, Statoil is considered one of the more friendly players in the oil sector by civil society. This may be due to the fact that it has not actually started production, or maybe the fact that it has been known to support some civil society work, especially around issues of human rights. It is critical that the company respects and broadens a sincere engagement with civil society groups, as this would help sustain what relationship does exist currently, and bring clarity to some of the more unclear dynamics of oil industry presence in Nigeria.



Acronyms

BMIPU: Bureau of Price Monitoring and Intelligence Unit
BP: British Petroleum
DPR: Department of Petroleum Resources (Nigeria. Regulator of the oil and gas industry)
ECOSOC: Economic, Social and Cultural (rights)
EIA: Environmental Impact Assessment
EITI: Extractive Industries Initiative (Nigerian branch: NEITI)
ERA: Environmental Rights Action (NGO, Friends of the Earth Nigeria)
FMPR: Federal Ministry of Petroleum Resources (Nigeria)
FPSO: Floating production, storage and offloading vessel
GDP: Gross Domestic Product
GRI: Global Reporting Initiative
HDI: Human Development Index
HIPC: Heavily Indebted Poor Countries
HSE: Health Security and Environment
INTSOK: Norwegian Oil and gas partners. (Norwegian public/private partnership to expand Norwegian business activities in international oil and gas markets)
IOC: international oil company
JV: Joint Venture
LCV: Local Content Vehicle
LNG: Liquefied Natural Gas
MEND: Movement for the Emancipation of the Niger Delta
MOSOP: Movement for the Survival of the Ogoni People
MOU: memorandum of understanding
MPE: Ministry for Petroleum and Energy (Norway)
NCS: Norwegian continental shelf
NDDC: Niger Delta Development Commission
NEEDS: New Economic Empowerment and Development Strategy
NEITI: Nigeria Extractive Industries Initiative
NGO: Non-governmental Organization
NNPC: Nigerian National Petroleum Corporation
NOC: National Oil Company
NOK: Norwegian krone. 6.7 NOK = 1 US\$
Norad: Norwegian Agency for Development and Cooperation
NPD: Norwegian Petroleum Directorate
NUPENG: National Union of Petroleum and Natural Gas Workers (Nigeria)
OECD: Organization of Economic Co-operation and Development
OPEC: Organization of Petroleum Exporting Countries
PENGASSAN: Petroleum & Natural Gas Senior Staff Association of Nigeria
PPP: Purchasing Power Parity
PSA: production sharing agreement
PSC: production sharing contract
PRSP: Poverty Reduction Strategy Paper
PWYP: Publish What You Pay (campaign)
SNEPCO: Shell Nigeria exploration and Production Company (subsidiary of SPDC)
SPDC: Shell Petroleum Development Company (Nigeria)
SSA: Sub-Saharan Africa
UDHR: Universal Declaration of Human Rights
UNDP: United Nations Development Programme
WPC: World Petroleum Congress



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Appendices

- Appendix 1: Petroleum legislation in Nigeria
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- Appendix 4: Norwegian oil history and the origins of Statoil



Appendix 1: Petroleum legislation in Nigeria

A brief summary of the current and most significant petroleum legislation is presented as follows under appropriate captions.

OWNERSHIP OF PETROLEUM

Under the Petroleum Act 1969, the entire ownership and control of all oil and gas in place within any land in Nigeria, under its territorial waters and continental shelf is vested in the state of Nigeria. The Constitution of the Federal Republic of Nigeria 1979 further emphasized the state ownership in section 40(3) which provides that "the entire property in and control of all mineral oils and natural gas in, under or upon the territorial waters and the Exclusive Economic Zone of Nigeria shall vest in the Government of the Federal Republic of Nigeria, and shall be managed in such manner as may be established by law."

PIPELINES

Oil Pipelines Act Cap 145, 1958 of the Laws of the Federation;
Oil Pipelines Act 1965, No.24, Oil Pipelines Act Chapter (CAP.) 338, Laws Of The Federation Of Nigeria (L.F.N.) 1990

The Oil Pipelines Act of 1965 and updated in 1985, and incorporated in 1990 into The Laws of The Federation of Nigeria, makes provisions for licenses to be granted for the establishment and maintenance of pipelines incidental and supplemental to oil fields and oil mining, and for purposes ancillary to such pipelines. The Act provides, among other things, for the rights and obligations of the holder of a license, payment of compensation for economic crops and property damaged payment of survey fees and other miscellaneous matters.

PETROLEUM PRODUCTION

The following legislation relates to the production of petroleum:

(a) The Petroleum Act 1969 vests all petroleum in place, in the state. It provides for the granting of Oil Exploration Licenses, Oil Prospecting Licenses and Oil Mining Leases and License to construct and operate refineries by the Minister of Petroleum Resources. The Act gives the Minister power to control petroleum, petroleum products and pricing. The Act is the most comprehensive legislation on petroleum and gas.

(b) *Petroleum (Drilling and Production) Regulations 1969 and its Amendment 1973.*

Regulations therein relate to Oil Exploration Licenses, Oil Prospecting Licenses and Oil Mining Leases: The regulation provides for the form of licenses and the rights and powers of holders. It also provides for the obligations of leases and licenses, recruitment and training of Nigerians. Other regulations relate to commencement of exploration and drilling, field development, accounts and records, fees, rents and royalties.

OIL EXPLORATION LICENSING (OEL)

A non-exclusive license for the licensee to explore for petroleum by surface geological and geophysical methods for a limited period, and the regulation size of an OEL is 12,959 sq.km (5,000 sq. miles).

OIL PROSPECTING LICENSING (OPL)

It confers exclusive rights of surface and subsurface exploration for petroleum in an area not more than 2,590 sq.km. (1000 sq. miles) in size, for an initial period of three years, with an option of renewal for a maximum of two years. The holder of an OPL has a right of petroleum won during prospecting operations, subject to obligations imposed upon him under the Petroleum Profit Act 1959.

OIL MINING LEASE (OML)

This grants exclusive rights to explore, win, produce, transport, and carry away petroleum from leased area subject to the Petroleum Act 1969 and any special terms and conditions imposed. The size of an OML as stipulated in the Regulations is 1,295 sq. km. (500 sq. miles) and the specified duration is 20 years, while only the holder of an OPL is entitled to apply for an OML.

FISCAL REQUIREMENTS

(a) *Petroleum Profit Tax Act 1959*

This is a principal legislation on petroleum profits Tax (PPT), with amendments in 1967, 1970, 1973,



1977 and 1979. It has now been consolidated into the main Act in the revised edition of the Laws of the Federation of Nigeria 1990 and cited as the Petroleum profits Tax Act 1959, Cap 354, Laws of the Federation of Nigeria, 1990. The PPT imposes tax upon profits from petroleum proceeds in Nigeria to the tune of 85% with effect from 1st April 1975. A reduced rate of 65.75% is payable within the first five years, allowing for all pre-production capitalized expenses to be fully amortized.

(b) *Exemption of Petroleum Operations from Companies Income Tax Act (CITA, 1979, Cap 60, Laws of the Federation of Nigeria 1990*

The profits for any company engaged in Petroleum operations as defined by the PPT Act 1959, shall be exempted from the tax imposed by CITA, as long as those profits are derived from such operations and liable to tax under that Act.

(c) *Royalty*

Royalty is charged as a percentage of the official selling price (OSPs) of petroleum produced at the rates varying between 16,3 % and 20%, depending on whether the concession is on- or offshore, and on the depth of water for offshore concessions.

(d) *Memorandum of Understanding (MOU).*

The Memorandum of Understanding Agreement (MOU) was signed in January, 1968 between the Federal Government and each of the oil producing companies on incentives for encouraging investments in exploration and development activities and enhancing crude oil exports. Designed to guarantee to the oil companies a profit margin irrespective of market conditions, the MOU provided a minimum margin of \$2 per barrel by January, 1986 and \$2.30 from July, 1991, after Tax and Royalty, to the companies on the equity crude oil.

GAS

a) *Associated Gas Re-Injection Act 1979 No.99.*

This Act, which is the only legislation so far on gas, makes it obligatory for every company producing oil in Nigeria to submit detailed plans for gas utilization. The Act also stipulates that no company engaged in production of oil shall after January 1, 1984 flare gas produced in association with oil without permission in writing from the Minister.

b) *Associated Gas Re-Injection (Continued Flaring of Gas Regulations 1984)*

In view of the limited domestic market for gas and the high cost associated with gas development, the oil companies could not embark on any gas development program. Since Government depends on oil production for her revenue she had to review the 1979 Gas Reinjection Decree to enable the oil companies to produce oil. The Regulation spelt out the conditions for the issuance of certificate by the Minister under Section 3(2) of the Associated Gas Re-Injection Act 1979 for the continued flaring of gas in a particular field or fields by companies engaged in the production of oil and gas.

c) *The Associated Gas Re-Injection (Amendment) Decree No.7 of 1985*

This Decree was promulgated with effect from 20th April, 1985 to deal with the problems arising from the implementation of the associated Gas Re-Injection Act 1979. A new subsection 2 in the amended Decree was substituted for subsection 2 of section 3 of the 1979 Act. The 1985 Decree permits a company engaged in the production of oil and gas to continue to flare gas in a particular field or fields if the Minister issues a certificate to that effect and if he is satisfied after January 1, 1984 that utilization or re-injection of the produced gas is not appropriate or feasible in the particular field or fields. The certificate is subject to such terms and conditions as the Minister may impose. The certificate is subject to such terms and conditions as the Minister may impose. The certificate may permit the company to continue to flare gas in particular field or fields if the company pays such sum as the Minister may from time to time prescribe for every 28.317 standard cubic meter of gas flared. The fee prescribed is eleven kobo per 28.3 17 standard cubic meter of gas flared. Payments shall be made in the same manner and subject to the same procedure as for the payment of royalties by companies engaged in the production of oil i.e. in foreign currency.

OIL POLLUTION CONTROL PROVISION UNDER EXISTING STATUTES

The Statutes listed below which deal with oil pollution are designed to prohibit or control the pollution of water, air and land and they also prescribe sanctions in the form of fines, imprisonment or damages to be enforced against persons or companies who infringe the provisions.

(a) Petroleum Regulation 1967



- (b) Oil in Navigable Waters Act 1968
- (c) Oil in Navigable Waters Regulation 1968 (d) Petroleum Act 1969
- (e) Petroleum (Drilling & Production) Regulations 1969
- (f) Petroleum (Drilling & production) Amendment Regulations 1973
- (g) Petroleum Refining Regulations 1974; and
- (h) Oil Pipelines Act 1956.



Appendix 2: Rights and the Nigerian Constitution

Law and order in every society are maintained by the existence and function of that society's *grundnorm*. The *grundnorm* is the parent law from which every other law or policy in a given context derives. In the Nigerian context, the *grundnorm* is the Constitution of the Federal Republic of Nigeria (CFRN 1990).

The Constitution of the Federal Republic of Nigeria (CFRN) provides for the preservation of the fundamental rights of the citizen in chapter 4. From section 33 – 44, the constitution guarantees the right of the Nigerian citizen to life (33), dignity (34) personal liberty (35) fair hearing (36) private and family life (37) freedom of thought, conscience and religion (38). This chapter also covers the rights to freedom of expression and the press (39) peaceful assembly and association (40) and freedom of movement (41) the citizen is entitled freedom from discrimination (42) and to acquire and own movable property anywhere in Nigeria (43). The constitution also provides for another class of rights in chapter 2 (sections 16 – 24). They are captioned "FUNDAMENTAL PRINCIPLES AND DIRECTIVES OF STATE POLICY". Chapter 2 deals with the relationship between the state and citizens. This chapter covers the economic, social and cultural rights. It spells out the obligations of the state to its citizens with the exception of sections 22- 24. For instance, section 17 deals with issues such as the state's responsibility to ensure just and humane conditions of work for its citizens, adequate medical and health facilities and adequate means of livelihood. Section 24 deals with the duties of the citizen to the state and covers such issues as the obligation to pay tax promptly. From the above two chapters of the constitution, it appears that the constitution provides a wide berth for rights claims. The constitution appears to cover most of the basics. However the true test of efficacy arises when it comes to the enforcement of the law. An attempt by a citizen to charge the state to court for failure to comply with any of the provisions in chapter 2 would be thrown out of court on grounds of frivolity and a lack of proper legal standing (*locus standii*) to file such an action. So that even though the law imposes a social contract between the state and citizens, it is a contract which must not necessarily be adhered to as the citizen cannot compel the state through the law courts to abide by this provision. Civil Society has repeatedly pointed out that this is a fundamental flaw in our constitution because a law that cannot be upheld by the judicial process is at best paperwork with no actual impact on the lives of the people. It is tantamount to setting a standard without a corresponding process to ensure that the same standard is upheld. It is ironic that the same state that would punish the citizen for breaches cannot be held accountable for effectively carrying out its own responsibilities. It is possible to seek redress for any of the breaches in chapter 4. The law refers to these rights as "fundamental". In distinguishing between "fundamental" and "non-fundamental" rights, the law seems to imply that one class of rights is more important than the other. Indeed the responsibilities of the state in chapter 2 are as important as the rights listed in chapter 4. There is for instance a nexus between the citizen's right to dignity and the responsibility of the state to ensure humane work conditions within the labour sector with adequate facilities for leisure/welfare guarantees in the place of work. In the same vein, we cannot divorce the citizen's right to life from the state's responsibility to ensure security as well as improve and safeguard the environment. As such, both chapters are complimentary rather than mutually exclusive.



Appendix 3: Oil revenues and oil contracts

To grasp the complex relations between prosperity and the extraction of petroleum reserves, we have to look into key elements that affect the government take, the international oil companies' (IOC's) way of thinking, and the possibilities of turning oil revenues into a long-term value adding activity.

To develop the oil resources a government has three fundamental options: It can choose to invite IOCs to develop the oil industry, it can create a national oil company (NOC) to produce the oil, or it can use a combination of these two strategies.

Many oil rich states have chosen the combination strategy, by establishing NOCs. These are not necessarily operating companies; however they are legal entities which serve as intermediaries for the government. The Nigerian National Petroleum Corporation (NNPC) was established in 1977. In the following, we have emphasised the situation involving host governments or NOCs inviting IOCs to exploit oil resources. Further, we will outline the basic differences between three different types of contracts between a government or a NOC, and an IOC (Concession/license agreements, Joint ventures and Production Sharing Agreements).

Government's take

The sum of the IOC's share of profit on each single project determines the IOC's bottom line. As the government is typically the owner of the resource, it is legitimately entitled to keep the major share of the rent from exploiting it. The "government take", i.e. what the host government keeps, is negotiated based upon a number of factors, including how risky the IOC consider the investment to be (financially, commercially, politically and environmentally - reputation risk and liabilities). The IOCs often operate in many parts of the world, and will also consider opportunity costs and availability of alternative projects during negotiating.

Other factors affecting negotiations on government take are the expected future oil price at the time of negotiation, the host country's geological history and the nature of the block, the quality of oil likely to be found, and the probable size of the oil field. Further, IOC's will stress that it is more expensive developing a field deep offshore than drilling on-shore. Companies demand a higher share of profit if the investment is more risky.

As the oil price is likely to remain high compared to earlier years, and as the IOCs are extremely eager to securing their reserves, host states are currently negotiating from a position of greater strength than before. While writing this, the oil price hovers above US\$ 60 a barrel, and is not predicted to go below US\$50 in the near future. The recent price rise implies a giant windfall to oil producers, as such a price trend was not foreseen when investment decisions and oil contracts were made a few years ago. Also the possibility of finding much more oil than expected on a specified block must be taken into consideration. Who is to benefit from such a windfall, the government, the oil company or a combination of these?

Obviously, the host state's depreciation principles, taxation and accounting standards, the routines and quality of tax auditing, inspection of metering devices and so on affects the state's revenues. Taxation of IOCs, alternatively the IOC's share of the production, is based on their profit, i.e. the financial result after all expenses have been taken into account. As long as expenses are deductible, every business desires to maximise the reporting of expenditures, and hence the government must assure that the oil companies' operating and financial expenses are correctly reported.

The government is interested in designing the agreement so that the IOCs are keen on developing less profitable projects as well. In that regard the design of the depreciation rules and taxation, or product sharing agreements influence on the IOC's motivation.



Signature bonuses

There are many ways a host government can reap benefits from its petroleum resources. However, the most common method is claiming signature bonuses, which are payments made up-front by an exploration company or group of companies when the government accept to open an area for oil exploration. These fees are kept by the host government regardless of whether oil is found or not, or whether commercial production takes place (Radon 2005). Bonus bidding is especially of concern in developing countries, where there is more risk of political instability, and hence of future governments changing the terms of other types of contracts. Signature bonuses are easy to administrate and the one-time payment provide the government with a substantial amount of hard currency, regardless of the oil finders' success on the block.

The amount an exploration company or a group of companies is willing to pay depends on a number of factors. The experience from other blocks in the area is probably the most important factor. A major oil find on one block in a specific geological structure can force up the prices of nearby blocks. Another factor is the design of the bonus, royalty and taxation system that the government applies after commercial finds take place. The fact that the IOCs today are eager to secure new reserves makes them willing to pay. The increasing oil prices also make them more likely to offer more to obtain exclusive rights to explore a specific area. Recently we have seen signature bonuses amounting to US\$ 300 million in Angola (IMF 2003).⁴⁴

Signature bonuses generate large and sudden revenue inflows for the host government. This alone creates significant challenges for developing countries, not least because their administrative systems are often not equipped to handle such sudden and abrupt flows. Hence signature bonuses have been subject to suspicion and investigation regarding corruption and mismanagement.

The IOCs have often been satisfied with the signature that grants them permission, and merely transferred the agreed amount to the account number they are told. It is reason to believe that many politicians and bureaucrats in oil rich states have made their way to personal wealth through stealing from the bonuses. This is why it is seen as so important that oil companies publish what they pay in signature bonuses, so that civil society and the relevant government agencies can track these money.

Fiscal regimes

The oil industry is associated with major investments. When there are large investment costs and big profits involved, there is a latent risk of misuse on both sides of the table (Radon 2005). The host governments and the oil companies' secretiveness also increase the potential for illegal payments. Thus transparency and public access to contract terms therefore seems to be a prerequisite for eliminating corruption. When a large amount of money is in circulation, there will be people wanting to grab. Hence action to improve the transparency and accountability would be of great benefit, and would prepare the ground for an increase in the host state's prosperity.

As a response to the transparency and accountability problem, several institutions have stressed the importance of playing with open cards. This is especially of concern to Nigeria, which currently is perceived to be the third most corrupt country in the world (Transparency International 2004).

The Guide on resource revenue transparency (IMF 2005a) provides a comprehensive guide of good fiscal transparency practices for resource revenue management. In essence, the recommendations deal with:

- Clarity on roles and responses
- Public availability of information
- Open budget preparation, execution and reporting
- Assurances of integrity

⁴⁴ In 1999, block 31, 32 and 33 offshore Angola.



Types of contracts

A critical element in the extraction of petroleum resources is the contract between the government and the oil company. The contract terms are vital to a government's effort to reap the benefits of its natural resources. However, there are pitfalls in the process of developing, negotiating and renegotiating contracts.

Both the government and the oil company want to maximize the return on their investments – be it financial capital or its stock of natural resources. While an IOC has employed a team of lawyers, petroleum engineers and geologists negotiating oil contracts on a regular basis, many governments have only limited capacity and experience. To cover the market opportunities created by inexperienced governments wanting to develop their oil resources, there are consultants offering their services worldwide, assisting the development and negotiation of agreements. There are of course legal matters to discuss. But the government also needs top competence in subject areas as geology and seismology, economy and taxation, petroleum technology and metering devices, ecology and health, safety and environment (HSE) to achieve the standards of modern contracts on the extraction of natural resources. The less developed a state's legal infrastructure is on HSE, taxation, accounting standards and so on, and the less predictable the political situation is, the more issues need to be covered in the contract.

Contract terms determine how much a producing nation earns from its natural resources, and often, whether a government will have the regulatory authority to enforce environmental, health, and other standards that apply to the contractors (Radon 2005). Contract terms may also be critical for the development of suppliers and contractors in the host state and hence the build-up of technological competence, local capital and creation of jobs. On the other hand, the contract terms should not scare off investors.

Typically an oil contract includes items such as: "Preference shall be given to contractors whose companies are registered under the laws of [host state] and also to goods manufactured or produced in [host state]". However, experience suggests that in many developing states, the IOCs can hardly identify qualified local suppliers, and they choose to employ internationally recognised contractors. As a response to this, the Nigerian authorities have employed a new approach to local content in the 2005 bid round. For the first time, they made local content a biddable item in the round (The Presidency, Federal Government of Nigeria, 2005).

A government that wants to exploit the country's oil reserves through inviting IOCs must decide on what type of contractual system is most appropriate. Basically, the options are concession / license agreements, joint ventures, or production sharing agreements.

Concessions / license agreements

This type of agreement normally grants an oil company exclusive rights to explore, develop, sell, and export oil or minerals extracted from a specified area for a fixed period of time, and is suitable for governments who choose to invite an IOC to develop its resources. Typically the contracts also include terms describing the right of reversion of the block to the government after a certain time limit. The reason is that the government may want to redistribute the block to other oil companies if no commercial oil is found within the defined time limits. The time limits stimulate the oil companies to spend their time efficiently, and even if no commercial oil is found in first round, the government has a new chance of revenues if the taking-over oil company has better luck, better seismic data or better geologists. If commercial production commences, the host government earns royalties based on gross revenue and/or a profit tax based on net income, both of which are based on the quantity of production and the price at which the production is sold.

The draft terms of the concession or license, and the following licensing round, are the government's tools to select the best bid from an oil company or a consortium of companies. In its basic form, this type of contract is rather straightforward compared to other types of agreements (Radon, 2005).

Often this type of agreement involves signature bonuses; however, a concession agreement does not necessarily involve such one-time payments. Another possibility is auction sale of blocks, which is mainly a US-phenomenon. Government can also decide to grant licenses on the basis of other criteria than up-front cash payments. In Norway for instance, the oil companies are awarded



production licenses on the basis of applications reviewed by the Norwegian Petroleum Directorate (NPD) and the Ministry of petroleum and energy (MPE), and the area fee (a fee per square kilometre of license area) is collected only if the oil company decides to exceed the agreed time limits.

The announcement of a new license-round in Norway is published on the web sites of the MPE and the NPD, in the European Journal and through letters to all licensees and pre-qualified companies on the Norwegian continental shelf. After the announcement, companies have three months to prepare their applications. These may be submitted in groups or individually, and are assessed on, amongst others, the following criteria: Relevant technical expertise, satisfactory financial capacity, geological understanding of the area in question and exploration experience. The MPE also conducts negotiations with the applicants. During these meetings, the extent of the work obligations, the duration of the initial period and the extent and time schedule for the relinquishment of acreage is discussed (NPD 2005). The government take is close to 75%. IMF (2003) characterises the Norwegian taxation system as best practice.

In short, there are few serious financial or other drawbacks for the host government by choosing the concession or license agreements (Radon, 2005). On the other hand, the IOCs face a risk of political instability in the host state. Politicians can, on a short notice, change the rules of the game though altering prevailing regulations and laws.

Joint ventures (JV)

A joint venture is a business where the provision of risk capital is shared between two or more firms (Dictionary of economics, 1997). The share of invested capital (along with to a lesser degree also other contract terms) decides how the JV parties share the profit. A joint venture can take many forms, and the parties may contribute different forms of expertise and resources. Investors generally try to minimize risks, and joint ventures are common in the oil industry, because the projects often are too large and too risky for one firm to attempt alone. However, JVs are mainly used among private oil companies, and are less commonly used as a basic agreement between an IOC and a host state.

A joint venture between a NOC and an IOC, on the other hand, has the advantage of facilitating the transfer of knowledge between the companies, and hence development of human capital in the host state. Consequently, the NOC has the chance of transforming into an operating company if they play their cards right.

The Nigerian federal government through the Nigerian National Petroleum Corporation (NNPC) holds 55-60 % interest in oil production JV's together with many of the world's dominating IOCs operating in the Niger delta. The NNPC was established in 1977, and currently employs 16 000 people nationwide. However, the NNPC is not an operating company. The largest example of a JV with an IOC is the SPDC (Shell Petroleum Development Company of Nigeria), which covers close to 40 per cent of the country's daily oil production (BP 2005 and Shell 2005c).

The blocks offshore Nigeria are now being explored and developed by several multinationals after signing another type of contract, Production Sharing Agreements (PSA) with the NNPC (CPI, 2005). According to Radon (2005) the shift from JVs to PSA's in Nigeria was taken because the NNPC could no longer meet its share of the JVs financial commitments. PSAs will be discussed in the next section. Radon (2005) claims the main disadvantage of JVs is that the format is inherently ambiguous. It can complicate and intensify negotiations. A JV offers no natural advantage over any other form of agreement and will probably require more extended negotiations. Further, sharing has a downside because risks and costs also must be shared. JV's make the host government a direct and responsible participant in the natural resource extraction. Responsibility also implies potential liability, including for environmental damage.

Production-sharing agreements (PSA)

Under the PSAs (alternatively Production-sharing *contract*, PSC), the IOC act as a contractor. The IOC bear all losses related to an *unsuccessful* drilling. Hence, all financial and operational risk rests with the IOC. The host government does not risk anything other than the costs of negotiations and fees paid to advisors in entering the PSA (Radon 2005). If the drilling is successful, the output is shared. Up to some predefined maximum, the IOC receives a share of output characterised as "cost



recovery" to compensate for the cost of exploration and production specific to that field (Samrina 2004).

PSAs are structured so that an IOC makes an initial bid, often involving a signature bonus, and, if it wins the contract, enters into negotiations with the government or the national oil company with respect to the contract's key elements. The initial bid proposes critical features such as maximum cost recovery by the IOC, the sharing of output between the IOC and national oil company. The exact split is a result of bargaining. Due to the inherent uncertainty in seismic surveys and oil exploration, there are no scientific determinants of what an appropriate or reasonable split should be.

In a successful field, the IOC can recover its costs. When the costs are recovered, the profit oil is to be split according to the agreement. The oil can be split for example by the government and the IOC loading and selling oil according to their share.

An important feature of a PSA regime is the extent to which the government applies *ring-fencing* (a limitation on IOCs ability to consolidate income or deductions for tax purposes across different activities, such as test drillings) (IMF 2005a). In practice ring fencing means that the IOCs' chance to depreciate costs, (in PSA-regimes: cost oil), is limited to costs stemming from drilling that lead to production. On the other hand, absence of ring fencing may yield higher government revenue in the long run by encouraging more exploration and development.

Indonesian authorities used the first PSA in 1966, and it is currently the system of agreements preferred by many developing countries. The PSA recognises that the ownership of the natural resource rests with the host state, while at the same time permitting foreign corporations to manage and operate the development of the oil field (Radon, 2005).



Appendix 4: Norwegian oil history and the origins of Statoil. Focus on local content

Statoil⁴⁵ was established by the Norwegian government in 1972, with the aim of benefiting national objectives, meaning a high Norwegian share of the benefits from the petroleum sector. This was only three years after the international oil giant Philips Petroleum announced the first commercial oil discovery on the Norwegian continental shelf (NCS). Since then, Statoil has grown to become an international oil company (IOC). Statoil may seem attractive to developing country governments developing their oil sectors because of its history as a “public benefit”-company in a country that has avoided falling for both the resource curse and Dutch disease. But there is a very interesting tension here. When operating in any country abroad, including developing countries, Statoil’s objective is still to serve *Norwegian* national objectives, now understood as the highest possible profit⁴⁶ for its shareholders, of which the Norwegian government is by far the largest.

The beginning of the Norwegian oil age

Philips Petroleum was the first company to apply for a licence to conduct exploration activities on the NCS in 1962. At this time, the Norwegian government had no regulatory framework in place. The continental shelf was not even formally under Norwegian jurisdiction. Therefore the oil companies’ enquiries to the Norwegian government generated both negotiations of territorial limits between Norway and neighbouring countries Denmark and Britain, and the development of a complex set of rules and regulations for oil exploration and production.

To obtain knowledge on the oil industry and the relationship between oil companies and the state, the bureaucrats in charge learned from their colleagues in Britain and from foreign oil companies and their experience with production in other states. During the negotiations it became clear that the Norwegian government did not want to set stricter rules on government take (e.g. taxes) or requirements than in neighbouring Britain for fear of missing out on capital investments to the British part of the continental shelf. On the other hand, the similarity between the Norwegian and the British concession acts meant these were considerably stricter than those prevailing in most other producing countries, whether in North America or in developing countries.

Three years after Philips’ first application, in 1965, the government was ready, with a regulatory framework and concession acts to protect Norwegian interests, prior to any oil strike. It offered a licensing round of 278 blocks in the North Sea. The ministry received 11 applications for 208 of the blocks. 22 licences covering 78 of the blocks were finally awarded in this round (ODIN 2004). Those responsible for assigning the blocks made use of a British system for selecting the applicants:

- Financial strength
- Practical experience
- Actual contribution to the Norwegian economy
- Genuine Norwegian presence in the group of companies
- Other aspects of importance

“Other aspects of importance” at this early stage of petroleum development could for instance be Philips’ helpfulness in making Norwegian authorities aware of possible underwater oil deposits, and their contribution in providing Norwegian authorities information and resources in relation to oil exploration (Hanisch and Nerheim 1992, p 61).

Although the big, international companies were totally dominant in the first round, some Norwegian capital was also involved. The partly state-owned Norwegian metal- and fertilizer company Hydro

⁴⁵ At the outset, the full name was “Den norske stats oljeselskap a.s” (i.e. “The Norwegian government’s oil company Ltd.”). For simplicity, we will use its current name Statoil when referring to the company.

⁴⁶ Within rules, regulations and health, security and environment considerations.



partnered with Elf and other French companies. After years of unfruitful drilling, with only non-commercial oil and gas finds, Philips became the first company to confirm a commercial find in December 1969, an oil field later called *Ekofisk* (Hydro 2005).

Statoil and the Norwegian Petroleum Directorate

In the political debate on how to best secure Norwegian interests, some actors drew upon the Norwegian authorities' experience at the time, suggesting government-run businesses was at the risk of being inefficient, and stating that prestige may come to threaten the neutrality of justice. Statoil was set up in 1972 as a public limited company. However at the same time the Norwegian Petroleum Directorate (NPD) was established, with the aim of separating the public administration from political- and commercial functions. The Petroleum Directorate was to prepare reviews for the ministry; was delegated management in technical questions regarding licenses, and conduct economical and technical monitoring on the shelf (Hanisch and Nerheim 1992, p267).

As expected, the Statoil-management aimed towards achieving a close relationship with the Petroleum Directorate. As we shall see, the ideal of neutrality was not put into practice, and Statoil achieved advantages over competing businesses on the Norwegian shelf.

The rise of Statoil and the Norwegian oil industry

From 1973, Statoil was given preference by being awarded from 50 % and up to 85 % of all new assignments on the shelf. Also Saga and Hydro, two other Norwegian oil companies, of which the Norwegian government had the majority of shares in the latter, were favoured (Hanisch and Nerheim 1992, p 306).

In the 1970's Norwegian authorities also intensified its demands towards the IOCs with regard to purchase of Norwegian goods and services, and employment of Norwegian citizens. But also the IOCs were interested in recruiting Norwegians. The French oil company Elf for instance, contributed teachers to the post-qualifying education in petroleum technology for civil engineers at the Norwegian Technical University. Former naval officers from the Norwegian merchant fleet were also attractive, as they were experienced in operating under harsh North Sea-conditions (Hanisch and Nerheim 1992, p 364).

The building up of oil-competence was imperative to Statoil if it was to be assigned operating responsibility in exploration- and production licenses. Recruiting Norwegians in financial and administrative positions was easy. The bottleneck was recruiting geologists, geophysicists and petroleum engineers. Statoil spent one year to staff the company with qualified people in relevant fields. It recruited foreign specialists in geology and technology, who were to contribute to the training of Norwegians in addition to carrying out their own day to day duties. In addition to importing specialist, Norwegians were also sent abroad to learn. The number of employees in Statoil increased from 54 in 1973 to 118 in 1974 and 244 in 1975 (Hanisch and Nerheim 1992, p 370).

Statoil conducted its first drilling with assistance from Esso-specialists in the summer of 1975. In 1977 Statoil operated four wells, and in 1978 seven. In 1981 Statoil became the first Norwegian company to have operator status for an oil field (Statoil 2005a)

Statoil's and other oil companies' success on the NCS have generated spin-off effects on the Norwegian mainland. The universities in Oslo and Bergen set up classes in petroleum geology and the first master students graduated in 1975. The shipbuilding industry, which in the early 70's experienced a downturn in traditional shipbuilding, found occupation in the demand for oil rigs and production equipment. Parts of the engineering industry also boomed. A number of suppliers of goods and services emerged, and some of them developed to be world leading. Increasing water depths and harsh weather conditions required new technological development, and because of this, Norwegian enterprises today have their strength on deep offshore and sub sea equipment and operations.

Local content in the early phase in Norway

Reliable geological data and drilling equipment capable of resisting the rough North Sea was a prerequisite for successful exploration. Despite efforts from the Norwegian geological society to



accomplish a *national* geological survey of the continental shelf, the seismic surveys were carried out by the IOCs. However, the need for crew and vessels gave Norwegian ship owners opportunities of service delivery, although only small scale at first. Norwegian authorities set as a condition that all exploration drilling should be conducted from supply bases in Norway. Some entrepreneurs saw business opportunities and entered into agreements with the oil companies on building offices and apartments for foreign oil prospectors at the supply bases.

Norway had the obvious advantage of hosting a relatively large ship-building industry at the time. The beginning of the Norwegian oil-age coinciding with a downturn in the Norwegian ship building market, some shipyards specialised in the construction of oil rigs, which were built on commission from the IOCs. *Ocean Viking*, the drilling vessel that made the first commercial discovery in 1969, was built by a consortium of Norwegian yards. The decision to construct the vessel in Norway was taken by Philips Petroleum, apparently to achieve goodwill from Norwegian authorities. A few other shipyards got assignments in upgrading drilling vessels previously used in the Gulf of Mexico to withstand the harsher climate in the North Sea. On the other hand, Norwegian companies in international oil consortiums also experienced that their international partners prioritised *their* national interests.

Foreign enterprises had a very dominating position in the exploration activity on the Norwegian continental shelf in the early phase. They possessed the know-how within petroleum related geology and offshore technology. A survey conducted in 1971 revealed that out of approximately 1500 people employed in the oil sector in Stavanger (the main base city for oil activity in Norway), very stemmed from the Stavanger-region. All key-personnel were foreigners. Even supply ships carrying food and equipment to and from the drilling vessels were foreign, and so was the crew. This is interesting, considering that the Norwegian merchant shipping was one of the worlds largest at that time.

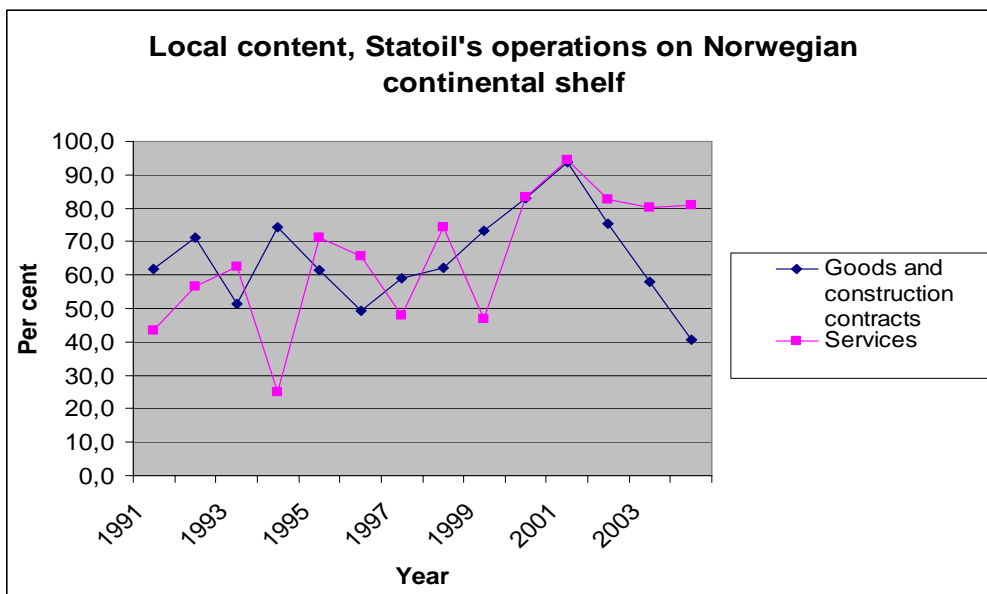
As a whole, until 1971, apart from the construction and reconstruction of a few drilling vessels and some onshore construction, the Norwegian industry generally had little to offer the IOCs (Hanisch and Nerheim 1992, p 125). Pre-1969, the Ministry of industry considered oil exploration to be too much of a financial risk, an opinion shared by the public. Hence, private Norwegian companies were warned not to take part in the exploration. As long as the IOCs were ready to spend millions of US\$ per test drilling, it was considered fair they did it, as long as Norwegian laws and regulations were respected.

However, with the large *Ekofisk* discovery in 1969, the prudence came to an end, and the Norwegian authorities decided the oil industry had to be *norwegianised*, and that the IOC's complete domination of the NCS had to be brought to an end. The strategy was sending Norwegian specialists abroad to learn technology. Also transfer of technology through purchasing of licensing rights and other forms of know-how became more common. Desired human expertise was also brought in through foreign JV partners.

Among the questions that rose, was whether to land the oil on the Norwegian mainland. The young politician, and later senior executive of Statoil, Arve Johnsen, claimed that the oil revenues were only of secondary importance compared to the benefits from landing of the oil, in terms of activity in petrochemical industry, rural coastal development and improved energy balance. There was a broad political consensus on the importance of landing the crude oil and other products in Norway. However, the oil and condensate from the first discovery (*Ekofisk*), was landed in Britain and Germany. The technological challenges in constructing a pipeline across the Norwegian trench (underwater geological structure), was considered too big at the time.

Status: Local content in Statoil operations on the Norwegian continental shelf

During the period 1991-2004, the average share of local content in Statoil's operations on the Norwegian continental shelf is about 65 per cent, both on goods / construction contracts and on services.



Source: Statistics Norway (SSB), based on reporting from Statoil.⁴⁷

The considerable share of local content in Statoil's operations in Norway can partly be explained by the fact that Statoil is a national oil company, designed to perform value-adding for the Norwegian society, and partly explained by the fact that Norway was industrialised prior to the oil age. Especially the maritime competence, the shipyard industry and the mechanical industry were important in meeting the oil industries' demands. Norway had a stock of engineers, and universities able to acquire the knowledge needed to meet the IOCs' demand. Last, but not least, the Norwegian politicians and bureaucrats were eager to secure Norwegian interests. Today there are a number of Norwegian companies competing in the international oil and gas industry, ranging from seismic services, exploration drilling, building and construction, integrated oil companies, well service, offshore supply vessels, classification, and safety, health and environmental (See e.g. Startside 2005).

Oil and gas production levels in Nigeria and Norway compared

Oil was found in Nigeria 13 years before Norway. Shell D'Arcy had a successful oil strike in the Niger Delta in 1956, while Philips Petroleum found the first commercial well on the Norwegian continental shelf (NCS) in 1969.

The figure presented below provides information on annual oil and gas production in Nigeria and Norway. Nigeria is the biggest oil producer in Africa, and in 2004 Nigeria produced 28 per cent of all oil on the African continent. The Norwegian oil production has remained higher than the Nigerian. However, while Norway in 2004 could prove 1,3 billion tonnes in oil reserves, Nigeria could prove 4,8 billion tonnes - almost four times as much. While the Norwegian oil production is expected to decrease and phased out in 50 years (NPD 2002), depending on the pace of extraction, Nigerian production will probably last twice as long. Nigeria is currently experiencing an oil and gas boom, and the production is likely to become even higher in the decades to come. The oil and gas boom in Nigeria is partly due to Washington's search for reliable oil suppliers outside the Middle East after the 9/11 attacks.

⁴⁷ Figures for years 1985 to 1990 exist, but are not included in calculations or in graph. They show a considerably higher share of local content for that period; above 90 % for all years except 1990. Data on local content on the Norwegian continental shelf is not prioritised by Statistics Norway (SSB), and the information is not quality-assured. The graph can only serve as an indication of local content in Statoil's operations on the NCS.

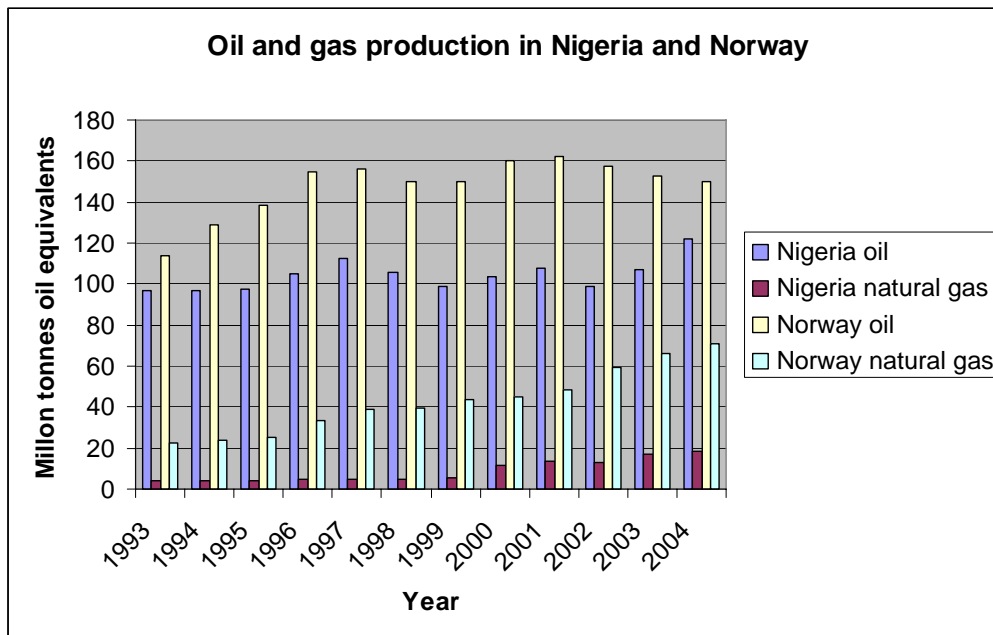


Chart: Asle Henriksen. Data: BP Statistical Review of World Energy June 2005 (BP 2005).

Proven reserves are not fixed volumes. Proven reserves are generally defined as those quantities that geological and engineering information indicates with reasonable certainty can be recovered in the future, from known reservoirs under existing economic and operating conditions. Accordingly, the size of the proven reserves will change with technology and demand. As the oil price rises and technology improves, more and more oil becomes recoverable (Roberts 2005).

In Norway, natural gas is expected to become more important than oil. As we can see from the figure, Norway's gas production has grown significantly and new liquefied natural gas (LNG) projects are expected to boom Norway's gas export revenues in the years to come. There is enough gas on the NCS to fuel the industry throughout the century (NPD 2002). Nigerian gas production has also increased, although it still remains low in proportion to the Nigerian reserves. While Norway in 2004 had 2,4 trillion m³ proven gas reserves, Nigeria had more than twice as much (BP 2005).

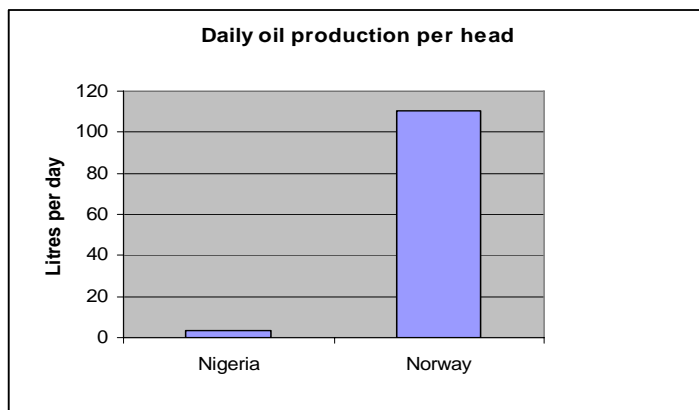
The modest Nigerian gas production can be explained due to extensive routine flaring (burning off gas) due to a poorly developed infrastructure to gather the gas – resulting from a lack of regulative legislation. In the 50's and 60's, when Nigerian oil production began, gas was not a popular energy source for the IOCs in Nigeria, as it was more difficult to produce and transport than crude oil. There were few markets for gas in Nigeria and there was little environmental awareness of the consequences of gas flaring. Gathering associated gas, developing gas pipelines and processing facilities involves large costs. Thanks to initiative from the Shell Petroleum Development Company (SPDC) and later also the Nigerian government, all flares are now to be put out by 2008 (Shell 2005a). If the flares-down target results in a success, it will end a massive waste of valuable energy, and dramatically reduce air pollution. At the same time it will create more jobs and increase government revenues.

By comparison, flaring has been subject to regulations in Norway since 1978. The introduction of the offshore CO₂ tax legislation in 1991 gave Norway a stringent regulation that led to considerable reductions. Routine flaring was finally banned in 1996. Flaring is now mainly regulated by safety-related flare licences granted by the Ministry of Petroleum and Energy (MPE), which are based on the provisions of the Norwegian Petroleum Act §4-4 (MPE 2003, Lovdata 2005).

Environmental awareness is important for both governments and oil industry. However, as the Norwegian production is solely offshore in areas with rich fish resources, the Norwegian environmental legislation on protection of marine environment is among the worlds strictest, and the offshore oil facilities are kept under surveillance. Despite IOCs wishes, substantial areas in North-Norway are protected from exploration due to being important spawning ground for the



Norwegian arctic cod. When looking at the future the protection of the fish resources seem to be on the loosing side, though, as larger areas gradually are opened to petroleum exploration.



As we can see from the figure on the left, the 2004 daily oil production in Nigeria constituted 3 litres per capita, while the corresponding production in Norway amounted to 110 litres. In other words, the oil production per head is approximately 37 times higher in Norway than in Nigeria⁴⁸ - not because Norway's oil production is larger, but because the population is smaller. While Nigeria is Africa's most populated country, having 128.8 million inhabitants, there are only 4.6 million Norwegians (CIA 2005). As the government's share of the barrel is similar in the two countries, one can roughly estimate that the government's *oil revenue per capita* is 35-40 times higher in Norway than in Nigeria.

Brief note on the Norwegian (oil) economy

The income from the oil industry is important for the Norwegian governments' finances and hence the Norwegian welfare society. However, the use of oil money has generated an intense public discussion ever since first half of the 1970's, when the central government realised that the oil money would affect its finances. Since then the oil activity has become continually more important for the Norwegian economy (SSB 2003).

Oil and gas production, -industry and associated services currently accounts for 18 per cent of the Norwegian gross domestic product, and 40 per cent of total exports. 25 per cent of overall government revenues derive directly from the oil and gas business (Statoil 2005g).

Among Norwegian socio-economists and politicians, it is widely agreed that large-scale public expenditure of oil money will *overheat* the economy. Such expenditures can contribute to the overvaluation of the exchange rate, causing inflation and worsen the conditions for other Norwegian export-oriented manufacturing industries. In 1990 the authorities decided to invest the oil revenues in foreign securities in the form of a Petroleum Fund (now officially named *The Government Pension Fund - Global*). It is meant to help finance future pension liabilities and other government expenditures when Norwegian petroleum resources run out.

During the current situation, the Norwegian Parliament has agreed that Government should follow a *rule of expenditure*, saying that only 4 per cent of the fund can be included in the fiscal budget and spent annually. While there is agreement among the parliamentary majority for this moderation in the use of oil revenue, it seems more difficult to convey the same understanding to the public. Surveys show that a majority of Norwegians feel the government should spend more oil money on social welfare, infrastructure, research and new business development. Exploiting this sentiment is considered to be a major explanation for the growth of the populist *Progress party* - currently the country's largest, according to the polls, and a considerable challenge for the rest of the political parties.

The first deposit to the fund was made in 1996. The market value of the Government Pension Fund at 31st December 2005 was NOK 1 399.1 billion (US\$ 208.8 billion). The Ministry of Finance made transfers to the fund amounting to NOK 220 billion (US\$ 32.8 billion) during 2005 (Norges Bank 2006).

⁴⁸ By comparison, Kuwait has the world's largest oil production per capita; with 165 litres.