



Thinking Africa

NOTE D'ANALYSE POLITIQUE

OIL SPILL IN NIGERIA : AN OLD PROBLEM IN NEED OF A NEW APPROACH

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Faouzia Zeraoulia achève actuellement un doctorat en relations internationales : perspectives et stratégies de l'Université d'Alger et le titre de sa thèse s'intitule- la dimension économique des conflits internes après la guerre froide en Afrique noire : la crise économique en République démocratique du Congo (1993-2003). Il s'agit d'une analyse des déséquilibres économiques qui ont été entraîné par les politiques de zaïrianisation et de la libéralisation criminelle du secteur de la mine (en particulier les diamants), et la politique des intérêts internationaux envers le système Mobutu.

Ses intérêts de recherche portent sur les relations internationales, la géopolitique, l'analyse des conflits après la guerre froide. Son domaine d'étude de cas de l'intérêt est surtout l'Afrique noire. Les intérêts de recherche de Faouzia entraîneront une plus grande compréhension des dimensions économiques des conflits internes tels que : le rôle des ressources naturelles, des sociétés multinationales, les intérêts stratégiques des puissances régionales et internationales Son objectif est de continuer à développer ces thèmes et se fonder en un modèle de recherche qui peuvent être appliquées à plus grande échelle en particulier dans les pays aux prises avec des processus de conflits insolubles comme la Somalie, Congo et le Nigeria.

PUBLICATIONS

*Faouzia Zeraoulia "Maritime piracy in Somalia : between the logic of War Economy and the Strategic Humanitarian Factors, the Algerian revue for security and development" janvier 2012, University of Batna
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INTRODUCTION

Since the mid-1970s, Nigeria's political fate has been inextricably linked to crude oil. The country is the largest producer in Africa and fifth supplier of oil to the United States. It is further becoming an important supplier in the global liquefied natural gas (LNG). The recent instability in world oil supplies brought about by the Arab spring, in addition to the troubles alongside Aden gulf have raised more challenges for multinational companies. As a consequence the spot light has been shifted on Nigeria and African oil in general as these countries have become more strategic to many multinational companies. For the meantime Nigerian offshore fields are less vulnerable to the terrorist attacks and armed gangs and it is closer to the United States, far from the piracy attacks.

The greater Niger Delta is the Nigerian oil belt, one of the 10 most important wetland and coastal marine ecosystems in the world and home of 31 million people. It makes up about 90 % of Nigeria's exports, 97 % of its foreign exchange revenues and contributes 79.5 % of government revenues,¹ however, it is the least developed region in the country. Fifty years of commercial oil extraction and environmental degradation because of Oil spills, waste dumping and gas flaring, have brought human rights abuses, illegal appropriations, intense hostilities and despair to the Delta region communities. According to Amnesty International, more than 13m barrels of oil have been spilt in the delta.² The pollution that results has damaged land, water and air to such an extent that farming and fishing can no longer occur and more people are being pushed into poverty.

The United Nations Environment Program (UNEP) report in 2011 reported it could take between 25 to 30 years with an initial investment of \$1 billion for the first five years to clean up the pollution which has been caused due to over 50 years of oil operations. The pollution effects range from the "disastrous" impact on mangrove vegetation to the contamination of wells with potentially cancer-causing chemicals in the region.³ The assessment, carried out over a 14-month

period, showed greater and deeper pollution than previously.

The UNEP experts examined more than 200 locations, surveyed 122 kilometers of pipeline rights of way, analyzed 4,000 soil and water samples, including water taken from 142 ground water monitoring wells drilled specifically for the study, and soil extracted from 780 boreholes. They reviewed more than 5,000 medical records and engaged over 23,000 people at local community meetings.⁴ The results confirmed that many families in delta Niger are drinking water from wells contaminated with benzene, a known carcinogen, at levels over 900 times above UN World Health Organization (WHO) guidelines. In addition, the area is threatened by air pollution related to oil industry operations which is affecting the quality of life of close to 1 million people.⁵ Those numbers show the severity of the problem which will be examined extensively in the following sections. Furthermore the main actors and causes of oil spills, in addition to the procedures that have been undertaken to tackle with this environmental challenge will be analysed further.

1-WHO TAKES THE BLAMES ?

Oil spills in delta Niger have involved two kinds of actors; one of them is shell, one of the largest petroleum multinational companies in the world. This company is a member of joint venture between the Nigerian National Petroleum Corporation, which holds 55 %, Shell, which holds 30 %, TotalFinaElf 10 %, and Agip with 5 %. During last decade the company operations in the Niger Delta were extended over some 30,000 square kilometers and included a network of over 6,000 kilometers of flow lines and pipelines, 90 oil fields, 1,000 producing wells, 73 flow stations, eight gas plants and two major oil export terminals at Bonny and Forcados. Unlike other oil companies such as Exxon mobile and chevron Texaco which are increasingly moving production offshore into deeper water, the company is still exposed to onshore extraction because it still gets about 280.000 barrels per day from shell petroleum development.⁶

1. Amnesty international (Environmental Defenders Network), «Nigeria : clean up oil pollution in the Niger Delta now», Amnesty International report, available in : [www .amnesty.org.nz](http://www.amnesty.org.nz).

2. John Vidal,« Shell accepts liability for two oil spills in Nigeria», The Guardian, Wednesday 3 August 2011, 11.07BST,available in :<http://www.guardian.co.uk/environment/2011/aug/03/shell-liability-oil-spills-nigeria>

3. UNNewsCenter, «cleaning up Nigerian oil pollution could take 30 years, cost billions-UN», available in : <http://www.un.org/apps /news /story.asp ?NewsID=39232&Cr=pollution>.

4. United Nation Environment Program News Center, « UNEP Ogoniland oil Assessment reveals extent of environmental contamination and threats to human health», Thu, Aug 4, 2011, available in : <http://www.unep.org/news-centre/default.aspx?DocumentID=2649 &ArticleID=8827>.

5. Peter Okwoche, «Nigeria Ogoni land oil clean-up could take 30 years», BBC news Africa, August 2011 Last updated at 19:30 GMT , available in :[http //www.bbc.co.uk/news/world-africa-14398659](http://www.bbc.co.uk/news/world-africa-14398659).

6. David Jolly and Stanley Reed, «Mixed decision for Shell in Nigeria oil spill suits», January 30, 2013, available in : <http://www.nytimes.com/2013/01/31/business/global/dut->

The oil spills from rusted and old pipes or due to other technical issues, started creating a real challenge to the company since Ken Saro- Wiwa's execution. They became a primary concern due to activist activities by friend of earth, an environmentalist association which helped to deposit the first case against Shell about the environmental damages in London's high court in 2009.⁷

At the end of 2009, Amnesty International put out a report «Nigeria : Petroleum, pollution and poverty in the Niger Delta», focusing on two major oil spills that occurred in 2008 at Bodo-a town of some 69,000 people- in Ogoniland.⁸ The spills were accidentally caused by faults in a pipeline, resulting in thousands of barrels of oil, polluting the land and devastating 20 sq. km network of creeks and inlets. Experts who studied video footage of the spill said that it could be compared to the 1989 Exxon Valdez disaster in Alaska, when 10 million gallons of oil destroyed the remote coastline. Both spills continued for weeks before they were stopped. No proper clean-up has ever been carried out by the company, which reported profits of US\$7.2bn for the period from July to September 2010. Only token offers of £3,500 and 50 bags of rice, beans, sugar, tomatoes and groundnut oil have been offered to Bodo community as relief for the disaster.⁹ It was not the first time ; Shell has long been dogged by accusations that its systematic pollution and contempt for the rights of the local population there caused serious environmental problems and human rights abuses.¹⁰ Since 2008 many Nigerian farmers and fishermen, working with the environmentalist group Friends of the Earth, claimed that their livelihoods had been ruined by oil that spilled from Shell pipelines in their

ch-court-rules-shell-partly-responsible – for-nigerian-spills.html?page_wanted=all&_r=0.

7. The Guardian, «Shell must pay \$1bn to deal with Niger Delta oil spills, Amnesty urges», the Guardian, Thursday 10 November 2011, 18:04 GMT, available on ://www.guardian.co.uk/environment/2011/nov/10/shell-nigerian-oil-spills-amnesty.

8. Suzanne Trimel, «Amnesty International, responding to United Nations report on disastrous oil pollution in Nigeria, demands accountability from Shell oil company», August 4, 2011, available in :http://www.Amnestyusa.org/news/press-releases/amnesty-international-responding-to-united-nations-report-on-disastrous-oil – pollution-in-nigeria-dem.

9. John Vidal, «Shell accepts liability for two oil spills in Nigeria», Op.Cit..

10. Terry Macalister, «Shell must face Friends of the Earth Nigeria claim in Netherlands», The Guardian, Wednesday 30 December 2009,22.00 GMT, available on :http://www.guardian.co.uk/business/20 09/ dec /3 0/shell-oruma-alleged-pollution-claim.

villages. The Ogoni land has presented the typical example of environmental disaster, where, both surface water and groundwater have high concentration of hydrocarbon.

UNEP report on Ogoniland published two years ago raised considerable international pressure on Shell. It shows the struggle of impoverished communities on the delta against human rights abuses, pollution and tacit conspiracy of silence and inaction by the governments closest to the oil companies.¹¹ According to the report, UNEP scientists found in many communities an 8 cm layer of refined oil floating on the groundwater which served the wells.¹²

However, the operational spills continue up today (graph 1). On December 20, 2011, only four months after the UNEP study, one of the most disastrous cases in delta region occurred. The spills of 40000 barrels (according to shell data) of crude oil while it was being transferred from a floating oil platform to a tanker 75 miles off the coast of the Niger delta. It was 70km-long and was spread over 923 square kilometers (356 sq. miles), but for the head of environmental rights action those numbers are not reliable because past incidents shown that the company consistently under-reports the amounts and impacts of its carelessness.¹³

On the other hand many oil companies and UNEP report argue that oil spills resulted from the criminal activities of local and regional actors : oil theft, sabotage, illegal refining in many locations such Asat Okogbe and Egbe Ede. There are different estimates of the quantity of crude oil stolen by or with the aid of armed gangs and militias. The Nigerian Economic Summit Group (NESG) estimates a daily theft of about 100,000 barrels of oil, valued at about USD 2.8 million in the last decade. Others resources suggested that 150,000 barrels of oil are stolen each day in the Delta.¹⁴ The product is siphoned through pipes and into containers that are transported in boats. Sometimes the thieves use barges that can contain up to 100,000 tonnes of fuel. All oil companies warn that the unrelenting scavenging for fuel has grave implications both for the industry and local communities.

11. John Vidal , «UN report on the Ogoniland oil spills could be catalyst for change», Wednesday 10 august 2011, 2011 07.00 BST, , available on :http://www.guardian.co.uk/global-development/poverty-matters/2011/aug/ 10/ un-nigeria-ogoniland-oil-spills?INTCMP =SR CH .

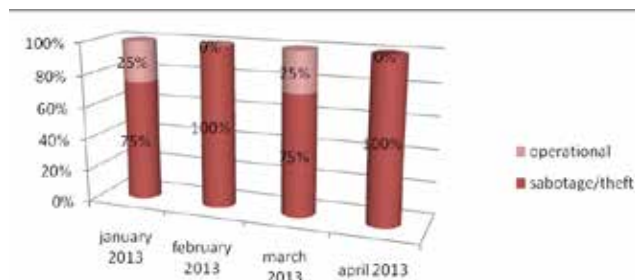
12. Peter Okwoche, Op.Cit.

13. John Vidal, « Nigeria on alert as Shell announces worst oil spill in a decade», Thursday 22 December 2011 13.01 GMT, the Guardian, available on : http://www.guardian.co.uk/environment/2011/dec/22/nigerian-shell-oil-spill.

14. The Guardian, «Shell must pay \$1bn to deal with Niger Delta oil spills, Amnesty urges», Op.Cit.

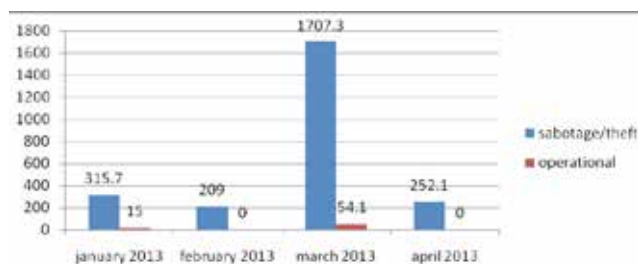
Since 1998, thousands of people have burned to death in southern Nigeria when ruptured fuel pipelines caught fire.¹⁵ Shell spokesmen note that the company was continuously unfairly targeted, because the high degree of pollution was a result of petroleum piracy. Mr. French, the Shell spokesman, said that of the 26,000 barrels of oil Shell's Nigerian subsidiary had spilled in 2012, more than 90 percent had been spilt as a result of criminal activity, while Valérie Marcel, an oil industry analyst at the Chatham House, a research institute in London, added that Shell had faced mounting difficulties in Nigeria, from lost income from large scale bunkering to kidnappings of oil workers and then legal responsibility for spills in the Delta.¹⁶ In 2012 alone, the company recorded about 198 cases of oil spills were across the Niger delta, of 201 recent incidents, sabotage and theft accounted 75,4 % of the spills, while operational reasons accounted just about 20 %.¹⁷(Graph N 2)

CAUSES OF OIL SPILL



Source : Shell Nigeria, available in : [http:// www.shell.com.ng/environnement-society/environnement-Tpkg/oil-spills.html](http://www.shell.com.ng/environnement-society/environnement-Tpkg/oil-spills.html).

ESTIMATED SPILL VOLUME (BBL.)



Source : Shell Nigeria, available in : [http:// www.shell.com.ng/environnement-society/environnement-Tpkg/oil-spills.html](http://www.shell.com.ng/environnement-society/environnement-Tpkg/oil-spills.html).

15. Integrated Regional Information Network, «NIGERIA : Under-development continues to fuel oil theft», Integrated Regional Information Network report, ABUJA, 17 November 2008, available on : <http://www.irinnews.org/Report/81507/NIGERIA-Under-development-continues-to-fuel-oil-theft>.

16. -David Jolly and Stanley Reed, *Op.Cit.*

17. -Integrated Regional Information Network, «NIGERIA : Poor oil spill clean-up methods affect Niger Delta communities», Integrated Regional Information Network report, 7 February 2008, KEDERE, available on : <http://www.irinnews.org/Report/76635/NIGERIA-Poor-oil-spill-clean-up-methods-affect-Niger-Delta-communities>.

For oil companies, major oil spills are a result of the emergence of a conflict economy characterized with an intense, violent and bloody struggle for the appropriation of oil resources. It benefits from the oil economy and a thriving market of illegal trading, smuggling of arms and crude and refined oil. Shell representatives claim that most of their efforts to undertake clean-up in such places like Bodo have been hampered by the repeated impact of sabotage and bunkering spills. They claim that if Amnesty really had wanted to make a difference, it would have joined them in calling for more action to address that criminal activity, which was responsible for the majority of spills.¹⁸

It is evident that the region has had violent protests and recorded increased attacks against oil installation by armed groups in the last two decades. Indeed, the incessant violence that has characterized the region history seems to have arisen from the efforts by local communities to control the enormous oil resources as well as from the corruption of the governing institutions. Those violent activities symbolize the institutionalized corruption through an old patrimonial system which has produced regional and ethnic inequalities. However, oil companies have a major role of explaining what's happening in the region. The oil pollution has also underpinned the conflict in Nigeria's oil-producing communities. Moreover the ratio of oil spills have caused by theft did not reach the quantity of oil spills have occurred since beginning of oil exploitation operations and before the emergence of petroleum piracy, especially in swampy fields. Among the famous cases we mention to : Shell's 1978 spill caused by tank failure at Forcados Terminal in which 580,000 barrels were spewed, Texaco's Funima-5 offshore blow out in 1980 that released 400,000 barrels of oil, Mobil's spill at Idoho in 1998 with a reported release of 40,000 barrels of crude oil.¹⁹

RESPONSES

The Nigerian government has undertaken some policy measures in response to oil spills over the years. Such measures include the establishment of The National Environmental Standards and Regulations Enforcement Agency (NESREA),²⁰ the Federal

18. The Guardian, «Shell must pay \$1bn to deal with Niger Delta oil spills», *Op.Cit.*

19. Integrated Regional Information Network, « NIGERIA : Poor oil spill clean-up methods affect Niger Delta communities», *Op.Cit.*

20. National Environmental Standards and Regulations Enforcement Agency, «NESREA », May 11, 2013 04:52 AM, available on : <http://environment.gov.ng/about-moe/departments-agencies/agencies-paralstatal/national-envi>

Environmental Protection Agency (FEPA), the Federal Ministry of Environment and the Environmental Guidelines, Standards for the Petroleum Industries (EGASPIN) in 1992 and recently we also have the Nigerian Oil Spill Detection and Response Agency (NOSDRA). Moreover, under the international and national pressure have been resulted by the UNEP report, the federal authorities have introduced some warning procedures, as a result, a modest progress has been made in delta Niger region : Residents have been warned about contaminated water sources and emergency drinking water has been trucked in to some of the most deeply affected communities by the state government. Also, in July 2012 the Government of Nigeria set up the Hydrocarbon Pollution Restoration Project (HYPREP) to implement the environmental clean-up in Ogoniland and conduct environmental assessments in other parts of Nigeria impacted by oil contamination.²¹

The civil society organizations (CSO's) have arisen as major internal players to sensitize the international community about the seriousness of problem, namely Environmental Right Action/Friends of the Earth (ERA/FOE) and Artisan Fishermen Association of Nigeria (AFAN). They have sought the partnership of the National Oil Spill Detection and Response Agency (NOSDRA) in the area of safe guarding the environment from oil pollution, during their courtesy visit to the Director-General/Chief executive officer (DG/CEO) of NOSDRA, Sir Peter Idabor, in his office in Abuja on last September. The leader of the team, Barrister Chima Williams emphasized the collective responsibility of regulatory bodies like NOSDRA and the CSO's in safeguarding the endangered ecosystem.²² In addition to previous organizations and procedures, UNEP report in 2011 on Ogoni pollution proposed the establishment of such national institutions with the help of international community to enhance the clean-up of Ogoni land like : Ogoni land environmental restoration authority, soil management center, learning center for local communities have impacted by oil pollution.²³

ronmental-standards-regulatory-and-enforcement-agency-nesrea/

21. United Nations Environment Program News Center, «UNEP team in Nigeria to discuss steps needed to implement Ogoniland Report», Tue, Feb 5, 2013, Nigeria, available on : <http://www.unep.org/newscentre/Default.aspx?DocumentID=2704&ArticleID=9386&l=en>

22. National Oil Spill Detection and Response Agency, «Civic Groups seek NOSDRA's Partnership on oil spill control », Abuja, Wednesday, September 12, 2012, available on <http://nosdra.gov.ng/index.php?id=57>.

23. United Nation Environment Program News Cen-

Oil companies and especially shell are trying very hard to keep a good reputation and image about the company's operations through negotiations and compensation system or enhancing the oil infrastructures maintenance. The first mechanism has proven inefficient or in best cases was insufficient, because of the absence of objective criteria to pay compensation or for the absence of data. Following the damages caused from a 40,000 barrel spill on December 20, 2011 at the Bonga offshore rig, the National Oil Spill Detection and Response Agency told the national assembly that Shell should pay \$5 billion, meanwhile the Nigerian Maritime Administration and Safety Agency (NIMASA) sought \$6.5 billion as compensation for 100 communities. Shell has taken responsibility for the Bonga offshore oil spill but declared that onshore damage had been the result of a different spills a few days later that had not been its fault. According to Shell spokesmen there is no legal basis for the proposed fines and the Nigerian government has never publicly charged foreign oil companies large sums for oil spills. In addition, both agencies were asking for compensation which would equate to around \$ 287500 per barrel for the 40000 barrel Bonga spill, in comparison, BP had total provisions of \$42,2 billion for compensation for the 4 million barrels had spilled in the Gulf of Mexico in 2010, which amounted to around \$10550 per barrel.²⁴ Mutiu Sunmonu, managing director of the Shell Petroleum Development Company of Nigeria (SPDC), explained in a BBC report how it was important to understand the complexities of the Niger Delta when dealing with these compensation payments. There were a lot of people who've claimed to be impacted and a lot of intra- communities' struggles, it was also very difficult to define who have been impacted.²⁵ Although the jurisdictions and compensation system have faced various obstacles because of the refusal of company to compensate local population, pretending that the spills were a result of bunkering, in addition to the court's unwillingness to force the company to open internal communications for inspection, but at least the NGO succeeded in establishing the principle of going to court in Netherlands or Europe.

ter, «UNEP Ogoniland Oil Assessment Reveals Extent of Environmental Contamination and Threats to Human Health», Op.Cit.

24. Joe Brock, «Nigerian agencies seek 11,5 billion oil spills payout from shell», Wed Mar 27, 2013 9:51pm GMT, ABUJA, <http://uk.reuters.com/article/2013/03/27/uk-shell-nigeria-idUKBRE92Q17D20130327>

25. BBC news Africa, «Shell in court over Nigeria oil spill compensation», 23 March 2012 Last updated at 12:21 GMT, <http://www.bbc.co.uk/news/world-africa-17486617>.

Also, Under UNEP report recommendations, shell started negotiations with reputable organizations to launch a joint project to review and improve company remediation techniques in Delta. It issued contract tenders at the beginning of 2011 inviting internationally respected organizations, such as the British standards institute and Det Norske Veritas to provide independent review and assurance of company's oil spill response and management practices.²⁶ The company is also examining ways to bring third-party verification to the oil spill investigation process, bringing further transparency to the assessment of the causes and volumes in face of the high number of accusations.

CONCLUSION

All previous responses are only a part of what is needed in such situations. Unfortunately the government and oil companies are concerned more by the emergency procedures, like compensation and spill recovering. Recently Nigerian Agip Oil Company has been blamed by resident in Ikarama community of Okordia in Bayelsa, where the company's onshore oil fields reportedly shutdown on march 23, 2013.

The efficiency of those procedures and mechanisms is limited and the responses in many cases were not adequate not only for rentier nature of political system and economic vulnerability but for other important reasons : in many cases the oil spill and bunkering have been addressed as a political or security issue rather than a development problem which makes the government and oil companies are more concerned just by the short-term solutions. In fact the oil spill does not address only a short-term environmental issues or the emergence of petroleum piracy or the war economies, but also represents a major dimension of social relations and a crucial determinant of intensity of violent interaction within delta Niger. The oil-related pollutions altered the nature of basic economic activities in the region, in face to the continued pollution and intra-communities conflicts and government conspiracy, individuals have to find new coping strategies and survive activities, consequently, the violence became a tolerated mechanism to social interaction or in extreme cases a legal individual reaction, and the variation of government and companies responses are a crucial determinants of the race of this violence. Whether the strategies are criminal or not it is not the most important issue and must not receive the priority. May be the way of local communities frustration have been expressed and the way have been instrumenta-

lized by some greed official and non-official actors has given them the characteristics of war economies. The use of "criminals" or "militias" by government or oil companies will be not legal or credible or even moral while more than half resident have no secure place to live. They lost their properties, their jobs, and they will probably lose their families. Remediation by enhanced natural attenuation has not proven to be effective and UN report asserted that continued delay in the implementation of the recommendations will not only undermine the livelihoods of the Ogoni communities, but will also cause the pollution footprint to expand. Lotof areas which appear unaffected at the surface are in reality severely contaminated underground.

What is noticeable is that in many cases where companies (such as Shell) claimed that they cleaned the fields and recovered pollution, clean-up jobs is awarded to local contractors that are unqualified and ill-equipped, they are illiterate youth, know nothing about the oil pollution or how to deal with such scientific issue. The environmental damage caused by such poor clean-up methods could be disastrous. Oil companies should give more importance to the clean-up methods than lawyers or amount of compensation. There are three matters should be concluded :

1-Compensation is not always an efficient solution to oil spills damages ; moreover it can enhance the rentier predatory behavior and encourage intra communities fights. The national and international organization should adapt legal and rational criteria for compensation distribution. Part of them should be distributed to effected families to provide their needs and requirements, other part should be transformed to well-equipped workshop and functional infrastructures. Those last one will create new choices for local populations and will contain the violent tendencies.

2- The infrastructures have been introduced by Shell to develop the region are not enough and inadequate, various clinics are without electricity or water or medicines. The government should try hard to improve the education and health services which will help to contain the violent tendency within the region.

3- The oil spills in Delta region need a global and sustainable strategy that gives the priority to clean up of the polluted locations and the prevention of future oil spills. It should include all concerned actors either national (official and armed gangs) or international. The oil spill is not just a temporary problem but it must be addressed as a long term issue because it affects the future of more than on generation and the peace process in the region. The areas will require large deployment of modern technology to clean up contaminated

26. Shell Nigeria, «SPDC action on matters addressed in the UNEP report», available in : <http://www.shell.com.ng/environment-society/our-response.html>

land and water, improved environmental monitoring and regulation and collaborative action between the government, the delta Niger people and the oil industry. If the international community and government do not consolidate the environment protection law to prevent future oil spills and do not avoid the military abuses against local population (according to reports criminals), the current small –scale criminal activities will develop into a large- scale criminal activities by opportunistic actors in instable region. Further, the greater tolerance or ignorance of global society raised probabilities for a new Somalian scenario (maritime piracy) in eastern Africa, where complaints about the

negative effects of waste dumping and illegal fishing by western companies had been ignored more than one decade. Almost members of maritime piracy in Somalia are simple fishermen and youth lost their only source of survive. In similar situation the generalized insecurity will became a suitable condition to consolidate the petroleum piracy activities. The evolution of such activities will probably open a new front to many criminal organizations either regional or international like Al-Quaida and regional warlords. They will benefit from money laundering, arms trade, illegal trade of natural resources, migration as what happened during the sierra Leon and Liberian civil wars.