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Nigeria: Oil giant Shell criticized over Niger Delta pipelines 'sabotage' claims

Claims by Shell that sabotage is responsible for most oil spilt in Nigeria have come under fire. A Dutch agency found that the oil giant's statements were based on disputed evidence and flawed investigations.

The agency – the National Contact Point (NCP) – which is there to assess complaints about companies that abuse human rights and the environment made its statements in response to concerns raised by Amnesty International and Friends of the Earth International.

But the two organizations say that the NCP should have gone much further in its criticism of Shell.

The organizations provided evidence of [serious flaws](#) in the system used by Shell for investigating oil spills, including [video footage](#) of a spill investigation in which several serious problems occurred.

“Sabotage is a problem in Nigeria, but Shell exaggerates this issue to avoid criticism for its failure to prevent oil spills,” said Audrey Gaughran of Amnesty International.

“The oil companies are liable to pay compensation when spills are found to be their fault but not if the cause is attributed to sabotage – but it is effectively the company that investigates itself. This is clearly a system open to abuse and we have evidence that it has been abused.”

Over the last decade, Shell has claimed that most of the oil spilt in the Niger Delta is due to sabotage of its pipelines on the basis of a system that includes publicly contested data and relies almost exclusively on information provided by the company itself.

The alleged sabotage cases have not been verified by any independent bodies. Moreover, some of Shell's statements on the percentage of oil spilt due to sabotage are contradictory.

Amnesty International and Friends of the Earth International contend that by making misleading and incorrect statements, Shell breached the OECD Guidelines for Multinational Enterprises. The NCP, which is established to promote and implement

the OECD Guidelines, agreed to consider the complaint.

The NCP acknowledged that the oil spill investigation process in Nigeria relies heavily on the expertise of the oil companies themselves and that, as the UN Environment Programme found in 2011, “government agencies are at the mercy of the oil companies when it comes to conducting site inspections.”

The NCP stated that “[Royal Dutch Shell] management should have had a more cautious attitude about the percentage of oil spills caused by sabotage” and that “after all JIT (Joint Investigation Team) data are not absolute”. The NCP called on Shell to “be prudent with regard to general communication to stakeholders of very detailed figures on oil spills, when discrepancies exist with regard to the causes or amounts of those oil spills” and also to “share information on relevant spill causes and spill cause determination procedures, also dated before January 2011.”

However, the NCP did not comment on whether Shell’s failures constituted a breach of the Guidelines. It did not make a full assessment of the evidence provided and it failed to investigate whether Shell’s statements were indeed misleading. Amnesty International and Friends of the Earth International repeatedly expressed serious concern that this approach effectively left unaddressed all past harm done to the people of the Niger Delta as a result of Shell’s misleading statements.

“Today the NCP failed to speak out against Shell’s abuse in Nigeria. It did not assess key evidence provided and thereby let the company off the hook. For the people of the Niger Delta this is yet another failure of justice. The NCP is not fit for purpose. It has proven unable or unwilling to tell Shell it should accept responsibility for its mistakes. It is time that the Dutch government introduces a corporate accountability supervisory body with strong teeth,” said Paul de Clerck of Friends of the Earth Europe.

From the outset the NCP was unable to prevent Shell from obstructing the OECD process. Although the OECD Guidelines explicitly refer to “multinational enterprises”, Shell’s headquarters initially tried to distance itself from Shell’s Nigeria operations, saying that Royal Dutch Shell “does not have any operations [i.e. extracting, processing or distributing activities] of its own [in Nigeria]”, and referred the NCP to Shell’s local subsidiary. The company did not want to discuss the substance of the complaint with Friends of the Earth Netherlands at the table, and the Dutch NGO agreed to step back to facilitate the process. Finally, Shell made unacceptable demands, including that Amnesty International and Friends of the Earth International should not campaign on certain cases to be discussed during the NCP process. The organizations refused to guarantee they would stop campaigning.

The case underlines a serious problem with the NCP process: the company was able to set many of the parameters for the dialogue and the NCP was unable to deal the substance of the complaint.

Because of these serious deficiencies in the Dutch NCP process, Amnesty International and Friends of the Earth International do not believe that the system can produce meaningful resolution of issues with a company like Shell. The two organizations have therefore decided to withdraw a second complaint to the NCP about Shell’s longstanding role in oil pollution of Ogoniland in Nigeria.

“A process where the party that is the subject of the complaint can set the terms of engagement is setting itself up for failure,” said Paul de Clerck.

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NOTES TO EDITORS:

Evidence, including video footage of a spill investigation process in which several serious problems occur, and information from independent experts – is available at:

CSCR / Centre for Social and Corporate Responsibility, *Batan Oil Spill and Shell's Global Standards*, 29 June 2009

<https://adam.amnesty.org/asset-bank/action/viewAsset?id=82268>

Amnesty International, *Oil Spill Investigations in the Niger Delta: Amnesty International Memorandum*, 1 September 2012
<http://www.amnesty.org/en/library/info/AFR44/042/2012/en>

Amnesty International and the Centre for Environment, Human Rights and Development (CEHRD), *Shell's wildly inaccurate reporting of Niger Delta oil spill exposed*, 23 April 2012

<http://www.amnesty.org/en/news/shell-s-wildly-inaccurate-reporting-niger-delta-oil-spill-exposed-2012-04-23>

The statement by the NCP is online at <http://www.oecdguidelines.nl/>

BACKGROUND INFORMATION

In the mid 1990s Shell accepted that much of the oil pollution in the Niger Delta was due to the company's own failures. However, the company now blames sabotage, and more recently oil theft and illegal refining, by communities and criminals for most of the problem, citing misleading figures that purport to show as much as 98% of oil spills being caused by sabotage.

Although Shell has been made aware, for years, of problems with its oil spill investigation process, the company has continued to defend it. Shell frequently refers to its online oil spill database which provides information on oil spills since 2011. The NCP commended Shell for the greater transparency the company has shown since 2011, but also recommended that the company should share data from previous years. Shell has generally been unwilling to provide information on oil spills before 2011. The company often claims it wants to take a forward-looking approach, focusing on the future instead of the past. Amnesty International and Friends of the Earth International consider this unacceptable as many people in the Niger Delta have had to live, on a daily basis, with the effects of oil spills for decades – including many spills that occurred well before 2011. Shell needs to own up, pay up and clean up the damage it is responsible for in the Niger Delta.