

Summary of the Specific Instance:

The Obelle Concern Citizens in Nigeria files this specific instance against Shell Petroleum and Development Company (SPDC)'s breaches of the OECD Guidelines for Multinational Enterprises (the Guidelines) in their operations and impact to Obelle, Nigeria, located in Rivers State Niger Delta. The specific instance specifically starts with SPDC's February 1998 gas fire, eruption at well 4 and the resulting chemicals added to the community aquifer in attempt to control the fire, as well as subsequent non-stop gas flaring and occasional oil spilages, which have significantly impacted people's land, natural resources and livelihoods. impacts which continue to date and has meant inadequate food production, health impacts, and the increased marginalization of the Obelle people. Additionally, the complaint considers the fact that no indigenous person of Obelle has ever been employed by SPDC since it began operating in Obelle in 1963 to today. We believe that SPDC is in violation of Chapter I, II, and III, V and VI of the 2011 version While we understand some of the complaint covers the period prior to when the 2011 OECD Guidelines came into force, replacing the 2000 and 1991 versions, the gas and crude oil extraction by SPDC has continued to date and the impacts have continued without any remediation. As such, we believe the Dutch NCP can play a positive role by offering its good offices to facilitate dialogue and help resolve the ongoing adverse impacts of SPDC's operations in Obelle.

About SPDC and Shell:

According to Shell Petroleum and Development Company's (SPDC) website, SPDC is the operator of a Joint Venture Agreement involving the Nigeria National Petroleum Corporation (NNPC), which holds 55%, Shell 30%, Total Exploration and Production Nigeria Limited (TEPNG) 10% and Agip Oil Company Limited (NAOC) 5%.

The company operations are primarily in the Niger Delta, where it has an Oil mining lease of 31,000 sq.km, with more than 1000 oil wells, which also includes gas flaring unites.

As mentioned above, SPDC is owned 30% by Shell, a multinational enterprise, with its headquarters in the Netherlands. In its 2016 annual financial report and form 20-F, Shell reports that SPDC is the operator of a joint arrangement that has 17 Niger Delta oil mining leases that will expire in 2019. For this reason, we believe the Dutch NCP is the appropriate entity to handle this specific instance.

Detailed Complaint and Breaches of the OECD Guidelines:

Obelle concern citizens is a social cultural, Social Economic and political group made up of Obelle sons and daughters whose interest is for the development and peace of the community. We hereby file a specific instance against Shell Petroleum and Development Company (SPDC) for operating in violation of the 2000 and 2011 OECD Guidelines for Multinational Enterprises, the Guidelines in relation to the violation of Human Rights, Employments, Environmental and others resulting from oil exploration in Nigeria. We request the Dutch National Contact Point

(NCP) to address these breaches to remedy and address our complaint related to the Guidelines Chapter I, ii, iii, iv, v, and vi.

In February, 1998 there was a gas fire eruption that emanated from Shell Petroleum Development Company (SPDC East)'s well four (4) at Obelle, Nigeria that leaked its associated gas into farmland and the environment impacting more than twentyone (21) hectares of arable land and causing several severe environmental hazards to the Obelle Clan. All crops and economic trees were destroyed with over thirty five thousand persons impacted. At that time, it was explained that it was caused by a leak. However, it took SPDC several weeks to intervene and several more weeks before the fire was put out. This is in violation of the guidelines' Chapter six (6) paragraph one (1) of OECD which states that Maintaining an Environmental Management System that includes monitoring, evaluating and verifying environmental, health and safety impacts of activities and objectives.

In an attempt to control the raging fire, several chemicals were injected into the aquifer to extinguish the fire, these chemicals have further caused more harm to the people of Obelle, as there has been records of strange health situations that started after the fire and the chemicals were placed in the aquifer. The environmental impact assessment and the Geo-physical/technical study that was carried out during and immediately after the gas fire was done without any consultation or meaningful engagement with members of the community leadership furthermore, there has not been any meaningful consultation over the impacts experienced to date, with no impact assessment reports or mitigation plans shared with the Obelle people. In Obelle, thus the result of the studies carried out after the chemicals were used has not been disclosed and thus has not been cited carried out after the chemicals were used has not by any member of the community, which is also in violation of Guidelines Chapter six (6) paragraph two (2,3), which states that:

¹For references to the Gas Fire at Obelle Community, Nigeria, please see - Winston Bell-Gam/professional profile, LinkedIn. Justina Adalikwu, PhD, April 2007 (p158-159).

Enterprises should provide the public and workers with adequate, measurable and verifiable information on potential impacts.

Engage in adequate and timely communication and consultation with the communities directly affected by the enterprises' environmental, health and safety policies.

The source of drinking water available to Obelle people are from wells and rain drops, have long been polluted by the activities of SPDC occasioned by the non stop gas flaring units. Farm produce has reduced to 1/10th of what it used to be, income from farming which is the main

stay of the people no longer has the valor for sustaining the people, this has led to high level of poverty and deprivation and privation.

Life expectancy has reduced to forty years, this was a community that used to have longevity of up to 90 to 120 years in the past, but today, scores of young people die daily as a result of lack and want, in what was once a rather rich community endowed with the abundance of natural resources until SPDC activities in the area. Instead of increasing the well-being of the local people, the activities of SPDC has instead contributed to adverse impact to the people's sources of livelihood and this amounts to violation of both the United Nations Guiding Principles on Business and Human Right and the Guidelines, Chapter two (2) paragraph(1,11) which states, that, Enterprises should; Avoid causing or contributing to adverse impacts in their own activities and addressing them when they do occur and *Contribute to economic, environmental and social progress with a view to achieving sustainable development*. Furthermore, by not respecting human rights in Obelle and mitigating the impacts, SPDC has violated Chapter IV, paragraph 2 and 47 and 42 of the Guidelines.

The United Nations Guiding Principles on Business and Human Rights also reflects on this in Principle twelve (12) which state "the responsibility of Business enterprises to respect Human Right refers to Internationally recognized rights-Understood, at a minimum, as those expressed in the international bill of human rights and the principles concerning Fundamental Rights, set out in the International Labour Organization's declaration on Fundamental Principles and right at work"

Whereas SPDC has continued to prosper in the extraction of crude oil and gas in Obelle community, the host community has suffered without any compensation, even the community and local people's farm produce were not compensated. The people of Obelle have rather given up all they have.

It is unclear whether SPDC's study of the 1998 fire recommended any form of short, medium and long term remedial action for the people of Obelle as a way of reducing the hardship, suffered by the wild fire and the attempts to reduce it. However, the environmental impact assessment and the Geo-physical study has been kept away from public scrutiny, this is in violation of Chapter three (3) paragraph one (1), Chapter six (6) paragraph (8) of the OECD guiding principles; Enterprises should disclose timely and accurate information on all material matters concerning their activities, structure, financial situation and performances.

Contribute to the development environmentally meaningful and economically efficient public

Enterprises ought to be transparent in their operations to the public demand for information.

SPDC began its operation in Obelle in 1963, however, no indigenous person of Obelle has been employed by SPDC to date. This also falls short of the principles in the 2011 Guidelines' Chapter two (2) paragraph three (3,4,6) and Chapter five (5) paragraph (1e) which states, that; Enterprises should

Encourage local capacity building through close cooperation with the local Community.

Encouraging human capital formation; particularly by creating employment opportunities and facilitating training opportunities for employees.

Uphold and apply good corporate governance principles and practices.

Not discriminate base on race, sex, religion, political opinion, national extraction or social origin or other status including trade union activity.

In a bid for fairness and reduced agitations, Nigeria's National Assembly passed Nigeria Content Development and Monitoring Board Act 2010 which allowed the Communities some percentage of personnel to work in the Companies domiciled within it. This law has neither been implemented nor obeyed by SPDC. It is obvious that our right as a people has being abused by SPDC in Collaboration with the state, has fallen short of most UN Declarations or Covenants including the Guidelines' Chapter one (1) paragraph two (2) which that enterprises must obey domestic laws; the guidelines principles and standards may go beyond domestic law.

The gas fire had primary, secondary and tertiary impacts in Obelle, no compensation has been paid and SPDC has fenced off the said land. No alternative drinking water, social infrastructure, employments, scholarships or training as a remedy to this abuses. This also falls short of the Guidelines Chapter four (4) paragraph (1,2,3,5,6) and Chapter two (2) paragraph two (2) that enterprises should:

Respect human rights.

Avoid causing or contributing to impacts and address them when they occur.

Prevent or mitigate impacts linked to their business operations, products or services by a business.

Conduct human right due diligence

Co-operate with remediation when they have caused adverse human rights impacts.

Respect the human rights of those affected by their activities.

Past Effort to Resolve this Complaint:

In 2008, some members of New Wave, a socio cultural association in Obelle initiated discussion with SPDC in order to remedy the gross violation and abuses to the people, through a petition to the Rivers State Government. Shell found its way into the process and stigmatized, and labelled the youths involved as deviants, which led to a major conflict that, resulted to the untimely demise of twelve young people in the Community, this conflict was fueled and sponsored by SPDC, the issue in contention was never resolved, thus long forgotten till date.

SPDC is directly involved in divide and rule tactics, they employ from the majority ethnic groups and use them to suppress the minority oil bearing communities, including the Obelle, in Niger Delta with the aid of the Nigerian state.

two (2) paragraph seven (7), Chapter two (2) This also contravenes the Local Content Law 2010 of Nigeria, the OECD and UN laws. The Guidelines' Chapter ten (10,14,15)

Develop and adopt self-regulatory practices and management systems that foster trust within the Societies in which they operate.

Conduct risk-based due diligence to identify, prevent and mitigate actual and potential negative impacts, and account for how these impacts are addressed.

Engage in meaningful consultation with local Communities, workers and other relevant stakeholders.

Abstain from improper involvement in local political activities.

SPDC has continued to ignore our request to resolve the issues on hand. We have however written to other relevant Nigerian government agencies in order to resolve the matter without success. No parallel proceedings are underway that we are aware of.

Our request of SPDC and Shell:

We are seeking the following action from SPDC and Shell:

- 1) For SPDC to commit to Employing qualified indigenous people of Obelle and if they are not considered qualified, SPDC should provide capacity development training as to make them qualify;
- 2) The acceptance of the recommended community liaison officers (community representative in the company)
- 3) The implementation of the recommendation of the Environmental Impacts Assessment team of the 1998 wild fire to mitigate the adverse social and environmental impacts being experienced in Obelle;

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- 4) Compensation provided to the Obelle who suffered environmental and social impacts from the 1998 wild fire;
- 5) A continuous supply of portable drinking water;
- 6) The establishment of oriented programs and scholarship;
- 7) The full implementation of the Nigeria Content Development and Monitoring Board act 2010;
- 8) The enviromrntal impact assessment and the geo- physical/ technical study of the 1998 wild fire should be made public;
- 9) Renovation and Equipping of the Obelle Health Centre.

We are seeking the following action from the Dutch NCP:

- 1) To offer its good offices and invite Shell to engage in mediation with us in the Netherlands. As we have limited resources, we kindly request the NCP to also cover the costs associated with mediation
- 2) We suggest that in response to this complaint, a vist be paid by the NCP to the Obelle community to ascertain for themselves issues raised and the present state of the community in which SPDC has operated since 1963;
- 3) If a mediated agreement is not reached with shell, we request the NCP to issue a determination and provide recommendations to Shell according our requested actions listed above.

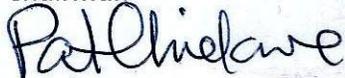
We issue this complaint in good faith and look forward to a written confirmation of the receipt of this complaint. We appreciate the Dutch NCP's assistance and leadership In resolving the issues presented in this complaint.

Thanks.



Eferogbo Henry

Chairman



Patrick A Chiekwe

Foundation for Conservation of the Earth (FOCONE)



Prince Edegbuo

Secretary

[Winston Bell-Gam](#)/ Professional profile, LinkedIn.

2. Thesis submitted to the collage graduate studies and research.

In the Department of Sociology

Degree of Doctor of Philosophy

University of Saskatchewan, Saskatoon

By Justina Adalikwu, April 2007 entitled "[Globalization and the Uneven Application of International Regulatory Standard: The Case of Oil Exploration in Nigeria](#)".

3. An attached letter from Obelle Clan to SPDC.

4. Premium Times newspaper: Investigation: How decades of gas flaring is harming Nigerians, <https://www.premiumtimesng.com/news/160899-investigation-decades-gas-flaring-harming-nigerians-part-1.html>, May 2014.

