

## Submission by HEDA Resources Centre, Nigeria (IRN0008)

Human and Environmental Development Agenda (HEDA Resources Centre) is a Nigerian non-governmental organisation and non-partisan human rights and development league.<sup>1</sup> The Centre conducts research, policy advocacy, training, as well as citizens' awareness and mobilization on core human development issues, including agriculture, food security, climate change, human rights, public sector accountability and electoral reform processes. Combatting corruption is a major focus of the Centre's work.

HEDA welcome the opportunity to comment on the issues that the Committee has chosen to examine.

This submission focuses on the Integrated Review's twin goals of combatting corruption and climate change. It identifies three areas for immediate action consistent with the commitments made in the Integrated Review. Specifically, the submission calls on the UK to implement the Integrated Review by:

- Returning stolen Nigerian assets held in the UK to Nigeria.
- Assisting Nigeria in ending gas flaring and identifying UK companies that have failed to pay fines for continuing to flare gas.
- Supporting a Nigerian Civil Society proposal to the Conference of the Parties to the UN Climate Convention (COP) to keep the oil in the giant OPL 245 offshore field in the ground.

### Climate and Corruption: Entwined crises

Although no region of the world will be entirely spared by climate change, the negative impacts are likely to fall most heavily on nations in the tropical regions,<sup>2</sup> even though historically the peoples of these regions are not responsible for the rise in global greenhouse gas levels. Despite contributing just 1.1% of global gas emissions,<sup>3</sup> Nigeria will be one of the hardest hit by climate change. Indeed, communities throughout Nigeria are already experiencing the consequences of climate change-related drought, desertification, flooding, land degradation, declining freshwater resources, loss of biodiversity and crop failures.<sup>4</sup> If action is not taken to curb greenhouse gas emissions, scientists warn that coastal cities such as Lagos and much of the land in the Niger Delta could be lost to storm surges and flooding.<sup>5</sup> Those most at risk are the poorest communities.

Nigeria has since signed the Paris Agreement and has committed to measures that, if fully implemented, would reduce Nigeria's greenhouse gas emissions by around 45 per cent by 2030 compared to business as usual.<sup>6</sup> These are welcome steps in the right direction. However, there is more than can – and must – be done.

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<sup>1</sup> "About HEDA", <https://hedang.org/about-heda/>

<sup>2</sup> Odjugo, P. (2010), General Overview of Climate Change Impacts in Nigeria, *Journal of Human Ecology*, 29 (1): 47-55.

<sup>3</sup> <https://climate-laws.org/geographies/nigeria>

<sup>4</sup> Haider, H. (2019). Climate change in Nigeria: Impacts and responses. K4D Helpdesk Report 675. Brighton, UK: Institute of Development Studies, [https://opendocs.ids.ac.uk/opendocs/bitstream/handle/20.500.12413/14761/675\\_Climate\\_Change\\_in\\_Nigeria.pdf](https://opendocs.ids.ac.uk/opendocs/bitstream/handle/20.500.12413/14761/675_Climate_Change_in_Nigeria.pdf)

<sup>5</sup> Slaughter, A and Odume, N., It's only just started, flooding is going to get a lot worse in Nigeria, *Quartz Africa*, 17 August 2017, <https://qz.com/africa/1054825/climate-change-in-nigeria-floods-in-lagos-abuja-niger-delta-are-going-to-get-a-lot-worse/>

<sup>6</sup> <http://climatescorecard.org/wp-content/uploads/2018/02/ClimateScorecardReport11.pdf> | [https://www4.unfccc.int/sites/ndcstaging/PublishedDocuments/Nigeria%20First/Executive%20Summary\\_Nigerian%20INDC\\_271115.pdf](https://www4.unfccc.int/sites/ndcstaging/PublishedDocuments/Nigeria%20First/Executive%20Summary_Nigerian%20INDC_271115.pdf)

Many warned that the Paris Agreement's emission reduction targets were inadequate – and the means for achieving them (particularly through carbon markets and offsets) were deeply flawed. These critical voices have proved prescient. More rapid and deeper cuts are now necessary. Recent scientific research has concluded that “little or no new CO<sub>2</sub>-emitting infrastructure can be commissioned” worldwide if temperature rises are to be kept within 1.5 degrees Celsius.<sup>7</sup> Moreover, the International Energy Agency has stated that no new oil or gas field can be exploited if catastrophic climate change is to be averted.<sup>8</sup>

For a country such as Nigeria, which relies heavily on earnings from the export of oil, this poses a major challenge. Nonetheless, it is a challenge that Nigeria (along with other oil exporters) cannot avoid. Indeed, with renewables now making up 90% of the new electricity generation capacity installed around the world,<sup>9</sup> relying on oil and gas exports for future national income is likely to condemn Nigeria to insolvency in the near future.

Corruption, which is particularly rife in the oil sector, has exacerbated the problem. Billions of dollars in oil revenues have also been looted by corrupt politicians, leaving the Federal Government's coffers bare and depriving Nigeria of the wherewithal to fund an orderly and just transition away from fossil fuels, let alone much needed investments in health and education. The role that the UK has played in facilitating the looting by enabling the stolen assets to be laundered through the City of London or invested in UK property is well documented.<sup>10</sup> As detailed below, the return of looted assets will be essential to financing the social, economic and technological changes that are necessary to combat and adapt to increasing climatic instability.

Corruption is also a major reason why gas flaring – a major source of greenhouse gas emissions - continues largely unabated in Nigeria, despite it being illegal without a special approval for which fees must be paid. Few of the companies flaring gas have paid the monies due to the Federal Government for the approval they require to continue flaring, again depriving Nigeria of income that could fund climate mitigation and national development.

Ironically, the fight against corruption has also placed Nigeria at a financial disadvantage. A case in point is the OPL 245 oil field, which was acquired by Eni and Shell in 2011. Corruption allegations relating to the deal led to the companies being prosecuted in Italy and to charges being brought against their subsidiaries in Nigeria. The companies deny the charges. Despite immense pressure from ENI, President Buhari declined to consider converting the companies' 2011 Oil Prospecting License into an Oil Mining License until the court cases had concluded. Although the companies were acquitted in Italy in March 2021, a decision has yet to be made by the Milan Prosecutor on whether or not to appeal the judgment. The prosecutions in Nigeria are also continuing. As a result, the field has remained commercially undeveloped, with a resulting loss of billions of dollars in income for Nigeria. The 2011 Oil Prospecting License has now expired but the climate emergency precludes the field from being relicensed and exploited. A way forward that does not punish Nigeria for the principled stand taken by President Buhari in upholding the integrity of corruption investigations and court proceedings is now an urgent priority. As detailed below, a possible solution, which fits with the Integrated Review's commitment to developing new multilateral sources of funding to support

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<sup>7</sup> Dan Tong, Qiang Zhang, Yixuan Zheng, Ken Caldeira, Christine Shearer, Chaopeng Hong, Yue Qin, Steven J. Davis, “Committed emissions from existing energy infrastructure jeopardize 1.5 °C climate target” (2019) 572 Nature 373, <https://www.nature.com/articles/s41586-019-1364-3>

<sup>8</sup> <https://www.worldoil.com/news/2021/5/18/iea-says-ending-new-oil-and-gas-exploration-today-is-the-only-viable-climate-path>

<sup>9</sup> <https://www.theguardian.com/environment/2020/nov/10/renewable-energy-covid-19-record-growth-2020#:~:text=The%20IEA%20report%20published%20on,for%20the%20past%2050%20years.>

<sup>10</sup> See, for example: Gbenga Odutun, Fixing Nigeria's Illicit Financial Flows: A critical review of UK and UAE Policies, Laws and Practices”, Kent University Law School/HEDA, 2021. <https://hedang.org/wp-content/uploads/2021/03/UK-COMPONENT-OF-THE-THREE-COUNTRY-REPORT.pdf>

the most vulnerable in adapting to climate change, has been developed by HEDA and other Nigerian civil society organisations.

### **Action 1: Give us back our money!**

A just transition away from fossil fuels is essential to combatting adverse climate change. This is no easy task: it will require the wholesale diversification of Nigeria's economy. Decades of looting by corrupt politicians and tax evasion by multinational companies have left the country ill-equipped to face the financial challenges of funding such a transition, which will necessitate not only a range of new social programmes but also action to address years of infrastructure decay.

According to a recent report by HEDA, which corroborates an earlier finding in 2018 by the Thabo Mbeki report, Nigeria alone accounts for about 30% of over \$50 billion in illicit financial flows out of Africa annually.<sup>11</sup> Nigeria is estimated to be losing between \$15 billion to \$18 billion in monies that are being stolen either through corruption or tax evasion by multinational corporations alone.

These monies have mostly found safe havens in the UK and other Northern countries, thus depriving Nigeria of the resources required to cope with climate change and invest in a fossil fuel-free future.

In this context, the Integrated Review's commitment to strengthening the UK's sanctions and asset freezing regime is to be welcomed. Since 2016, HEDA has produced an annual compendium of the top 100 high profile corruption cases in Nigeria<sup>12</sup> and we would urge the UK to consider those identified for sanctions.

HEDA also welcomes the commitment in the Integrated Review to increasing the number of trained financial investigators within the UK police; overhauling the Suspicious Activity Reports regime; bolstering the National Economic Crime Centre (NECC); and introducing legislation that tackles economic crime, including the use of UK corporate structures in facilitating high-end money laundering.

These reforms are long overdue. HEDA would also encourage the UK to strengthen the due diligence procedures of its Development Finance Institution, CDC Group, which has invested in at least one company identified by the UK police as a money laundering front for James Ibori,<sup>13</sup> the former governor of Delta State who was convicted in the UK for money laundering.<sup>14</sup>

The intended overhaul of the UK's financial crimes regime largely involves action at the domestic UK level. However, the Foreign, Commonwealth and Development Office (FCDO) also has a major role to play in improving implementation of the UK's anti-money laundering policies, not least by assisting Nigeria and other victim countries in the recovery of stolen funds. The FCDO should also be seen to stand up for anti-corruption campaigners when they are threatened.

Specifically, HEDA would recommend that:

- **The UK supports - financially, technically and institutionally – greater information sharing and collaboration between the UK National Crime Agency and the Nigerian Economic and**

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<sup>11</sup> See, for example: Gbenga Odutun, Fixing Nigeria's Illicit Financial Flows: A critical review of UK and UAE Policies, Laws and Practices", Kent University Law School/HEDA, 2021. <https://hedang.org/wp-content/uploads/2021/03/NIGERIA-COMPONENT-OF-THE-THREE-COUNTRY-REPORT.pdf>

<sup>12</sup> <https://hedang.org/wp-content/uploads/2020/12/2020-Compendium.pdf>

<sup>13</sup> <https://www.reuters.com/article/britain-nigeria-ibori-idUSL5N0HE2PA20130918>

<sup>14</sup> <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/international-development-committee/dfids-programme-in-nigeria/written/28121.pdf>

**Financial Crimes Commission in order to identify, freeze and return stolen Nigerian assets that have been hidden in the UK.** Such collaboration should include the secondment of personnel.

- **The FCDO takes a more vigorous approach to defending the UK’s Mutual Legal Assistance regime when its integrity is questioned and in standing up for anti-corruption campaigners when they are threatened.** We would refer the Committee in particular to the failure of the Foreign Secretary to act when one of those charged with corruption relating to the OPL 245 deal falsely claimed that a document furnished to the Italian courts by the UK under an MLA had been forged. The FCDO was asked to confirm the authenticity of the MLA document but never responded to a letter requesting that it do so. HEDA’s chairperson, who was accused of the forgery, was subsequently detained for questioning by the Nigerian police. Should the Committee wish for further details, HEDA will supply them.

## **Action 2: Halting Gas Flaring and Recovering monies due from UK companies**

Nigeria is the seventh biggest emitter of flared gas in the world. According to satellite tracker reports by NOSDRA, gas flaring in Nigeria has released some 95.5 million tonnes of carbon dioxide emissions in the last nine years.<sup>15</sup>

The flared gas, which has been valued at \$6.3 billion, is responsible not only for climate-damaging emissions but also for a range of health impacts – from cancer and lung damage to deformities in children, asthma, bronchitis, pneumoania, neurological and reproductive problems.<sup>16</sup>

Successive Nigerian governments have vowed to end flaring – but the practice continues. Although the oil companies are supposed to pay fines for continued flaring under the law, little of the monies owed have been collected. One estimate, based on NOSDRA data, puts the money owed by the oil companies at \$3.4 billion dollars.<sup>17</sup> We suspect it could be much higher than this.

The Buhari administration has identified stopping gas flaring as one of the 5 key actions necessary to achieve Nigeria’s intended 45% cut in emissions by 2030. The current target for ending gas flaring is 2025. HEDA and other civil society groups are pressing for an immediate halt and for the full force of the law deployed to collect the monies due to the government, including asset seizure.

UK companies are among those who continue to flare and who have not paid annual fines of almost \$1billion in the last 5 years due to the Nigerian State.

In line with the Integrated Review’s commitment to combatting climate change and financial crime (the non-payment of fines is often enabled through corruption) HEDA urges the UK (and the FCDO in particular) to:

- **Work closely with Nigeria in identifying non-compliant UK companies and in recovering unpaid fines, including through court proceedings in the UK.**
- **Assist in identifying UK technical expertise that would assist Nigeria in moving away from gas.** Although the flared gas could be used to generate electricity, such a policy would

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<sup>15</sup> <https://nosdra.gasflaretracker.ng/gasflaretracker.html> | <https://www.premiumtimesng.com/news/headlines/458507-analysis-as-nigeria-continues-to-miss-gas-flaring-deadlines-huge-revenue-is-lost.html>

<sup>16</sup> <https://www.premiumtimesng.com/news/headlines/458507-analysis-as-nigeria-continues-to-miss-gas-flaring-deadlines-huge-revenue-is-lost.html>

<sup>17</sup> HEDA, Petition to Petroleum and Finance Ministers on Gas Flaring, January 2021.

perpetuate, not reduce, greenhouse gas emissions. Nigerian civil society groups are therefore pressing that the funds due to the government from fines should be used to finance community off-grid solar and other renewable alternatives.

### **ACTION 3: Keep the OPL 245 oil in the ground**

As previously mentioned, the 2011 licence awarded to Eni and Shell for the OPL 245 offshore oil field has now expired, due to President Buhari commendable principled stand that related corruption trials should be concluded before any discussion with the companies could be contemplated on awarding them an Oil Mining License.

It would, of course, be open to Nigeria to re-license the field. However, oil prices have declined considerably since 2011 and it is questionable whether there would be oil companies willing to tender on terms that would be beneficial to Nigeria. Rystad, the Norwegian-based energy consultancy, has reportedly identified OPL 245 as one of 13 major African oil and gas projects that may no longer be viable at current oil prices.<sup>18</sup> Whilst it may be a fools-game to project long-term oil prices, wild short-term price fluctuations and a long-term decline are highly likely scenarios. It is therefore becoming increasingly difficult to see how expensive-to-develop oil projects, such as OPL 245, can remain economically viable going forward. Indeed, in 2020, Shell wrote down its OPL 245 investment.<sup>19</sup> Although Eni still hopes to exploit the field, it appears clear from an international arbitration case it has launched against Nigeria,<sup>20</sup> that it will only do so on the terms agreed in 2011, which were highly disadvantageous to Nigeria.<sup>21</sup> The prospects for Nigeria benefitting economically from the field are therefore slim.

An alternative exists that would secure Nigeria an income consistent with a re-licencing under current production sharing terms, whilst also delivering major benefits for climate. The model comes from the agreement being negotiated by the USA with Brazil under which Brazil would be paid \$1 billion a month to cut forest clearance in the Amazon by 30-40% in the interests of the world's climate.<sup>22</sup> HEDA and other Nigerian civil society groups are pressing for similar arrangement to be agreed at COP 26 whereby an international fund would be established that would pay Nigeria \$15.6 billion over the expected 16 year lifetime of the OPL 245 field to keep the oil and gas in the ground. The plan would appear to be consistent with the Integrated Review's commitments to supporting the most vulnerable worldwide in adapting to climate change and to seeking "ambitious commitments on finance for adaptation and resilience at COP26".<sup>23</sup>

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<sup>18</sup> [https://www.africa-confidential.com/article/id/12984/From\\_great\\_crash\\_to\\_weak\\_bounce](https://www.africa-confidential.com/article/id/12984/From_great_crash_to_weak_bounce)

<sup>19</sup> <https://www.reuters.com/article/us-shell-nigeria-eni/shell-writes-down-nigerian-licence-at-heart-of-italian-bribery-trial-idUSKCN24V0V5>

<sup>20</sup> <https://icsid.worldbank.org/cases/case-database/case-detail?CaseNo=ARB/20/41>

<sup>21</sup> The 2011 deal was wholly one-sided. Apart from a \$209 million signature bonus, Nigeria received nothing. All the money paid for the license – some \$1.1 billion – went to a former oil minister Mr. Dan Etete who had awarded the bloc to his own company. Moreover, under the terms of the license, Nigeria would not have received a kobo in royalties from the field, depriving the country of an estimated \$6 billion in future revenues – equivalent to twice the country's annual health and education budget, or enough to train six million teachers. See: Global Witness, "Take the Future", <https://www.globalwitness.org/en/campaigns/oil-gas-and-mining/take-the-future/>

<sup>22</sup> <https://www.theguardian.com/environment/2021/apr/11/negotiating-with-your-worst-enemy-biden-in-risky-talks-to-pay-brazil-to-save-amazon>

<sup>23</sup> Integrated Review, p.90.

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/975077/Global\\_Britain\\_in\\_a\\_Competitive\\_Age\\_the\\_Integrated\\_Review\\_of\\_Security\\_Defence\\_Development\\_and\\_Foreign\\_Policy.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/975077/Global_Britain_in_a_Competitive_Age_the_Integrated_Review_of_Security_Defence_Development_and_Foreign_Policy.pdf)

The economic logic of the proposed arrangement is compelling: a guaranteed income for Nigeria as against the uncertainties of a deal reliant on a declining market for oil and gas. The political logic is also hard to contest: the fund could be used to diversify the Nigerian economy away from its toxic dependence on oil and gas multinationals. And the climate logic is overwhelming: indeed, were OPL 245 to be exploited, the emissions from burning its oil could only make it still harder for current and future generations to avoid the deprivations and costs of climate catastrophe. If this proposal were to be viewed in terms of the climate crisis being a matter of “common, but differentiated responsibility,” which are key principles adopted at past UNFCCC meetings, it is self-evident that those wealthy countries of the world, which bear the greatest responsibility for the crisis and which have gained most economically from past greenhouse gas emission, should bear such costs as additional burdens on top of their current efforts to adjust their own economies.

HEDA would urge the Foreign Affairs Committee to support the proposal and to recommend that that UK Government backs the plan.

*June 2021*