



UNEP, Nigeria and Shell

## A fight with high stakes

By Eric Marx

**The battle over oil pollution in Nigeria epitomises the United Nations Environment Programme's ambitions to solve the world's problems with limited resources. But is it stretched too far?**

It is one of the largest and most complex missions ever undertaken by the United Nations Environment Programme. By some estimates, 9bn barrels of oil have spilled into the Niger delta over the past 50 years – an unprecedented and still ongoing poisoning of aquaculture and agricultural lands equal to one Exxon Valdez disaster every year.

Observers say the contamination is largely the result of an old and badly maintained pipeline infrastructure constructed between the 1960s and early 1980s. Accounting for 62% of all production, such pipelines have an estimated lifespan of about 15 years, so have been susceptible to rupturing and leaking since about 1990.

Shell, the biggest operator in Nigeria, would be the prime candidate for the lion's share of any forthcoming remediation, but only if an independent body could come in to objectively map the location, nature and extent of oil contamination in the region.

An agreeable remediation plan could then conceivably follow, said UNEP officials back in October 2009, when after two years of negotiation, a 100-person UN team, led by environmental emergency expert Mike Cowing, set up shop in the regional capital of Port Harcourt.

To date, investigators have collected more than 1,200 samples and established roughly 300 spill sites in the Ongoniland region of the Niger delta, a politically volatile territory whose popular environmental justice movement has faced down government repression going back to the early 1990s.

In a region dominated by suspicion and exclusion, if UNEP personnel can be seen to have built trust among local Ongoni communities, then a

roadmap for broader environmental assessment reporting could conceivably be applied elsewhere in the delta.

But while UNEP has garnered support from the Ongoni community, it has also lost support among some Nigerians and environmental groups who allege that Shell's \$10m funding of the three-year mission will bias the report in the company's favour.

Shell sees things differently, arguing that other parties were also involved in funding UNEP's research. Responding to Ethical Corporation, the company says: "The federal government of Nigeria invited UNEP to carry out the assessment and requested the Shell Petroleum and Development Company joint venture (SPDC) to carry the costs for it. The SPDC-operated joint venture is 55% government-owned and is the lease holder for the relevant area, so it was the logical source of funding. Shell has a 30% interest in the joint venture. The partners all contribute to the funding proportionately to their share – thus Shell contributes 30% and the government 55%. It is a misconception therefore that UNEP's assessment is funded entirely by Shell."

### Fears realised?

However, the locals' fears seemed to be borne out in August when, in a press conference, Mike Cowing attributed 90% of the contamination to oil theft known as "bunkering". UNEP quickly distanced itself from the statement, but the misstep nevertheless reflects the pressures placed upon an intergovernmental organisation which, on the one hand, is charged with coordinating environmental action across the world and on the other reports to

*"It is a scandal that the world keeps on writing stories of tragedy about what's happening in Nigeria – and no action is ever taken"*  
Achim Steiner, UNEP

## UNEP and the Sochi Olympics

Because UNEP is an intergovernmental organisation, governments control the agency and can tell it what to do. Neutral and objective scientific assessment of on-the-ground findings often get watered down, say critics, in a confidence-building process that ultimately lessens UNEP's credibility.

A case in point is the mounting environmental impact of a road and rail link now under construction in **Sochi**, the sleepy beach resort on the Black Sea, home to the **2014 winter Olympic games** but previously not renowned for its skiing. Olympic organisers have had to construct an alpine village for which a new 40km transportation corridor along the Mzymta river threatens monumental ecological disaster.

"The Sochi Olympics are going to be one of the most – if not the most – environmentally damaging games in history," warns Igor Chestin, head of the Russian branch of **WWF**. He highlights a threatened salmon spawning ground, the felling of thousands of endangered floodplain trees, and altered migration routes for animals such as deer and brown bear. "We do not anticipate impact, it is there already," he says.

Chestin credits UNEP with establishing rigorous environmental performance targets and for brokering agreements that brought activist organisations into direct talks with the government. Those talks helped pressure organisers to relocate the Olympic village and the bobsleigh route to less sensitive areas.

But local activists and international organisations such as **WWF** and **Greenpeace** have since walked out of the stakeholder process, saying earlier agreements were breached.

Chestin faults UNEP for being easily **manipulated**. The organisation willingly accepted falsified environmental assessment reports, he says, with the resulting environmental baseline making compensation and remediation virtually impossible.

"First of all, the Olympics are in 2014," responds Achim Steiner, UNEP's executive director, when presented with WWF's criticism. "If our role becomes one of simply articulating things and nothing evolves as a result, then we will also reconsider our role. But at the moment I think the net balance is far more on the side of being promising – to the extent that the games will be more **environmentally sustainable**."

Steiner says UNEP is pressuring the Russian government from **behind the scenes**, and in one sense the agency is going along with a well-worn script that sees NGO groups agitating for media attention and international pressure.

But it's a limiting and ultimately self-defeating approach when disaffected civil society groups view the process as fundamentally flawed.

"Yes, you are an intergovernmental organisation, but the solution to environmental problems involves a lot more than that," says Mark Halle, director of trade and investment at the **International Institute for Sustainable Development**.

Halle, a friend and former colleague of Steiner's, helped devise UNEP's new medium-term strategy report, a guidance document which, among other recommendations, calls for outreach to a broader range of non-governmental groups. "UNEP can take its disadvantage of being isolated and stuck out there in Nairobi ... and turn it into an advantage by playing the game differently from other UN agencies," Halle says.

But UNEP seemingly fumbled the opportunity in Sochi when in its fact-finding missions it sent a lone low-level employee who skirted NGO requests for more rigorous engagement.

"You know what a Potemkin village is?" asks Dr Piotr Gorbunenko of WWF Russia, referring to fake settlements erected to impress Catherine II in the 18th century. "It is exactly what goes on every time there is a UNEP mission."

member governments whose voluntary contributions comprise the agency's paltry \$200m annual budget.

"We have an environmental organisation whose mandate is to be the environmental conscience of the world," says Dr Maria Ivanova, director of the Global Environmental Governance Project and an academic at the University of Massachusetts. "At the same time we're not seeing the kind of push or criticism that one might expect ... in the face of glaring environmental problems."

Observers say member governments are increasingly requesting UNEP involvement in



UNEP's Steiner is prepared to stick his neck out

capacity-building projects for which the agency lacks adequate human and financial resources. It creates a potential for bias that risks not only the credibility of the Nigerian mission, but also the effectiveness of the UN agency to act in furtherance of its overall mission.

And, say critics of the Nigerian mission, it legitimately raises the question: is UNEP for sale?

### Responsibilities and risks

It's a misguided and uninformed charge, says Achim Steiner, UNEP's executive director, speaking to Ethical Corporation from the agency's headquarters in Nairobi. "Yes, I take responsibility for taking a calculated risk," Steiner says, "because I think it is a scandal that the world keeps on writing stories of tragedy about what's happening there – and no action is ever taken."

The risk, according to Steiner, is stepping into "a very contested arena", a decision he says he took with great trepidation but with sufficient due diligence to ensure the agency's continued objectivity. Steiner points out that the UNEP team does not report to Shell, but to the presidential implementation committee headed by Father Mathew Kukah, a respected Nigerian figure who is also chairman of the Ogoni-Shell Reconciliation Commission.

But Kukah's neutrality has been questioned by the head of the Movement for the Survival of the Ogoni People (Mosop), a campaigning organisation that claims to represent the majority of Ogoni residents. Mosop has withdrawn its support, citing the Cowing press conference as limiting Shell liability to 10% of oil pollution in Ongoniland. Mosop has also objected to the use of Shell employees "to anchor the project in Ongoniland", as well as poor community consultation in UNEP activities.

"It was an unfortunate [mis]understanding ...

attributed to us as if it was an outcome of our study, which it wasn't," Steiner says.

It is the report, due to be released in early 2011, that will bear out the value of UNEP involvement, Steiner insists. He is seemingly undeterred by criticism that he says misunderstands UNEP's essential mandate as an advisory body with on-the-ground technical expertise that serves to facilitate collaborative action.

"Our role is to document the footprint of 50 years of oil exploration in Ongoniland ... and how it can be cleaned up," Steiner says. "We don't have the mandate – and nor is it the mandate I sought – to engage in legal liability attribution."

Contradictions in the global journey towards environmental sustainability are inevitable, Steiner adds, but they shouldn't sideline the UNEP to an ivory tower of indifference.

"That cannot be the objective of having a United Nations Environment Programme."

#### A changing UNEP

Beginning with Kosovo in 1999, UNEP has conducted roughly 25 post-conflict mitigation assessments. Some report findings have been controversial, as in those surrounding the Jiyeh oil spill in Lebanon, the links between water and conflict in Sudan, and toxicity issues in the Israeli-occupied Palestinian territories.

In each instance, observers say UNEP used its technical expertise and depoliticised position as a means to enter very difficult circumstances, but at the risk of reducing the scope of potential ownership in the results.

"The technical rational discourse of modern science will be inaccessible to a wide swathe of the population – what experts take as fact may be contested or seen as politicised," warns Ken Conca, a member of UNEP's expert working group on environment, conflict and peace building.

Writing in *Global Governance Journal*, Conca makes the case for a wider process of stakeholder engagement, citing the successful Sudan assessment in which UNEP identified local partners for follow-up work, and engaged the separate governing entities in the north and south of Sudan in bridge-building dialogue.

In Nigeria, this strategy led UNEP to engage stakeholders such as the state government of Rivers Province, which has received UNEP warmly but has scant resources in the way of databases and institutions, says Mark Halle. He is an adviser to UNEP and director of trade and investment at the International Institute for Sustainable Development.

"The Nigeria situation is probably the single most complex situation they've ever taken on," says Halle, who believes UNEP has acted recklessly at times but finds the Shell financing arrangement to be in alignment with the principle that the polluter pays.



Creaking infrastructure in the Niger delta

Others say UNEP was forced into a compromising position by the Nigerian government, though officially the agency was invited in through the joint venture arrangement with the Shell Petroleum Development Company of Nigeria, which, as Shell points out, is 55% government controlled. Speaking to *Ethical Corporation*, Shell is keen to highlight other parties involved: "The other holdings are Total 10% and AGIP 5%" with Shell having the remaining 30%.

At a cost of \$100m, this is the most expensive assessment UNEP has ever performed. Since its inception, UNEP's hallmark has been a reputation for providing high quality, impartial science in furtherance of policy development. However, traditionally the organisation did not perform monitoring and surveillance of its own, says Maria Ivanova. Rather, it collected, analysed, and integrated data from UN agencies and other organisations in order to synthesise broad environmental assessments.

That changed in 1999 with the first operational assessment in Kosovo, and a subsequent Bali strategic plan codifying this more aggressive role.

The problem, Ivanova says, is UNEP's minuscule annual budget in comparison with the ultimate task with which the organisation is charged. It lacks both sufficient financing and staffing, and yet that's seemingly been of little deterrence to Achim Steiner's high-stakes vision for a more active, catalysing UN agency.

"I have the opportunity to lead UNEP not simply as a preacher," Steiner says, "but as a very practical supporter for people who want to make things better."

"I can assure you this report will get the world's attention," he adds. "For the first time we can actually begin to build a plan for remediation." ■

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