OGONI CLEAN UP:
When will clean up start & when will the first drop of oil be cleaned up?
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By Mike Karikpo and Godwin Uyi Ojo
This is to acknowledge the relentless support of our allies, communities and partners to ensure that the 2011 UNEP Report recommendations on the cleanup of Ogoniland is implemented. Special thanks goes to JET Programme for their support through the GreenLivelihood Alliance of the DGIS, Netherlands.
INTRODUCTION

The federal government recently announced new date for the commencement of the much awaited Ogoni clean up to be August 2018 took many by surprise as the clean up was planned to have commenced since 2016. In spite of national and international civil society groups, Ogoni communities and other concerned stakeholders continuous mounting pressure for the implementation of the recommendations of the UNEP report on the assessment and clean up of Ogoni virtually very little has been achieved since 2011. ERA led coalition of CSOs and partners at the local, national and international levels continue to monitor the process and has made several representation on the subject with minimal success.

This policy brief catalogues the effort made so far as little or no progress to renewing the urgent call that clean up commence immediately. It is our conclusion that the government is not sincere with the Ogoni people and not serious in the implementation of the clean up that will take about 30 years to complete. *

This is another wake up call for the government and the Shell led HYPREP to commence immediate clean up. The question remains, when will the first drop of oil be cleaned up?

Decades of neglect, years of waiting
It's time to clean up Ogoniland's oil pollution

2 June 2018

"Seven years is too long for any people to have to wait for their air, land and water to be free from toxic oil pollution. After decades of suffering it's time the people of Ogoniland to live free of the oil industry's negligence. It's time to implement the clean-up now", said, Godwin Uyi Ojo, Executive Director, Environmental Rights Action/Friends of the Earth Nigeria.

Today, Nigerian and international civil society organisations repeated their call for the immediate start of the long overdue clean-up of oil pollution in Ogoniland in Nigeria’s Niger Delta. This should be undertaken in line with recommendations made by the United Nations Environment Programme (UNEP) in its landmark 2011 study of the region. The conclusion of the UNEP report was that Shell had, for years, not cleaned up oil pollution properly. As a result of the oil industry pollution, hundreds of thousands of children, men and women have been exposed to a sustained assault on their human rights to food, water, health and work.

Shockingly, despite UNEP’s 2011 recommendations, communities affected by decades of oil spills continue to live amongst severe contamination. The Nigerian Government officially launched a clean-up programme in Ogoniland two years ago; however, communities are still waiting for emergency measures to be taken and clean-up to begin. The emergency measures identified by UNEP warranted immediate action on drinking water and health protection.

The Nigerian Government has taken administrative steps such as putting in place the governing structures required for carrying out activities on the clean-up project and has appointed a coordinator to lead the Hydrocarbon Pollution Remediaion Project (HYPREP), the implementation agency. The government also advertised for contractors to deliver projects that would ensure the clean-up and remediation of oil impacted sites in Ogoniland and of the widespread contamination of Ogale’s groundwater, water sources and drinking water. But seven years after publication of UNEP's report, very little meaningful progress has been made to improve the situation on the ground, either by the Nigerian Government or by Shell, the main operating company, in the area. Particular concerns include:

1. **Failure to establish a billion-dollar fund**

   UNEP called for an initial billion dollar fund to begin the clean-up which may take up to 25 to 30 years. Despite the promises of the Nigerian Government, Shell and the other oil companies, this has yet to be delivered. HYPREP has set up the 'Ogoni Trust Fund Account' so there is no reason to delay the transfer of the money any further. In addition, the companies appear to be trying to cap their contribution to this initial billion. The government needs to pressure Shell and the other oil companies to commit to fund the full clean-up of Ogoniland.

2. **Failure to deliver emergency action**

   UNEP called for emergency action to ensure communities have access to clean drinking water. Action in the community of Ogale has been included as a separate emergency measure, as the Ogale people have been consuming water with benzene over 900 times the WHO guideline. Seven years later communities are still waiting for clean and safe drinking water supplies. The Nigerian Government and the oil companies must now immediately ensure sustainable access to clean water and address the situation in Ogale with full urgency.
3. Inadequate health assessment
UNEP recommended a comprehensive medical examination of everyone who has consumed contaminated water by physicians knowledgeable about the possible adverse health effects of hydrocarbons. The recent health outreach programme in the region, while welcome, is far too limited in scope and does not make mention of including these health experts. It is unclear what is done with the additional recommendation to track the health of the Ogoni community over their lifetimes and to ensure swift action if health impacts are identified.

4. Failure to require companies to step-up and properly clean-up
With the continued use by the oil companies of the discredited RENA method of clean-up we are concerned that the people of Ogoniland will be left with oil pollution even after any clean up. The clean-up must be carried out to the highest international standards and be overseen by credible, independent international experts with no conflict of interest.

We call on the Nigerian Government to take immediate action.

HYPREP announced that they would begin the clean-up with 26 polluted sites in August this year. As several announcements have been made in the past, it is only when works begin that we will be confident that clean-up has begun.
It is also crucial that HYPREP involves all relevant stakeholders in the steps they take and guarantee a flow of up to date information to the public published on a dedicated website. The work plan and other key documents should be made public so that stakeholders can assess all the planned activities, progress, milestones, effectiveness, efficiency and successes. The justification for and selection of sites for clean-up should also be transparent. Full transparency will be vital for the confidence of all stakeholders in the process.
After decades of living with oil pollution, ceremonies are not enough. It’s time for clean-up.
HIGHLIGHTS OF THE UNEP RECOMMENDATIONS

- UNEP recommended that a total of 76 actions be implemented by the federal government, Shell Petroleum Development Company-operated joint venture and the Ogoni Community. While the federal government had 50 actions to implement; Shell and its partners – NNPC, Total and Agip were required to implement 22 actions.
- The federal government was among other things, required to establish the Ogoni environmental restoration authority; establish clean-up fund; coordinate multi-stakeholders efforts; carry out emergency measures to reduce community exposure and initiate institutional and regulatory reforms.
- Shell was required to review its procedures for clean-up and remediation. Shell was also to develop asset integrity management and decommissioning plans for Ogoniland as well as contribute to an Ogoni clean-up fund established by government, among others.
- Shell was further required to revise its remediation Management System which did not address the issues observed in its assessment.
- Ensure that all drinking water wells where hydrocarbons were detected are marked and that people are informed of the danger.
  - Provide adequate sources of drinking water to communities whose drinking water supply is impacted.
  - People in Nsisioken, Ogale who have been consuming water with benzene over 900 times W.H.O guidelines are recorded on a medical registry and their health status assessed and followed up.
  - Initiate a survey of all drinking water wells around those wells where hydrocarbons were observed and arrange measures 1-3 as appropriate based on results.
- Post signs around all the sites identified as having contamination exceeding intervention values, warning the communities NOT TO WALK THROUGH or engage in any activities at these sites.
- Post signs in areas where hydrocarbons were observed on surface water warning people not to fish,
swim or bath in these areas.
• Inform all communities whose rainwater samples tested positive for hydrocarbons and advise them not to consume the water
• Mount a public awareness campaign to warn individuals against artisanal refining.

ACTUAL STATUS OF THE PROJECT
• The current trajectory of the present HYPREP is cause for serious concern. It has been bogged down by a clear unwillingness on the part of the Nigerian government to demonstrate the required political will and commitment to the process. Apart from the curious bureaucratic delays, several key sectors of the fast-tracked clean-up appear to have been deliberately ignored by government, Shell and other stakeholders.
• The appointment of the governing council and the board of trustees of HYPREP 2 took nearly 10 months.
• The setting up of the Ogoni environmental restoration fund by the BoT was finally accomplished in Dec 2016. A full 17 months after the president ordered a FAST TRACKING of the clean up process.

ACTUAL STATUS OF THE OGORI CLEAN-UP PROJECT
• For the Honourable minister of state for environment the issues are quite clear “the government is not in a hurry to fail”. Government will take its time to plan and ensure that when the project finally takes off, it will run smoothly with little or no hiccups.
• But planning meetings have been held with a wide range of stakeholders including vital agencies in the U.N system, the NDDC, ministry of Niger Delta affairs etc.
• We are absolutely disappointed. We feel our people have been deceived and they have used us to play dangerous politics as far as we are concerned”
• It took the threat of a mass protest by Ogoni people in Abuja to get government to act.
• It is quite extraordinary that it has taken the Nigerian government and Shell this long to get the program up and running even after detailed work plans had been agreed on via processes that included international stakeholders.
• The structures viz the governing council, the Board of Trustees and the project coordination team has been set up.
• The Ogoni environmental restoration fund has been incorporated and has its own bank account.
• The project management team is being staffed albeit at a ponderous pace.
• $10 million USD start up fund for the project coordination team has been contributed.
• A new work plan which has not been made public has been announced.
• Field testing of technologies is ongoing as well as HYPREP engaging with relevant stakeholders and adverts have been put out for consultants on water and health intervention.
ANY PROGRESS?

- It would appear that there has been some progress and we should all be patient and exercise restraint by not talking loudly about this process.
- But it took nearly two years to get to this point and six years since the report was first submitted to government. Compared with the speed with which the gulf of Mexico spill was dealt with can we say we have made progress.
- When will the people of the Ogoni get the justice they so richly deserve, when will the first oil be cleaned in Ogoniland?
- When will the 8 emergency items be fully implemented. True there has been signs posted to warn people about the dangers of contaminated sites but who has provided them with alternative farmlands, walk ways and fishing grounds.
- We picked out 27 low hanging fruits recommendations from the UNEP report and went to the field to assess their level of implementation and our finding was that none has been fully implemented.
FUNDING THE CLEAN-UP PROCESS

- It was agreed during negotiations that HYPREP should have at least $200 million USD per year.
- Would the federal government’s contribution be in the annual budget estimates or somewhere else?
- The confusion about how much is available to HYPREP.
- What has happened to the $10 million USD contributed to the Ogoni clean-up fund?
- How can CSOs ensure transparency and accountability - live website with full contracting information, availability of work plan and budget?

PROSPECTS OF THE CLEAN UP OF OGNONI

- The HYPREP structure is excellent, creates room for transparency and accountability.
- Has international support especially from U.N agencies especially UNITAR, UNEP, UNDP etc.
- There has been a very welcomed attempt at integrating other intervention agencies such as the NDDC, Niger Delta ministry into the structure.
- Government and oil companies do not overly dominate the structure and importantly there are respected civil society representatives on the BoT and the governing council.
- Very critical template for the clean-up of the entire Niger Delta region.
CHALLENGES

- Uncertain political commitment to follow through with the process.
- The position of Shell on the governing council and the BoT.
- Funding constraints.
- The side-lining of international bodies such as the UNEP in the actual implementation.
- The unwillingness of the Government intervention-minister.

WAY FORWARD

Government should demonstrate sincerity and show some level of seriousness to actualize the clean up of the Ogoni. The damage already done by shifting clean up deadlines is horrendous to building trust and incalculable to the culmulative damage to environment. It is unthinkable that the clean up process will continue to be a smokescreen.
ANNEX:
MILESTONES FOR THE HYDROCARBON POLLUTION REMEDIATION PROJECT, ANY PROGRESS?

August 5, 2015
- Fresh from his electoral conquest, President Mohammed Buhari as part of his first policy pronouncement issued a directive for fast-tracking the United Nations Environment Program (UNEP) recommendations on the clean up of Ogoniland.
- He directed that the Hydrocarbon Pollution Remediaon Project (HYPREP) be set up, the amendment of the official gazette establishing HYPREP and also approved a new governance framework for HYPREP comprising a governing council, the Board of Trustees and the Project management team of HYPREP.

June 2, 2016
- After nearly one year of relative inaction, Vice President Yemi Osibanjo conducted the ceremonial flag off of the clean up process at Tekuru waterfront, in Bodo town Ogoni.

August 2017.
- HYPREP now has some international support especially from U.N agencies especially UNITAR, UNEP, UNDP, and attempting to integrating other intervention agencies such as the NDDC, Niger Delta ministry into the HYPREP structure.

ERA has campaigned that HYPREP and the federal government accept other specialist agencies like UNEP to play active role in the clean up and remediation process.

August 7, 2016
- The ceremonial flag off ceremony for the commencement of clean up activities in June 2016 took place against the incongruous backdrop that the governance structures required to drive the clean up process were yet to be constituted even though stakeholders had sent in names of nominees for the different bodies.
- After much pressure, a 13 member governing council chaired by the minister of Environment was inaugurated by the president. Other members are minister of national planning, Udo Udoma, minister for Niger Delta, Pastor Usani Usani, minister of state Petroleum, Dr Ibe Kachikwu, national security adviser, Babagana Mongunu, managing director NDDC, Nsima Ekere, managing director Shell Petroleum Developmnt Company Osagie Okunbor, President Movement for the survival of Ogoni People, Legbprsi Pyagbara, Prof Ben Naanen and Rivers State representative and commissioner for environment Prof Mrs Roselyn Koinya and CSO representative Anyakwee Nsirimovu
The 10 member Board of Trustees chaired by Chief Wale Edun was similarly inaugurated by the president. Members included minister of finance Kemi Adeosun, representatives of international oil companies-managing directors of Shell, Agip and TotalFina-Elf, CSO and Ogoni communities representatives.

Members of the governing council and Board of Trustees will serve for an initial period of four years.

Shell, compromising the clean up process? Government and oil companies especially Shell dominate the structure of HYPREP hence the urgent call for Shell to withdraw from both oversight agencies. The national assembly following calls from ERA plans to investigate the involvement of Shell in HyPREP so as to avoid compromising the clean up process.

December 2016

- The Board of Trustee commenced the setting up of the Ogoni environmental restoration fund account. $10 million usd provided by Shell was paid into this account.

January 14, 2017

- It would taken another five months aer the inauguraon of both the governing council and the Board of Trustees before the project coordinator Dr Marvin Deekii was appointed to oversee the day to day running of the clean up project.

How much is in the coffers, and how much has been disbursed so far, and for what?

May 16, 2017

- The HYPREP management team having been constituted set to work drawing up a one year workplan for the Ogoni clean up process. This plan was submitted to the governing council for approval. However there were conflicting reports as to whether the workplan submitted by HYPREP management was approved by the council. Dr Ben Naanen a member of the governing council informed Ogoni community later that some inconsistencies were identified in the workplan and the HYPREP management had been requested to resolve these inconsistencies.

- In the absence of an approved workplan and with $10 million USD start up fund provided by Shell HYPREP sort to fill the seemingly interminable lull by embarking on health outreach to some selected Ogoni communities.

- HYPREP also commenced a process of field tesng clean up technologies and processes from contractors interested in undertaking the clean up of Ogoniland. There appeared to be no clear process for vetting the technologies and processes to ensure that they did not further exacerbate the already critical situation of the environment in their allotted area of demonstration.
September 2017
· Following persistent ERA led coalition demands UNEP was requested by the HYPREP governing council to submit a proposal on providing technical support to HYPREP management especially in areas of contracting and project management. This would seem to be as a result of the inconsistencies noticed in first workplan drawn up by HYPREP management

December 2017
· Senate committee on environment led by its chairperson Senator Oluremi Tinubu visited impacted oil devastated sites in Ogoni to draw attention to the slow pace of implementation of the project and to pledge that the committee will ensure that there is adequate provision in the 2018 budget to fund government’s contribution to the clean up process.

But the federal government budget provision for the clean up for 2018 was a paltry N20 million and this has angered the Ogoni communities and showing lack of seriousness.

April 2018
· HYPREP had advertised both in the local and international media for contractors and service suppliers to submit bids for the Ogoni clean up process. At the close of the bid submission process nearly 400 contractors had submitted bids for different aspects of the clean up process.

May 2018
· The Board of Trustees and other stakeholders met in the office of the vice president Prof Yemi Osibanjo, where they signed an agreement to open an escrow account with Standard Chartered Bank, U.K. It is into this account that all the contributions by stakeholders will be warehoused and disbursed.
· The Board of Trustees also retained the services of investment advisors and technical advisers who will help them understand the technical requirements to which funds would be approved.

June 2018
· By June 2018 the number of bids and quotes received from contractors had been pruned down. Only 140 contractors were prequalified for the next phase of the process.
· The minister of environment had claimed that by the beginning of August 2018 all of the processes relating to contracting, procurement and funding would have been completed and actual clean up will commence.

But August is here with us and there is neither announcement of the contractors selected nor has any clean up of Ogoni commenced.
However, Dr Edobor Iyamu, a special assistant to the vice president set another actual commencement of the clean up exercise. At a meeting in Abuja in July 2018 he disclosed that 183 companies had been prequalified after the first stage of bid evaluation and that these company will now have their quotes and bids undergo technical evaluation. By his estimation actual clean up exercise will commence sometime in December 2018.

Another, government official, Dr Ibe Kachikwu, the minister of state for Petroleum has set the resumption of oil production as a condition precedent to the implementation of the clean up proper.

This is betrayal of process and short changing the Ogoni people and this leaves a sour taste in the mouth.

The question remains, when will the clean up of Ogoni commenced and the first drop be cleaned?

MILESTONES OR DRAWBACKS?

- It is quite extraordinary that it has taken the Nigerian government and Shell this long to get the program up running even after detailed work plans had been agreed on via processes that included international stakeholders.

- It has taken more than two years after the formal launch to get to this point and seven years since the report was first submitted to government. Compared with the speed with which the gulf of Mexico spill was dealt with can we say we have made progress?

- Despite all of these, the recent reports that Dr Ibe Kachikwu, the minister of state Petroleum has set the resumption of oil production as a condition precedent to the implementation of the clean up proper leaves a sour taste in the mouth.

- It is heart warming that Ogonis and the CSOs focusing on the clean up continue to mount pressure stoutly against this attempt by Dr Kachikwu to truncate the clean up process.

- When will the people of the Ogoni get the justice they so richly deserve, when will the first oil be cleaned in Ogoniland?
Environmental Rights Action/ Friends of the Earth Nigeria is a Nigerian advocacy group dedicated to the non-violent defense of the human ecosystem in terms of human rights. It was founded in January 1993. ERA/FoEN is the Nigerian Chapter of Friends of the Earth International. ERA/FoEN. ERA is the host of Oilwatch Nigeria and also a member of the Network of Accountability of Tobacco (NATT), the Framework Convention Alliance (FCA) and Africa Tobacco Control Regional Initiative (ATCRI)

The Organization’s committed struggles for environmental human rights has won it recognition through awards such as the SOPHIE PRIZE (1998) for excellence and courage in the struggle for environmental justice, the BLOOMBERG AWARD for Tobacco control activism (2009) and the Ford Foundation Jubilee Transparency Awards (2011)

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