

Mandates of the Working Group on the issue of human rights and transnational corporations and other business enterprises; the Special Rapporteur on the promotion and protection of human rights in the context of climate change; the Special Rapporteur on the human right to a clean, healthy and sustainable environment; the Special Rapporteur on the right to food; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Working Group on the rights of peasants and other people working in rural areas and the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes

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(Please use this reference in your reply)

2 July 2025

Excellency,

We have the honour to address you in our capacities as Working Group on the issue of human rights and transnational corporations and other business enterprises; Special Rapporteur on the promotion and protection of human rights in the context of climate change; Special Rapporteur on the human right to a clean, healthy and sustainable environment; Special Rapporteur on the right to food; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Working Group on the rights of peasants and other people working in rural areas and Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes, pursuant to Human Rights Council resolutions 53/3, 57/31, 55/2, 58/10, 51/21, 54/9 and 54/10.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **divestments by Shell Plc (previously headquartered in the Netherlands as Royal Dutch Shell and currently headquartered in the United Kingdom of Great Britain and Northern Ireland), Eni S.p.A. (headquartered in Italy), TotalEnergies SE (headquartered in France) and ExxonMobil Corporation (headquartered in the United States of America) from their Nigerian subsidiaries' (Shell Petroleum Development Company, Nigerian Agip Oil Company, TotalEnergies E&P Nigeria Limited, and Mobil Producing Nigeria Unlimited, respectively) onshore operations without effectively cleaning up the pollution for which they are responsible, affecting a range of human rights.**

According to the information received:

The pollution of the Niger Delta by the oil companies Shell Plc (previously headquartered in the Netherlands as Royal Dutch Shell and since 2022 headquartered in the United Kingdom of Great Britain and Northern Ireland as Shell Plc), Eni S.p.A. (headquartered in Italy), TotalEnergies SE (headquartered in France) and ExxonMobil Corporation (headquartered in the United States of America) through their Nigerian subsidiaries (Shell Petroleum Development Company, Nigerian Agip Oil Company, TotalEnergies E&P Nigeria Limited, and Mobil Producing Nigeria Unlimited, respectively), continues to pose an immediate and continuing threat to the human rights of communities in the nine Niger Delta states, most notably in the Akwa Ibom, Bayelsa, Delta, and Rivers

states. The divestment by these companies from their subsidiaries in Nigeria without proper accountability now threatens to hinder proper remediation of the damages caused by their operations and limit access to effective remedy for these abuses, including clean-up of the environment and provision of adequate compensation to those harmed.

Role of subsidiaries

The subsidiaries' operations in Nigeria have caused widespread environmental damage for decades, threatening the right to life, the right to a clean, healthy and sustainable environment, the right to the highest attainable standard of health, the right to safe drinking water, the right to an adequate standard of living, the right to food, the right to housing, cultural rights, the right to access to information and the right to access to remedy.

Shell's former subsidiary, Shell Petroleum Development Company (SPDC, now divested), is reportedly by far the biggest polluter in the Niger Delta. A 2018 analysis by civil society of Shell's disclosed oil spill data revealed that, between 2011 and 2017, some 110,535 barrels or 17.5 million litres of oil leaked from pipelines operated by SPDC. The analysis also cautioned that the figure is likely to be higher due to the failure of SPDC to report 359 additional spills recorded by the Nigerian Government during the 2011-2017 period and inaccuracies in how the volume of oil spills is calculated and recorded.

Eni S.p.A., through its former subsidiary Nigerian Agip Oil Company (NAOC, now divested), has also caused major pollution. The Bayelsa State Oil and Environmental Commission (Bayelsa Commission) records that, between 2014 and 2017, 262 spills were reported down the 92 km length of the Tebidaba-Brass pipeline in Bayelsa which the company operated until August 2024 – this despite NAOC being warned by the regulators to improve surveillance on the pipeline on no less than 162 separate occasions before action was taken. As of 2023, the Bayelsa Commission recorded that a majority of the polluted sites are yet to be remediated, and even where remediation is undertaken, it rarely meets accepted international standards. For decades, NAOC continuously discharged toxic wastewater into open pits and flared associated gas near communities at flow stations in Akala-Olu (Oshie), in Rivers state, and Kwale, in Delta state. These discharges, containing hydrocarbons, heavy metals, and hazardous chemicals, have devastated ecosystems, contaminated water sources, and destroyed livelihoods. Spills from NAOC's overaged Ogoda-Brass Pipeline have caused fires that killed community members and burned farmlands. In January 2024, a fire caused by a leaking NAOC gas pipeline forced residents to flee their homes and destroyed vast stretches of farmland. There was no provision of alternative housing and no resettlement for loss of housing. The pollution from NAOC's historic oil extraction is not restricted to the immediate areas of exploitation or oil transportation. The Brass Canal, built by Eni S.p.A. and NAOC to discharge produce water, oily sludge and other effluents from the Brass terminal (operated until 2024 by NAOC), is now heavily contaminated as the result of the build-up of hydrocarbon substances over the last 40 years.

Coastline communities in Akwa Ibom state have also been severally impacted by frequent oil spills by ExxonMobil's subsidiary, Mobil Producing Nigeria Unlimited (MPNU, now divested). Some of the incidents include oil spills in May and June 2010 and in November 2012, which impacted a wide stretch of coastline communities. In 2016, MPNU recorded three major oil spill incidents from their facility in Ibeno (Akwa Ibom state).

TotalEnergies E&P Nigeria Limited's (now divested) operations in Rivers state, under Oil Mining Lease 58, encompassing the Obagi oil field and the Ibewa gas and condensate field, also represent a shocking legacy of corporate recklessness in the country and environmental destruction. In Obagi, TotalEnergies has knowingly and continuously subjected the community to severe hazards, including the constant uncontrolled discharge of toxic wastewater and associated gas into open flare pits near residential areas for decades. From the 1980s, TotalEnergies escalated its environmental harm by using burners to evaporate toxic liquid waste in the flare pits at the Obagi flow station, releasing hazardous compounds (benzene, toluene, ethylbenzene, and xylene – all carcinogenic chemicals) into the atmosphere, causing acid rain that corroded roofs, poisoned water and soil, and inflicted lasting harm on the health and livelihoods of the local population. In 2012, TotalEnergies' gross negligence during a drilling operation caused a catastrophic gas blowout when a well drill collided with a live gas well. For over a month, uncontrolled gas emissions poured into the environment, endangering lives, devastating farmlands, and destroying the livelihoods of members of Obagi and other Egi communities, while the company failed to address the damage adequately. In November 2022, TotalEnergies spilled more than 3000 barrels of crude oil into the environment in an incident at their Egina facility. This incident was confirmed by Nigeria's National Oil Spill Detection and Response Agency (NOSDRA) and the Nigerian Maritime Administration and Safety Agency.

Independent researchers estimate that the total volume spilled in the Niger Delta by all oil companies amounted to at least 9-13 million barrels of oil between 1958 and 2010. As the Bayelsa Commission noted in 2023:

“The collated data suggests that every single year for the past 50 years, Nigeria suffered the equivalent of a major oil spill roughly on the scale of the Exxon Valdez disaster, an episode that devastated over a thousand kilometers of the Alaskan coastline and became one of the defining pollution incidents in the history of the oil industry.”

One study by academics suggested that SPDC and NAOC were jointly responsible for 70 per cent of the oil spills in the region during the period 2006-2020. Further, a 2020 civil society report recorded significant greenhouse gas emissions from oil spills, highlighting that, across the Niger Delta, SPDC was the most significant potential contributor of greenhouse gas with 45.3 per cent, followed by NAOC with 17.2 per cent. In fact, Nigeria has the highest amount of associated gas flaring globally. Flaring is likely the primary contributor to greenhouse gas emissions in the Niger Delta. Moreover, due to the inefficiency of numerous flares, methane, which is a greenhouse gas more than 28 times worse for climate change than carbon dioxide, is often emitted instead of carbon

dioxide.

In terms of the right to the highest attainable standard of health, in the Ogoniland region (Rivers state) alone, hundreds of thousands of people have been exposed to serious health risks, according to a 2011 report by the United Nations Environment Programme (UNEP). UNEP examined more than 200 locations, reviewed more than 5,000 medical records and conducted detailed soil contamination investigations at 69 sites, and concluded that the pollution from oil spills “has perhaps gone further and penetrated deeper than many may have previously supposed”.¹ At two-thirds of the contaminated land sites close to examined oil industry facilities, the soil contamination exceeded Nigerian national standards; and at 41 sites, the hydrocarbon pollution had reached the groundwater at levels in excess of the Nigerian standards. At seven wells, the samples were at least 1,000 times higher than the Nigerian drinking water standard. In Ogale (Rivers state), communities were found to be drinking from wells contaminated with benzene, a known carcinogen, at levels exceeding 900 times the World Health Organization guidelines. UNEP concluded that in a significant number of cases, pollution posed serious threats to human health from contaminated drinking water to concerns over the viability and productivity of ecosystems.

In October 2024, civil society researchers found that a communal tap in Ogale (Rivers state), used by many households, supplied water smelling strongly of hydrocarbons – 13 years after the UNEP report first drew attention to the situation. A Government program that was developed after the UNEP report was released and was funded by SPDC to pipe in safe water from outside the community was no longer functioning, community leaders noted.

In Bayelsa state, the Bayelsa Commission reports similarly alarming impacts. Drawing on a health impact study based on the collection and analysis of blood samples taken from over 1,600 people in Bayelsa, the Commission reported that toxins from oil pollution are present at often dangerous levels across the state and have infiltrated the food chain, ending up in the bloodstreams of those tested in affected communities. In some locations, the Commission found that highly toxic oil-related contaminants such as chromium are present in groundwater at over 1,000 times the World Health Organization limit, while in others, concentrations of noxious chemicals, such as Total Petroleum Hydrocarbons, exceed safe levels by a factor of 1 million according to some of the samples taken. Further, research by academics established that infants in the Niger Delta are twice as likely to die in their first month of life if their mothers live near an oil spill, which amounts to an estimated 11,000 premature deaths per year in the region. A recent study of the pollution-affected community of Kegbara Dere, in Ogoniland (Rivers state) by the University of Port Harcourt further found that the community has a higher risk of preterm birth, a slower rate of newborn growth, and a higher rate of newborn morbidity than the non-oil-polluted area at 6 weeks after birth.

¹ <https://wedocs.unep.org/handle/20.500.11822/25282>

Divestment

The impacts of these oil operations in Nigeria have been devastating for the health, livelihoods, way of life, culture, environment, and wellbeing of the local communities. The operating oil companies have a legal obligation under Nigerian law to clean up oil that has spilt from their infrastructure and assets, irrespective of the cause of such spillages. Where damage has been caused, it is also the operating companies' legal responsibility to restore the environment. Establishing a decommissioning and abandonment fund is also a legal requirement under Nigerian law. However, the international oil companies have now divested some or all of their onshore assets in the Niger Delta without fulfilling the obligations mentioned above, including their responsibilities to respect human rights and the environment.

Initially, the Nigerian Government twice refused Shell's application to divest SPDC, in part as a result of concerns over the financial standing of the buyer, Renaissance Africa Energy Company Ltd ("Renaissance"), a consortium comprising ND Western Limited, Aradel Holdings Plc, the Petrolin Group, FIRST Exploration and Petroleum Development Company Limited, and the Waltersmith Group. However, in 2024 the Nigerian Government approved the divestment on terms that have not been made public. The approval has provoked widespread condemnation by civil society groups in Nigeria and internationally. The sale has given the consortium operational control of 15 oil mining leases for petroleum operations onshore and 3 for petroleum operations in shallow water in Nigeria. These leases are operated by SPDC Joint Venture (JV), an unincorporated joint venture comprised of SPDC Ltd (30 per cent), the State-owned Nigerian National Petroleum Company Limited (formerly Nigerian National Petroleum Corporation) (55 per cent), Chappal Energies (10 per cent) and Nigeria Agip Oil Company Ltd (5 per cent).

Once the divestment is completed, the responsibility for cleanup of past environmental pollution, site reclamation and decommissioning passes to the buyer company. There is a real concern that the buyers do not have the financial resources to undertake the necessary pending remedial work or compensate affected communities for the human rights abuses that have resulted from past and ongoing activities. The Bayelsa Commission estimates that clean-up and remediation of Bayelsa state alone would cost approximately 12 billion USD. A significant proportion of that clean-up cost would likely fall to SPDC. In addition, huge investments are required to upgrade the ageing, leaky infrastructure and to safely decommission disused assets. Renaissance has stated that it has a collective asset base of over 3 billion USD. Yet the consortium is reliant on funding from SPDC. Shell has stated that it "will provide secured term loans of up to US\$1.2 billion, to cover a variety of funding requirements".²

The SPDC divestment has provoked considerable concern amongst the communities where the SPDC JV operates. Indeed, environmental and human rights defenders in the Niger Delta have called on the Nigerian Government to immediately place a moratorium on all oil company divestment or sale of assets.

² <https://www.shell.com/news-and-insights/newsroom/news-and-media-releases/2024/shell-agrees-to-sell-nigerian-onshore-subsidiary-spdc.html>

Non-governmental organisations have also highlighted the many uncertainties that the communities now face with respect to the clean-up of legacy spills and obtaining compensation. Workers have also opposed the sale on the basis that the purchasing companies are not suitable owners.

In 2024, the Nigerian Government also approved divestments by Eni S.p.A. of NAOC to Oando Energy Resources Nigeria Limited (Oando); by ExxonMobil to the Nigerian-registered oil company Seplat Energy; and by TotalEnergies to Chappal Energies, domiciled in Mauritius, for the sale of its 10 per cent interest in 15 oil mining leases and two main export terminals in Nigeria, including those that are part of the SPDC JV.

Evidence submitted by Oando to an inquiry by the Nigerian House of Representatives' Joint Committee on Environment, Petroleum Resources Upstream, Petroleum Resources Downstream and Climate Change reveals that the Eni S.p.A. divestment was approved without a fully funded decommissioning and abandonment fund being in place. Based on available information, only a voluntary interim contribution to a fund has been made. However, having a decommissioning and abandonment fund is a legal requirement under Nigerian law. There has also been no consultation with affected communities, despite this also being a legal requirement.

Evidence to the Joint Committee from MPNU, ExxonMobil's subsidiary, has further indicated that an environmental remediation fund has yet to be established by the Nigerian authorities. In the absence of such a fund, there can be no assurances that the environmental pollution caused by oil and gas extraction, whether from past or future spills, will be cleaned up to international standards, let alone sufficient provisions to ensure aged pipelines and other inadequate infrastructure are promptly replaced to prevent further leaks.

Similarly, TotalEnergies' divestment, including from SPDC JV, appears to have been made without provisions to contribute to the clean-up of its legacy of pollution.

The failure of the Nigerian Government to prevent human rights abuses

For decades, Nigeria has failed to fulfil its duty to protect from human rights abuses arising from the operations of international and national oil companies in the Niger Delta. In 2012, the Economic Community of West African States Court of Justice (ECOWAS) unanimously found the Nigerian Government responsible for failing to prevent human rights abuses by oil companies and made it clear that the Government must hold the companies and other perpetrators to account. The Court unanimously found that Nigeria violated articles 21 (on the right to natural wealth and resources) and 24 (on the right to a general satisfactory environment) of the African Charter on Human and Peoples' Rights by failing to protect the Niger Delta and its people from the operations of oil companies that have for many years devastated the region. The right to food of the people of Niger Delta was also violated by destroying their environment, thus destroying their opportunity to earn a living and enjoy a healthy and adequate standard of living. The Court also said that both the

Government and the oil companies violated the human and cultural rights of the people in the region. The Court further ruled that the Government's failure to enact effective laws and establish effective institutions to regulate the activities of the companies coupled with its failure to bring perpetrators of pollution "to book" amount to a breach of Nigeria's international human rights obligations and commitments. Finally, the Court emphasized that the quality of life of people is determined by the quality of the environment, but the Government has failed in its duty to maintain a general satisfactory environment conducive to the development of the Niger Delta region.

However, the ruling of the Court has not been acted upon, even though article 15(4) of the ECOWAS Treaty makes the Judgment of the Court binding on Member States, including Nigeria. Article 19(2) of the 1991 Protocol also provides that the decisions of the Court shall be final and immediately enforceable. Furthermore, non-compliance with the judgment of the Court can be sanctioned under article 24 of the Supplementary Protocol of the ECOWAS Court of Justice, and article 77 of the ECOWAS Treaty.

Weak oversight by NOSDRA and other regulatory bodies in Nigeria has further enabled oil companies to evade compliance with clean-up procedures and standards. In a table setting out the compliance of companies with oil spill regulations in 2022, NOSDRA records that no Joint Investigation Visit (JIV) was recorded for 24 per cent of the 160 oil spills reported by SPDC. According to Nigerian regulation, oil companies, accompanied by Government and community representatives, are supposed to visit each oil spill to assess key information, including the cause, volume of the spill, and area affected in a JIV. A review of the SPDC spills in 2022 that are recorded on NOSDRA's database found that in 40 cases, NOSDRA had no record as to when the leak was stopped: in 11 cases, NOSDRA recorded that there had been no initial containment of the leak; in 20 cases, NOSDRA has no record of whether any initial containment had been undertaken: in 20 cases, a JIV did not occur until after at least a week; and, in 13 cases, the JIV did not take place for a month or more.

Independent research suggests that NOSDRA has signed off on clean-ups even where oil pollution is still widespread. In Bodo, where Shell spillages in 2008 lasted at least 108 days without response, international standards were not applied to the clean-up and high levels of pollutants remain. Post "clean-up" concentrations of total petroleum hydrocarbons exceed the target standards by 850 times.

These problems have been exacerbated by a lack of information. The collection, analysis and publication of information are critical to ensure that human rights are protected in many contexts. Access to adequate information regarding spills and the impact of pollution on human rights is vital to enable individuals and communities to claim, defend, and protect their rights. In the context of the Niger Delta, the failure of both the Government and oil companies to ensure people have access to adequate information is a consequence of both a lack of data-gathering by the Government and the oil industry, and the failure to make the limited information that does exist accessible. The Government and oil companies do not provide data about levels of soil or water contamination, and

it is not clear to what extent they even gather this data, despite the well-known risks and the likely widespread scale of this devastating problem across the region.

With regard to access to remedy, in the context of the oil industry in the Niger Delta, the Government of Nigeria has put in place some legal requirements to provide remedy for those whose rights are harmed by oil operations. Under Nigerian law and regulations, the following processes are required to deal with oil pollution or environmental damage:

1. Clean-up of areas affected by oil spills.
2. Remediation of oil pollution impacted sites.
3. Payment of compensation for some damages.

Yet, numerous studies have shown how poor the clean-up and remediation of affected areas has been, while communities across the Niger Delta decry the poor levels of compensation communities have received. Compounding matters, Nigeria's courts have failed to offer communities a meaningful avenue for seeking justice.

The failure of the United Kingdom of Great Britain and Northern Ireland, France, Italy, the Kingdom of the Netherlands, and the United States of America to fulfil their duty to protect human rights from the adverse impacts of business enterprises domiciled in their jurisdictions

It is reported that all five countries have historically failed, and continue to fail, to take action adequately to prevent the adverse human rights impacts of business enterprises domiciled in their jurisdictions in the context of the operations in the Niger Delta, including the activities of the (formerly) wholly controlled Nigerian subsidiaries, as required by the United Nations Guiding Principles on Business and Human Rights (UNGPs).

However, on 20 June 2025, the UK High Court ruled that Shell Plc and its former Nigerian subsidiary can be held legally responsible for legacy, or historic, oil pollution in Nigeria. The judge found that a failure to clean up could be an ongoing breach of Shell's legal obligations and could create a fresh right to make a legal claim for every day that the pollution remained. The judge also considered that an oil spill could be a trespass and, where that was the case, "a new cause of action will arise each day that oil remains on a claimant's land." The affected communities also argued that Shell's pollution breached their constitutional rights under the Nigerian constitution and African Charter on Human and Peoples' Rights. The judge highlighted that Shell could be liable for damage from illegal bunkering if it had failed to protect pipeline infrastructure, and found that oil pollution can engage the right to life under the Nigerian Constitution, finding that "knowledge about the impact of environmental harm has moved on such that there is now a greater readiness to see polluting activities as capable of engaging the right to life".

While we do not wish to prejudge the accuracy of these allegations, we wish to express our grave concern about the impact on human rights caused by the divestment of Shell Plc, Eni S.p.A., ExxonMobil Corporation and TotalEnergies SE from their Nigerian subsidiaries without following a human rights-based approach and against international law obligations. The repeated oil spills in the Niger Delta over a span of decades severely affected the right to life, the right to a clean, healthy and sustainable environment that is free from toxic substances, the right to the highest attainable standard of health, the right to safe drinking water, the right to an adequate standard of living, the right to food, the right to housing, cultural rights, the right to access to information and the right to access to remedy. The lack of effective response by the Nigerian Government and the home States of the international companies whose subsidiaries were operating in the Niger Delta exacerbated these impacts. Hazardous substance spills require human rights-based responses with a differential approach, including comprehensive accountability and reparation mechanisms on the part of the States and the companies involved, as well as prevention measures and guarantees of non-repetition. The divestment processes, which have lacked transparency, carry a high risk of perpetuating human rights impacts, and hindering any environmental remediation and access to remedy efforts. For the Nigerian Government to have approved the divestments to date therefore raises serious concerns as to its fulfilment of its obligation to protect human rights, including the right to a clean, healthy and sustainable environment. Further, we are gravely concerned that the Nigerian Government and the oil companies are violating the rights of the public to access to information.

We note that the Niger Delta is not the only location worldwide where human rights are being abused by business enterprises involved in oil and gas operations. These human rights abuses therefore raise wider systemic issues, some of which have only emerged through the divestments being made in Nigeria without proper remediation. The mechanisms being used to achieve such divestments in Nigeria are novel, involving a sale of shares in the operating companies rather than divestment of individual licenses. In that respect, Nigeria is being used as an experiment for divestment without clean-up. As the global economy transitions away from fossil fuels, divestment of oil and gas assets may become more common. It is therefore of considerable importance that human rights abuses arising from the form of divestment now being used by oil companies are fully addressed and effectively remediated and compensated.

With regard to the responsibility of the home States of Shell Plc (previously the Netherlands and since 2022 the United Kingdom of Great Britain and Northern Ireland), Eni S.p.A. (Italy), ExxonMobil Corporation (the United States of America) and TotalEnergies SE (France), the UNGPs expressly indicate that States must ensure that business enterprises respect human rights throughout their operations and that in meeting their duty to protect, States: (a) Enforce laws that are aimed at, or have the effect of, requiring business enterprises to respect human rights, and periodically to assess the adequacy of such laws and address any gaps; (b) Ensure that other laws and policies governing the creation and ongoing operation of business enterprises, such as corporate law, do not constrain but enable business respect for human rights; (c) Provide effective guidance to business enterprises on how to respect human rights throughout their operations; (d) Encourage, and where appropriate require, business enterprises to communicate how they address their human rights impacts. The UNGPs also state that States and business enterprises must provide for access to remedy for

affected individuals and communities. The responsibility of these States also arises as a result of a failure to exercise reasonable human rights due diligence over the relevant extraterritorial activities of the [...] corporations (see e.g., HRC, *Basem Ahmed Issa Yassin v Canada*, para. 6.5. ff.; CESCR, *GC 24 2017*, para. 15-16, 30-32).

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide information on measures that your Excellency's Government has taken or plans to take to identify and respond to the human rights impacts caused by the above-mentioned divestment process.
3. Please provide information on concrete progress in requiring or encouraging companies domiciled in your territory and/or jurisdiction to implement human rights due diligence processes to identify, prevent, mitigate and account for how they address their impacts on human rights throughout their operations, including throughout the divestment processes described above, as set forth by the UN Guiding Principles on business and human rights (UNGPs) and other international law.
4. Please provide information on the measures that your Excellency's Government plans to take to prevent the recurrence of ecological disasters at the hands of a company domiciled in its territory.
5. Please provide information on the measures that your Excellency's Government is taking or considering taking to ensure that persons affected by activities occurring outside your territory by business enterprises domiciled in your jurisdiction have access to remedy in your country, through State judicial or extra-judicial mechanisms.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

Please note that letters expressing similar concerns have been sent to the Governments of Nigeria, France, Italy, the United Kingdom of Great Britain and Northern Ireland, and the United States of America, as well as to the business enterprises Shell Plc, Eni S.p.A., ExxonMobil Corporation and TotalEnergies SE. A copy of this letter has been sent for reference to Seplat Energy, Oando Energy Resources Nigeria Limited, Renaissance Africa Energy Company Ltd, ND Western Limited, Aradel Holdings Plc, Petrolin Group, FIRST Exploration and Petroleum Development Company Limited, Waltersmith Group, Nigerian National Petroleum Company Limited, and Chappal Energies.

Please accept, Excellency, the assurances of our highest consideration.

Lyra Jakulevičienė
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transnational corporations and other business enterprises

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working in rural areas

Marcos A. Orellana
Special Rapporteur on the implications for human rights of the environmentally sound
management and disposal of hazardous substances and wastes

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw the attention of Your Excellency's Government to applicable international and regional human rights norms and standards, as well as authoritative guidance on their interpretation. These include the following:

- Universal Declaration of Human Rights;
- International Covenant on Economic, Social and Cultural Rights;
- International Covenant on Civil and Political Rights;
- Convention on the Rights of the Child;
- United Nations Declaration on the Rights of Peasants;
- United Nations Framework Principles on Human Rights and the Environment; and,
- United Nations Guiding Principles on Business and Human Rights.

We wish to draw the attention of your Excellency's Government to core international human rights instruments, to which the Kingdom of the Netherlands is a party, recalling article 3 of the Universal Declaration of Human Rights (UDHR) and article 6(1) of the International Covenant on Civil and Political Rights (ICCPR), which guarantee the right of every individual to life, liberty and security. The UDHR proclaims that every organ of society shall strive to promote respect for human rights and fundamental freedoms and to secure their universal and effective recognition and observance.

We would also like to draw your attention to the Human Rights Committee's general comment No. 36 on the right to life. According to the Human Rights Committee, the duty to protect life also implies that State parties should take appropriate measures to address general conditions in society that may give rise to direct threats to life or prevent individuals from enjoying their right to life with dignity, including environmental degradation (para. 26). The implementation of the obligation to respect and ensure the right to life, and in particular to life with dignity, depends, inter alia, on the measures taken by State parties to preserve the environment and protect it from damage, pollution and climate change caused by public and private actors (para. 62).

We would also like to draw your attention to article 12 of the International Covenant on Economic, Social and Cultural Rights, which enshrines the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. The right to health is also guaranteed as part of the Universal Declaration of Human Rights, article 25, which is read in terms of the individual's potential, the social and environmental conditions affecting the individual's health, and in terms of health services. General comment No. 14 of the Committee on Economic, Social and Cultural

Rights describes the normative content of article 12 of the International Covenant on Economic, Social and Cultural Rights and the legal obligations undertaken by States Parties to respect, protect and fulfil the right to physical and mental health. In general comment No. 14, paragraph 11, the Committee on Economic, Social and Cultural Rights interprets the right to health as "as an inclusive right extending not only to timely and appropriate health care but also to the underlying determinants of health, such as access to safe and potable water and adequate sanitation, an adequate supply of safe food, nutrition and housing, healthy occupational and environmental conditions, and access to health-related education and information."

Furthermore, the Committee on Economic, Social and Cultural Rights affirmed that "corporate activities can adversely affect the enjoyment of Covenant rights", including through adverse effects on the right to health, standard of living and the natural environment, and reiterated "obligation of States Parties to ensure that all economic, social and cultural rights laid down in the Covenant are fully respected and rights holders adequately protected in the context of corporate activities" (E/C.12/2011/1, para. 1).

Article 24 of the Convention on the Rights of the Child recognizes the right of the child to the enjoyment of the highest attainable standard of physical and mental health and the concomitant duty of the State to provide adequate nutritious food and safe drinking water, taking into account the dangers and risks of environmental pollution.

In addition, we would like to recall the United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas. In accordance with article 1, paragraph 2, the Declaration applies to any person engaged in small-scale or artisanal agriculture, crop planting, animal husbandry, pastoralism, fishing, forestry, hunting or gathering, and handicrafts related to agriculture or a related occupation in a rural area. It also applies to dependent family members of farmers. In addition, article 18.1 of the Declaration states that "peasants and other people working in rural areas have the right to the conservation and protection of the environment and the productive capacity of their land, and of the resources that they use and manage". Furthermore, article 18.2 provides that "States shall take appropriate measures to ensure that peasants and other people working in rural areas enjoy, without discrimination, a safe, clean and healthy environment".

We would like to recall the duty of all States to prevent exposure to hazardous substances and wastes, as detailed in the 2019 report of the Special Rapporteur on the human rights implications of the environmentally sound management and disposal of hazardous substances and wastes to the United Nations General Assembly (A/74/480). This obligation derives implicitly, but clearly, from a range of rights and duties enshrined in the global human rights framework, under which States are obliged to respect and fulfil recognized human rights, and to protect those rights, including from the consequences of exposure to toxic substances. These rights include the human rights to life, health, food and drinking water, adequate housing and safe and healthy working conditions. The duty to prevent exposure is reinforced by national and regional recognition of the right to a safe, clean, healthy and sustainable environment, including clean air. The existence of the State's duty to prevent exposure is reinforced by the right to full respect for the bodily integrity of the individual, which contributes to a context

in which everyone should have the right to control what happens to his or her body (see A/HRC/39/48). Likewise, the 2022 report of the Special Rapporteur on human rights and the environment, with the collaboration of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes, which places the non-toxic environment among the substantive elements of the right to a safe, clean, healthy and sustainable environment (A/HRC/49/53). Read together, international human rights clearly establish the duty of your Excellency's Government to prevent exposure to hazardous substances and wastes.

We would also like to draw the attention of your Excellency's Government to article 25 of the Universal Declaration of Human Rights, which recognizes the right of everyone "to a standard of living adequate for the health and well-being of himself and his family, including food". Article 11(1) of the ICESCR further recognizes "the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions."

The ICESCR requires States to "take appropriate steps to ensure the realization of the right to food" (article 11.1). According to general comment 12, the obligation to respect existing access to adequate food requires States Parties to refrain from adopting any pressure that would result in preventing such access. The obligation to protect requires the State to take measures to ensure that enterprises or individuals do not deprive people of their access to adequate food. The obligation to fulfill (facilitate) means that the State must proactively undertake activities aimed at strengthening people's access to and utilization of resources and means to secure their livelihoods, including their access to land to ensure their food security (para. 15). Whenever an individual or group is unable, for reasons beyond their control, to enjoy the right to adequate food by the means at their disposal, States have an obligation to fulfill (facilitate) that right directly.

Furthermore, we would like to recall that on 8 October 2021, the Human Rights Council adopted resolution 48/13, recognizing the right to a clean, healthy and sustainable environment, confirmed by the General Assembly in July 2022 with resolution A/RES/76/300. The Kingdom of the Netherlands voted in favour of this resolution. A safe climate has been identified as one of the substantial elements of this right (A/74/161).

The Framework Principles on Human Rights and the Environment, presented to the Human Rights Council in March 2018 (A/HRC/37/59) set out basic obligations of States under human rights law as they relate to the enjoyment of a safe, clean, healthy and sustainable environment. They underline States' substantive responsibilities in this regard including the obligation to prevent from violating the right to a healthy environment or other human rights. Principle 8 provides, specifically, that "to avoid authorizing actions with environmental impacts that interfere with the full enjoyment of human rights, States should require the prior assessment of the possible environmental impacts of proposed projects and policies, including their potential impacts on the enjoyment of human rights", including the rights to life, health, food, water, housing and culture. Moreover, principle 14 for example provides that "States

should take additional measures to protect the rights of those who are most vulnerable to, or at particular risk from, environmental harm, taking into account their needs, risks and capacities.” In this connection, the report of the Special Rapporteur on the promotion and protection of human rights in the context of climate change (A/HRC/56/46), in particular its paragraph 15, recalls the obligation for States to exercise due diligence in the application of necessary measures to regulate the emissions of businesses operating under their national jurisdiction, to mitigate future effects of climate change. Furthermore, principle 15 clarifies that States should ensure that they comply with their obligations to Indigenous Peoples and members of traditional communities, by recognizing and protecting their rights to the lands, territories and resources that they have traditionally owned, occupied or used; consulting with them and obtaining their free, prior and informed consent before relocating them or taking or approving any other measures that may affect their lands, territories or resources; respecting and protecting their traditional knowledge and practices in relation to the conservation and sustainable use of their lands, territories and resources; and ensuring that they fairly and equitably share the benefits from activities relating to their lands, territories or resources.

The Working Group on the issue of human rights and transnational corporations and other business enterprises in A/78/155 highlights human right obligations relating to divestment from fossil fuels, which is also known as “transition out.” The Working Group calls on States to “Set out more ambitious, long-term zero-carbon plans in order to end the climate emergency and to actualize the right to a healthy environment, especially in the extractive sector.” Acknowledging the crucial importance of just and right-based transition programmes, including divestments, the Working Group highlighted the need for States to “Require business enterprises to respect and fulfil international human rights obligations when designing or implementing energy transition programmes, including by assessing intersecting forms of discrimination and social exclusion, to develop inclusive, coherent and gender-responsive programmes.” The Working Group also stressed that States should “require extractive sector businesses to prove that they are taking effective action to address the impacts of energy transition programmes on human rights and the environment, by reporting on their board composition, appointments, procurement practices and operations.”

The Special Rapporteur on climate change and human rights in A/HRC/59/42 highlighted that “Several international human rights law obligations underpin the fossil fuel phaseout. Strict due diligence is required [...]” In this context, she stressed that “strict due diligence implies a continuous obligation to prevent significant harm, especially across borders, requiring States to proactively identify and monitor risks, and take all available reasonable measures to prevent foreseeable harm, including by private actors, and to remedy it. Peremptory norms of international law are universally binding, regardless of consent, and allow no derogation. In addition, regarding decommissioning, she recommended States to “Ensure that accurate, science-based information is made available to the public on defossilization plans, including the underlying economic and technological assumptions, fossil fuel subsidies inventories, emissions embedded in fossil fuel exports, and plans for the decommissioning of infrastructure” and to “Avoid loopholes in responsible decommissioning, and require independent verification of defossilization and decommissioning plans, and of their

implementation". The Special Rapporteur also highlighted that States should "prohibit the abandonment of fossil fuel infrastructure without remediation, requiring financial guarantees to cover the costs for the environmental management of facility closure and subsequent phases, including regarding extraterritorial impacts."

In addition, we would like to highlight the UN Guiding Principles on Business and Human Rights, which were unanimously endorsed in 2011 by the Human Rights Council in its resolution (A/HRC/RES/17/31) after years of consultations with governments, civil society and the business community. The Guiding Principles have been established as the authoritative global standard for all States and businesses to prevent and address business-related adverse human rights impacts. These Guiding Principles are based on the recognition of:

1. "The existing obligations of States to respect, protect and fulfill human rights and fundamental freedoms;
2. The role of business enterprises as specialized bodies or corporations performing specialized functions, which must comply with all applicable laws and respect human rights;
3. The need for rights and obligations to be matched by appropriate and effective remedies when they are violated".

The obligation to protect, respect and fulfill human rights, recognized in conventional and customary law, entails the duty of the State not only to refrain from violating human rights, but also to exercise due diligence to prevent and protect individuals from abuses committed by non-State actors (see, for example, Human Rights Committee general comment No. 31, para. 8). Consistent with these legal obligations, guiding principle 1 reiterates the State's duty to "protect against human rights abuses within its territory and/or jurisdiction by third parties, including business enterprises." In addition, guiding principle 3 reiterates that States should take appropriate measures to "prevent, investigate, punish and redress such abuses through effective policies, laws, regulations and adjudication". Furthermore, this requires, *inter alia*, that a State "provide business enterprises with effective guidance on how to respect human rights throughout their operations". Finally, in accordance with recognized conventional and customary international law (see, for example, article 2(3) of the International Covenant on Civil and Political Rights), the Guiding Principles reiterate that States should ensure that victims have access to an effective remedy in cases of adverse human rights impacts related to business activities.

The Guiding Principles also clarify that business enterprises have an independent responsibility to respect human rights. Principles 11-24 and 29-31 provide guidance to business enterprises on how to meet their responsibility to respect human rights and to provide remedies when they have caused or contributed to adverse impacts. The Guiding Principles have identified two main components of the corporate responsibility to respect human rights, which require that "enterprises: (a) Avoid causing or contributing to adverse human rights impacts through their own activities and address those impacts when they occur; (b) Seek to prevent or mitigate adverse human rights impacts that are directly related to operations, products or services by their business relationships, even if they have not contributed to those impacts." (guiding

principle 13). The commentary to guiding principle 13 notes that business enterprises may be affected by adverse human rights impacts, either through their own activities or as a result of their business relationships with other parties. (...) The "activities" of business enterprises are understood to include both actions and omissions; and their "business relationships" include relationships with business partners, entities in their value chain and any other non-State or State entity directly linked to their business operations, products or services.

States may be considered to have breached their international human rights law obligations when they fail to take appropriate measures to prevent, investigate and remedy human rights violations committed by private actors. While States generally have discretion in deciding on such measures, they must consider the full range of permissible preventive and remedial measures.

Furthermore, it should be noted that, based on international law, the Maastricht Principles aim to clarify the content of States' extraterritorial obligations to realize economic, social and cultural rights in order to promote and give full effect to the purposes of the Charter of the United Nations and international human rights. [...] All States have obligations to respect, protect and fulfill human rights, including civil, cultural, economic, political and social rights, both within their territories and extraterritorially. Each State has the obligation to realize the economic, social and cultural rights of all persons within its territory to the maximum extent of its capabilities. All states also have extraterritorial obligations to respect, protect and fulfill economic, social and cultural rights.

The full texts of the above human rights instruments and standards are available at www.ohchr.org or can be made available upon request.