

Nigeria: Seizing the Moment in the Niger Delta

I. OVERVIEW

The report of the government-constituted Technical Committee on the Niger Delta, submitted to Nigeria's President Umaru Musa Yar'Adua on 1 December 2008, offers an opportunity to reduce violent conflict significantly and begin longer-term regional development in the oil-rich region. The government needs to respond urgently and positively, in particular by accepting a third-party mediator to facilitate discussions of amnesty and demobilisation of militants, in order to dispel growing misgivings in the Delta, save the region from further violence and organised criminality, and ensure Nigeria's continued reliability as a leading source of energy for the world.

The urgency is underscored by the grim security situation in the region and the risk that instability may spread to the land or maritime territories of Nigeria's neighbours across the Gulf of Guinea. Late 2008 saw some of the Delta's bloodiest fighting between government forces and Delta militants, and there have already been a number of attacks in Cameroon and Equatorial Guinea by groups probably linked to the militants. Piracy incidents throughout 2008, exacerbated by the lack of security in the region, made Nigerian waters second only to Somalia in terms of danger.

Since the Yar'Adua administration assumed office in May 2007, its initiatives for ending Delta violence have been ambiguous and at times incoherent. An early attempt to convene a Delta summit was aborted due to local opposition. A May 2008 proposal that militants incorporate as security companies so they could be hired to guard pipelines and other oil installations met with public scepticism and militants' rejection and never got off the ground. Creation of the Ministry of Niger Delta Affairs in September 2008 initially drew mixed reactions, but low funding in the 2009 budget, an uncertain division of responsibilities with the Niger Delta Development Commission (NDDC) and unclear guiding principles have cost it credibility.

The Technical Committee has been the government's most promising effort to develop a coherent, long-term strategy in the Delta. Launched on 8 September 2008 with broad and credible membership, the committee

was mandated to collate, review and distil all previous reports, memorandums and submissions and "make suggestions for Government's necessary and urgent action". Vice President Goodluck Jonathan pledged that its recommendations "will not be treated with levity". It was widely believed that the government would adopt those recommendations as its definitive roadmap for resolving the region's crisis.

The resulting report recommended amnesty for militant leaders within a comprehensive demobilisation, disarmament and rehabilitation (DDR) program; an increased allocation of oil revenue to the Delta; urgent improvement of infrastructure and human welfare services; and new institutions for the region's longer-term development. While it did not address all aspects of the crisis, its proposals were sufficiently comprehensive to serve as a catalyst. The Technical Committee also urged the government to issue a White Paper by 1 January 2009 outlining strategies for rapid implementation of its recommendations. Yar'Adua's statement at the time that the government would implement those recommendations it found "acceptable" raised apprehensions in the Delta and across civil society that it would carry out only what was politically convenient.

On 7 January 2009, a number of the country's leading civil society groups charged that Yar'Adua's silence on the report showed he was only playing to the gallery on the Delta issue, and subsequent developments have done nothing to dispel those misgivings. The disclosure by a special adviser to the vice president two months after the report was submitted that yet another committee had been established to study the recommendations, coupled with the lack of any further response since then, are deepening doubts over the government's sincerity. The longer these doubts grow, the more difficult it will become to engage all stakeholders in an effective peace process. The following steps are needed urgently.

- The Yar'Adua administration should respond to the Technical Committee report, in particular by accepting an external third party, preferably the UN, the reconciliation centre Coventry Cathedral or a group of eminent persons or representatives of several countries to facilitate negotiations with militants on an amnesty for leaders whose actions have been politically rather than criminally motivated, includ-

ing the imprisoned leader of the Movement for Emancipation of the Niger Delta (MEND), Henry Okah. Negotiations should also address a comprehensive DDR program.

- The federal government should simultaneously raise allocation to the Delta of oil revenue produced there to 17 per cent, as already recommended by the National Political Reform Conference in 2006, followed by a phased increase to any percentage subsequently agreed in negotiations between Delta leaders, their counterparts elsewhere in the country and the federal government. It should simultaneously strengthen budget transparency and financial accountability at state level, so the money is used to benefit the region and to implement priority projects identified by the Niger Delta Regional Development Master Plan (NDRDMP). Relations between the Ministry for Niger Delta Affairs and the NDDC should be clarified, and the work of both should be directed to fast-track infrastructure rehabilitation and other programs to produce visible results by the end of 2009.
- The National Assembly should strengthen arrangements for monitoring peace and development processes outlined in the Technical Committee report, including periodic public hearings by the relevant parliamentary committees in partnership with the Niger Delta Civil Society Coalition (NDCSC), and encourage stakeholder forums at regional, state and local levels, in which Partners for Sustainable Development (PSD) should play an active part.
- Delta leaders and militant commanders must reciprocate government initiatives by releasing all hostages, stopping hostage-taking and attacks on oil installations and cooperating on DDR. They should also improve chances for successful negotiations by consulting more closely with each other to achieve greater unity and coherence.
- Nigeria's international partners should encourage the government to respond to the Technical Committee's report urgently and commit to a clear plan for ending violence and facilitating development in the Delta. Any further security assistance should be given within a broad framework of security sector reform, including enhanced accountability (including for alleged military abuses) and respect for citizens' rights.

II. CONFLICT AND CRIMINALITY

The inauguration of President Yar'Adua in May 2007 offered an opportunity for fresh initiatives to resolve the Delta crisis. Reporting in December 2007 on the government's early actions in the region, Crisis Group warned that the opportunity was being lost. The failure to seize that opportunity has led to continuing conflict, deepening criminality and the spread of risk to neighbouring countries in the Gulf of Guinea.¹

The deterioration in the Delta poses a complex challenge for the Yar'Adua administration. Even if it were to mobilise best efforts solely to meet it, there could be no miracle solution. Bold initiatives need to be sustained over a reasonable period of time in order to achieve durable results. But the government's management of the crisis has been devoid of a clear strategy. Its inability to develop a comprehensive and realistic Delta strategy has left the field open for continuing violence and rising crime. For much of 2008, militants attacked oil and gas installations and fought with government troops.

A. CONTINUING CONFLICT

The 92 attacks on the oil industry in 2008 were about one third above the previous year.² Crude oil exports have fallen to 1.6 million barrels per day (bpd) in March 2009, down from 2.6 million in 2006. The giant Shell Petroleum Development Company (SDPC) was most affected by the militants' attacks on oil installations and confrontations with the military: by March 2009, production from its onshore business had plunged to 300,000bpd, down from nearly one million before the crisis in the region escalated in 2004. The country lost at least \$23.7 billion to oil theft, sabotage and shut-in production in the first nine months of 2008, and about 1,000 people were killed within the same period.³

Since mid-2008, the conflict has spread in unanticipated ways to sea, land and air. Probably the year's most spectacular maritime incident was the 19 June attack on Bonga, a \$3.6 billion floating production, storage and

¹ See Crisis Group Africa Reports N°115, *The Swamps of Insurgency: Nigeria's Delta Unrest*, 3 August 2006; N°118, *Fuelling the Niger Delta Crisis*, 28 September 2006; N°135, *Nigeria: Ending Unrest in the Niger Delta*, 5 December 2007; and Africa Briefing N°54, *Nigeria: Ogoni Land after Shell*, 18 September 2008.

² Dalue Mbachu, "Nigeria's kidnap capital forces Shell, Chevron to cut output", Bloomberg.com, 17 February 2009.

³ "Report of Technical Committee on the Niger Delta", vol. 1, November 2008, p. 9.

offloading (FPSO) vessel and deepwater sub-sea facility 120km off the coast. Although the militants were not able to do serious damage,⁴ the attack on a location considered beyond their reach suggested that even deep offshore facilities were no longer safe. A new attack on Bonga or another major facility cannot be ruled out.

The second half of 2008 witnessed an escalation of direct confrontations on land between the military's Joint Task Force (JTF) and the militants. The bloodiest fighting since the onset of the insurgency was sparked by a government raid on 13 September on three Rivers State villages – Soku, Kula and Tombia – in search of Farah Dagogo, a commander of a MEND affiliate group. In response, MEND declared an “oil war” the next day against foreign-owned oil companies in the Delta, pledging to destroy pipelines and flow stations and warning companies to withdraw staff from the region. The week that followed saw a string of attacks by militants and confrontations with the military that left dozens dead. MEND later declared a unilateral ceasefire but revoked it on 30 January 2009, following a JTF attack on the camps of a warlord, Ateke Tom.⁵

The Nigerian military and the militants also extended the conflict to the skies. JTF elements repeatedly bombed militants' camps and other suspected locations. On 25 February 2009, militants for the first time attacked a civilian helicopter in the Delta.⁶ Shots from a general purpose machine gun (GPMG) seriously wounded at least one passenger and forced the local Aero Contractor-operated Sikorsky to make an emergency landing. MEND claimed, but the company denied, that the helicopter had been filming camps.⁷ The new risk to helicopter flights could have serious consequences for oil company operations in the Delta.

The recently better-equipped JTF claimed to have driven the militants and other armed groups deeper into the creeks after weeks of raids in September 2008. MEND

denied that its position on the ground was weakened.⁸ While the armed groups have been under increased pressure since late 2008, this has not yet translated to sustainable improved security. MEND threatened further attacks on 28 February, including sabotage of a multi-billion dollar plan to pipe Nigerian gas to Europe across the Sahara. This scheme, estimated to cost \$10 billion for the pipeline and \$3 billion for the gathering centres and expected to pipe 30 billion cubic metres of gas to Europe and earn Nigeria billions of dollars annually has attracted the European Union (EU) and Russian energy majors. MEND, however, says it is opposed by the Delta's indigenous oil producing communities.⁹

There are, nevertheless, possibilities for de-escalation. Cracks have been deepening in MEND's ties to some of the Ijaw community organisations that once shared both its goals and the tactics for achieving them. On 9 February 2009, after MEND claimed responsibility for the attack on Shell's Utorogu Gas Plant in Delta State, the Izon-Ebe Oil Producing Communities, one of several groups that claim to represent the oil-bearing Ijaw communities in the Delta, denounced the action. It said that “the adoption of violence/vandalisation of oil facilities to draw attention of government is not the best approach to be used. We suggest a non-violent/non-aggressive intellectual approach”. It urged MEND to suspend attacks on oil facilities, as “the people have since grown above such destructive tendencies in the battle for their rights in the Nigerian federation”.¹⁰

An even more notable disagreement has developed with the Ijaw Youth Council (IYC), the umbrella organisation of Ijaw youth in the delta.¹¹ Though generally supportive of MEND's political and economic goals, it said the armed struggle initiated by the Movement has been contaminated by criminals and is spinning out

⁴The MEND commander, General Boyloaf, said the facility was merely “visited” to make the oil companies realise nothing was “untouchable”. Sue Lloyd-Roberts, “Fighting for Nigeria's oil wealth”, BBC News, 8 January 2009.

⁵It is not clear whether Tom is actually a MEND leader, but it says he was a signatory to its unilateral ceasefire of September 2008.

⁶“MEND says ‘affiliate’ attacked civilian helicopter in Nigeria”, *Afrique en Ligne*, 26 February 2009.

⁷MEND email response to an inquiry by *Sunday Sun*. The group said the attack “should be a warning to the oil industry that its helicopters used in moving soldiers to oppress civilian protesters in oil communities have become legitimate targets in the region, with the exception of medical evacuation and UN helicopters” and that “such attacks will continue”. “MEND says ‘affiliate’ attacked”, op. cit.

⁸Crisis Group correspondence, Jomo Gbomo, MEND, 19 February 2009. There is limited objective evidence to evaluate the competing claims.

⁹Isiaka Wakili, “Militants vow to sabotage Sahara gas pipeline”, *Daily Trust*, 1 March 2009.

¹⁰Statement on behalf of the communities, signed by the president, Chief Favour Izoukumor, and secretary, Moses Edongha, 9 February 2009. Emma Amaize, “Izon-Ebe Oil Producing Communities reject MEND”, *Vanguard*, 10 February 2009.

¹¹The Ijaw Youth Council was founded in 1998 at the All-Ijaw Youth Conference of over 5,000 youths from 25 associations, 500 communities and 40 clans. It articulates Ijaw ethnic interests. Mujahid Dokubo-Asari led it from 2001 to 2004 until moving on to found the Niger Delta People's Volunteer Force.

of control.¹² It argued that international sympathy was being lost and that the only way forward was for the armed groups to cease kidnapping, bombing of oil installations and other violent acts and develop a new strategy with other regional and national stakeholders. Continuing militancy, it suggested, may be jeopardising the chances to resolve the Delta's problem. On 9 February 2009, the IYC called on all militant groups in Bayelsa State (the only entirely Ijaw state) to shut down their eight camps in the deep mangrove swamps.¹³

MEND rejects the view that its struggle is being criminalised, reiterating its demand for a peace process that "will be a holistic approach like what we are doing with the Coventry Cathedral", covering both "amnesty and disarmament".¹⁴ It rejects with even greater vigour the suggestion that it should lay down its arms because the struggle may be losing international sympathy: "We do not care about any foreign sympathy at this time because these same foreigners are a part of the problem we are suffering today".¹⁵

Some militant leaders suggest the IYC may have been bought by the Bayelsa State government. But although the Council has received funds from the state government,¹⁶ its overall position on the crisis does not suggest it has sold out. The divergence from MEND positions reflects the differences in public sentiment across the region. Some in the Delta believe the armed groups have made their point, achieving such gains as the place-

ment of a Niger Delta politician in the national vice presidency for the first time and creation of a federal ministry devoted solely to transforming the region, but that armed militancy should now at least be suspended to give the ministry and other initiatives a chance.¹⁷

There are also growing feelings that the armed militancy may have hampered even modest development in the region. Moreover, the fact that MEND has not delivered the kind of decisive blow to the oil industry that would have pushed the federal government into a genuine peace process has raised doubts over its capacity to sustain its campaign much longer. With the emergence of several groups that have adopted some militant tactics but turned against their own people in pursuit of criminal goals, it has become increasingly difficult for many to maintain that the militants' campaign has retained ideological integrity.

JTF is also struggling with image problems and there are increasing calls for its withdrawal. Its personnel are increasingly accused of human rights violations and involvement in criminal oil bunkering. In August 2008, soldiers guarding an oil servicing company house boat shot and killed without provocation three unarmed youth who were travelling to Lobia in the Southern Ijaw council area. The incident aroused an outcry, and the state chapter of the Maritime Workers Union of Nigeria (MWU) called an indefinite strike to protest JTF's excesses on the waterways.¹⁸ In January 2009, in its submission to a military task force on waterways security, MWU stated that JTF men killed over 90 unarmed persons and destroyed over 300 boats belonging to its members in Bayelsa State alone in 2008.¹⁹

Across the Delta, the perception is growing that JTF personnel are increasingly involved in stealing oil and

¹² See Emma Amaize, "Niger-Delta struggle: 'Ijaw is losing sympathy' – Dr Chris Ekiyor, IYC President", *Vanguard*, 21 February 2009.

¹³ See "Reclaiming Our Destiny: Observations and Resolutions of the Youth Summit on Economic Development and Security in Bayelsa State", held in Yenagoa, Bayelsa State, 6 February 2009. The figure for camps was provided by two leaders – militant and civil society – who spoke with Crisis Group in March 2009.

¹⁴ Crisis Group correspondence, Jomo Gbomo, MEND. 19 February 2009. Coventry Cathedral, one of the world's oldest religious-based reconciliation centres, has been extensively involved in Nigeria since 2002, when it was important in producing the Kaduna Peace Declaration, signed by leading Christian and Muslim leaders in Kaduna State. In 2004 it was involved in formulating the framework for the peace process between the Ogoni in Rivers State, the federal government and Shell, coordinated by Rev Fr Matthew Hassan Kukah. See Crisis Group Briefing, *Nigeria: Ogoni Land After Shell*, op. cit., p. 5.

¹⁵ Emma Amaize, "Niger-Delta struggle", op. cit.

¹⁶ For instance, on 30 December 2008, the Bayelsa State government "donated" two eighteen-seater Toyota buses to the Council. It also sponsored the summit at which the Council ordered militants to shut down camps. Crisis Group telephone interview, Dr Felix Tuodolor, founding president of IYC, 8 April 2009.

¹⁷ See, for instance, "N'Delta youths must change strategy – Aginighan", *Punch*, 28 February 2009.

¹⁸ The three were Peter Sese, his pregnant girlfriend, Titi Ajayi, and Eniamie Sese from Foropa community. For over six months, their remains were at the Okolobiri Mortuary, while the families demanded justice. When the matter was resolved, the JTF called it a case of mistaken identities. The families settled out of court, as it has been established that the soldiers acted without knowing the victims' identities. The chairman of the peace and conflict resolution committee, Chief James Jephtah, said in February 2009 that an agreement would soon be signed between the committee and families covering compensation for the lost boat, engines and injuries, so as to avoid future litigation that could threaten the peace of the area. Samuel Oyadongha, "Nigeria: JTF, victims' families settle rift over killing of three in Bayelsa", *Vanguard*, 27 February 2009.

¹⁹ "N'Delta: Soldiers killed 90 persons – Maritime Workers", *Dredge, Drill & Haul*, first quarter, 2009.

other illicit transactions. In October 2008, Zion Perebowei, a chief in Forcados, Delta State, called on the Economic and Financial Crimes Commission (EFCC) to investigate JTF's past and present leadership, which, he said, had been collaborating with oil thieves.²⁰ The risk is growing that further JTF human rights violations and involvement in bunkering could drive local people to more actively support MEND and other armed groups against what is increasingly seen as "a predatory army of occupation".²¹

B. DEEPENING CRIMINALITY AND SPREADING INTERNATIONAL RISK

As the fighting has deepened, so also have crime and lawlessness. Statistics compiled by the International Maritime Bureau (IMB) for 2008 show 40 reported incidents of piracy in the Delta, including 27 vessels boarded, five hijackings and 39 crew members kidnapped.²² This places Nigerian waters second only to Somalia as the world's most dangerous. Ten more attacks were reported in the first three weeks of January 2009.²³ The 21 January incident, in which gunmen attacked the *MT Meredith*, a tanker carrying 4,000 tons of diesel fuel, dynamited the ship's engine and disabled it, was one of the most worrying to date. While MEND and other groups had previously blown up oil pipelines, this was the first such attack at sea. Along with several attacks up to 50km from shore, this attack suggests pirates have an increasing ocean-going ability to threaten maritime energy assets.²⁴

On 5 April, the police disclosed that over 128 persons, comprising Nigerians and foreigners, had been kidnapped by Delta militants and gunmen since the beginning of 2008. Inspector General of Police Mike Okiro said one hostage was killed, another had his fingers chopped off, and 126 were released unhurt. As these statistics are based only on cases reported to the police and do not cover remote areas of the Delta without

police presence, the actual figures may be significantly higher. Estimates of foreigners kidnapped in 2008 range from 52 to 75,²⁵ which is well below the record 167 abductions in 2007. The decrease was achieved through increased company security, a government offensive around Port Harcourt and relocation of expatriates. However, it does not represent a sustained security improvement. The March 2009 threats by the two major oil workers' unions²⁶ to pull members out of the region were among the most glaring indications of continuing insecurity.

The insurgency and criminality threaten to spill over into other parts of the Gulf of Guinea, particularly neighbouring Cameroon. This prospect has grown stronger since Nigeria completed the handover of the disputed Bakassi Peninsula to Cameroon on 14 August 2008.²⁷ Armed groups, apparently based in the Delta, have staged several attacks along the Cameroon coast. Between November 2007 and January 2009, at least eight attacks were reported in that country and in Equatorial Guinea. Some were apparently carried out by purely criminal gangs, but others were by organisations like the Niger Delta Defence and Security Council (NDDSC), a little-known Nigerian group that opposed handover of the territory and demands Bakassi be granted independence or some form of self-determination. These groups seem to have gained indirect tactical experience, if not direct logistical support, from the insurgency and criminality in the Delta.

On 12 November 2007, armed men in seven boats attacked a Cameroon military vessel killing 21 troops, wounding six and carrying away substantial arms and ammunition.²⁸ Cameroonian soldiers later attacked the assailants and killed one. Nigeria and Cameroon investigated jointly, but the results have never been made public. Although no group claimed responsibility, a Cameroon military source said the attack was carried

²⁰ Cletus Opukeme, "Soldiers of Fortune", *The Week*, 27 October 2008, p. 17.

²¹ Crisis Group interview, official of a community-based organisation in Bayelsa State, 17 March 2009.

²² "IMB reports unprecedented rise in maritime hijackings", 16 January 2009, at www.ics-css.org. The IMB's Piracy Reporting Centre said it is aware of approximately 100 other unconfirmed incidents in Nigeria during the year.

²³ Austin Ekeinde, "Gunmen attack Exxon vessel, tugboat in Nigeria", Reuters, 23 January 2009.

²⁴ See Donna J. Nincic, "Maritime Piracy: Implications for Maritime Energy Security", in *Journal of Energy Security*, 20 February 2009, at www.aprodex.com/maritime-piracy-implications-for-maritime-energy-security-259-bl.aspx.

²⁵ The lower figure was provided by Arild Nodland, managing director of Bergen Risk Solutions, a consulting firm based in Fantoft, Norway; the higher figure was published by Oyibosonline.

²⁶ The Petroleum and Natural Gas Senior Staff Association of Nigeria (PENGASSAN) and the National Union of Petroleum and Natural Gas Workers (NUPENG).

²⁷ The Bakassi Peninsula, which includes offshore oil deposits, was a source of tension and bloody clashes between the two countries for years until they sought arbitration. Following a 2002 International Court of Justice ruling, Nigeria transferred the peninsula to Cameroon despite opposition from local inhabitants, most of whom are Nigerian fishermen. Nigerian troops withdrew in August 2006, but the peninsula remained under Nigerian civil administration until 2008.

²⁸ Orock Eta, "Cameroonian soldiers killed in Bakassi", *The Post Online*, Cameroon, 12 November 2007.

out by “a suspected militant group from Nigeria”.²⁹ On 9 June 2008, an armed group killed the Kombo Abedimo divisional officer and several Cameroonian soldiers. Twelve days later, unknown attackers fired rocket-propelled grenades at a Cameroon security post, killing one soldier and wounding another seriously. In the aftermath, Defence Minister Remy Ze Meka said the attacks were being carried out by armed bands that had fled from Nigeria, and his country was now involved in “a new type of conflict with an invisible enemy”.³⁰

Further attacks occurred throughout July 2008. The NDDSC’s spokesperson, Ebi Dari, confirmed its fighters were behind one and claimed that the underlying issue was dissatisfaction at the settlement of the Bakassi dispute. “We want Paul Biya [Cameroon’s president] and Nigeria’s President Yar’Adua to come together to renegotiate the Bakassi problem”, he said.

In October, gunmen fired on Cameroonian soldiers at Jabane, a fishing port in a boundary area between Cameroon and Nigeria. One gunman was reported killed and others wounded, before the rest fled towards Nigerian waters.³¹ Later that month, gunmen in speedboats kidnapped and threatened to kill ten crew members – seven French nationals, two Cameroonians and a Tunisian – from an oil vessel, the *Bourbon Sagitta*, off Cameroon’s coast.³² They were freed after weeks. Violent encounters between assailants in speedboats and Cameroon security forces continued late into the year, and on 17 February 2009, the troubles spread further. Equatorial Guinea said gunmen, apparently Delta militants, operating in motor boats, attacked the presidential palace in Malabo but were repelled, with at least one attacker shot dead. MEND denied involvement.

The relationship between the groups responsible for these acts and Delta militants is not yet clear. Indeed, MEND told Crisis Group it has “no relationship” with the groups, but it also left open the possibility of “turning them to allies if the Niger Delta crisis turns into a

full-scale war”.³³ If the Nigerian military intensifies attacks on MEND in the Delta, the organisation could forge an alliance with these groups. The emergence of a coordinated network of militant and criminal organisations would threaten the security of the entire Gulf of Guinea. Such a deterioration of security could also be exploited by Cameroon’s Anglophone secessionist groups or others seeking regime change in Equatorial Guinea, Sao Tome and Principe, and even Gabon.

III. YAR’ADUA’S REPOSE TO THE DELTA CRISIS

The Yar’Adua administration’s first effort at developing a comprehensive strategy for resolving the crisis was to propose a Niger Delta Summit soon after it took office. Initially scheduled for June 2007, it was postponed on the advice of Delta leaders, who urged extensive prior consultations, which then dragged on for over a year.

A. FROM ABORTED SUMMIT TO TECHNICAL COMMITTEE

In June 2008, the government named Ibrahim Gambari, a Nigerian scholar, diplomat and special adviser to UN Secretary-General Ban Ki-moon, to head the summit steering committee. The choice was presented as a compromise between the government’s insistence on keeping the Delta crisis an internal affair and the demands of Delta ethnic leaders and militants for UN or other international mediation. Until 3 July 2008, President Yar’Adua insisted that the summit was crucial to implementing his administration’s policies and promised it would not be another “pointless and diversionary jamboree as some fear”.³⁴

The road to the summit was strewn with controversy. Many Delta stakeholders argued that it was unnecessary and that whatever needed to be done had been laid

²⁹ See Estelle Shirbon, “Up to 21 troops killed in Cameroon”, Reuters, 12 November 2007. Mayors in Kombo Itindi and Kombo Abedimo also reported fighting on the peninsula but had no precise information about casualties.

³⁰ Dulue Mbachu, “Nigeria: Tension over Bakassi Peninsula”, International Relations and Security Network, 21 July 2008, citing *The Cameroon Tribune*, 30 June, 2008.

³¹ Ernest Sumelong, “Cameroon: More Trouble in Bakassi – One Pirate Killed, Several Wounded”, The Post News.com, 20 October 2008.

³² “Oil crew kidnapped off Cameroon”, *The Frontier Telegraph*, 31 October 2008, at www.thefrontier Telegraph.com.

³³ Crisis Group correspondence, Jomo Gbomo, MEND, 19 February 2009.

³⁴ A statement signed by the President’s special adviser on communications, Olusegun Adeniyi, emphasised that a primary objective of the summit was to achieve consensus and commitment from all concerned parties to end violence “and engender a much more conducive atmosphere for the massive improvement of infrastructure and social services in the region The success of the Stakeholders Summit will be central to efforts to fulfill the administration’s commitments in this regard”. Onyebuchi Ezigbo and Damilola Oyedele, “Nigeria: Yar’Adua – Why Niger Delta Summit Must Hold”, *Thisday*, 4 July 2008.

out in the reports of several previous committees and study groups. MEND said it would not be “part of the jamboree called a summit”, which was “bound to fail” and intended principally to attract international attention.³⁵ The dominant view in the region was that the government should abandon the idea and form a committee to pull together the recommendations of those previous reports and present them for action.

The second major source of controversy and subsequently opposition concerned who was to steer the process. Although Gambari’s appointment had apparently met the demand for a lead mediator from the UN, it was opposed extensively across the region.³⁶ Much of this opposition was based on recollections that Gambari, as Nigeria’s UN ambassador in 1995, had defended the execution of environmental rights activist Ken Saro-Wiwa and eight other Ogoni by the Abacha dictatorship. Voices from outside the Delta weighed in. The main umbrella labour union, the Nigerian Labour Congress (NLC), argued that Gambari had lost credibility by hurting local sensibilities.³⁷ The issue, however, went beyond Gambari as an individual. The region’s leaders also insisted they could not entrust the committee chairmanship to anyone from the country’s major ethnic groups.³⁸ They demanded a committee headed by, and possibly consisting entirely of, Delta people or international mediators.

Faced with this opposition, Gambari, who had already laid out a program for convening the summit within 90 days, withdrew. On 16 July 2008, the federal government finally bowed to Delta opposition and abandoned its plans for the summit.³⁹ Instead, it agreed with Delta leaders to set up a committee to articulate the needs of the region and report. The collapse of the

summit at an advanced stage and the fact that opposition to Gambari erupted only after his appointment had been announced indicated that, in planning for the summit, the government had not communicated and coordinated with Delta ethnic and militant leaders adequately. More disturbingly, it meant that after over a year in office, an administration that had identified the Delta challenge as a priority area was still the lead actor in search of a script.

On 4 September 2008, the government announced a technical committee to address the Delta crisis.⁴⁰ Its 45 members were all drawn from the nine states broadly regarded as the Niger Delta region.⁴¹ Inaugurated by Vice President Jonathan on 8 September, it was handed the following terms of reference:

- collate, review and distill the various reports, suggestions and recommendations on the Delta, from the Willinks Commission report (1958) to the present and summarise the recommendations for government action;
- appraise the summary recommendations and present detailed short-, medium- and long-term suggestions; and
- make and present to the federal government any other recommendations that will help it achieve sustainable development, peace and human and environmental security in the Delta region.

The government gave the committee ten days to report, saying the bulk of the required information was already available in earlier documents and position papers that the public might forward. This implied urgency but was unrealistic. Further, the administrative support the committee requested from the government so as to begin work was delayed, and the committee eventually took almost three months on the assignment. It

³⁵ Ibanga Isine, “Niger Delta Summit is diversionary – MEND”, *Punch*, 6 July 2008.

³⁶ Kelvin Ebiri, “MOSOP, INC oppose Gambari’s headship of Niger Delta summit”, *The Guardian* (Lagos), 9 June 2008.

³⁷ Statement signed by NLC General Secretary John Odah, 4 July 2008.

³⁸ Nigeria’s 148 million population comprises over 350 ethnic groups, the three largest of which are the Hausa/Fulani, Yoruba and Ibo. The smaller groups, commonly referred to as minorities, have been historically resentful of the dominant influence of the larger groups on politics and public policy. The Niger Delta is populated by about 30 minority groups.

³⁹ Abdulfattah Olajide, “Nigeria: FG shelves Niger Delta Summit”, *Daily Trust*, 18 July 2008. Rationalising the setback, Jonathan said the summit was dropped as the term was problematic: “The people feel that when you say ‘summit’, that people will come from everywhere, different memos, sentiments, and they will say it is a jamboree. It is not really what they want”.

⁴⁰ Resort to a technical committee assumed centre stage only after the summit idea was dropped, but it had earlier origins. It seems to have been Yar’Adua’s original preference. Commenting on an interview with the president on the eve of his inauguration, a journalist reported that “Yar’Adua’s response to the complex problem [of the Delta] is to redress the developmental/environmental challenge that has made agitation and militancy profitable and this, according to him, would be done by setting up a technical committee that will examine the criteria for funding, while working out the timetable for the implementation of the roadmap already envisioned”. Olusegun Adeniyi, “The Burden of Expectations”, *Thisday*, 29 May 2007.

⁴¹ The states are Bayelsa, Delta and Rivers (within the Delta as geographically defined and so referred to as “core Niger Delta”), Abia, Akwa Ibom, Cross River, Edo, Imo and Ondo. Technical Committee members are listed in Appendix B.

began by electing as its chairman Ledum Mitee, president of the Movement for the Survival of Ogoni People (MOSOP)⁴² and as its secretary, Nkoyo Toyo, a leading civil society activist.⁴³ It then publicised its terms of reference and asked for submissions. On 5 October, it divided into eight sub-committees⁴⁴ that consulted national and international experts and various important sources.⁴⁵ Perhaps most significantly, the sub-committee on conflict, militancy and decommissioning visited militant camps in Oporoza, Delta State, where it obtained the views of the armed groups, including MEND.⁴⁶

Through these processes, the committee assembled and reviewed over 400 reports, memorandums and other documents⁴⁷ from local, national and international stakeholders. These included the Arewa Consultative Forum (ACF) in northern Nigeria; Afenifere, the pan-Yoruba socio-cultural body in western Nigeria; Oha n'Eze Ndigbo and the Movement for Actualization of the Sovereign State of Biafra (MASSOB) in the Ibo south east; and oil companies operating in the Delta.⁴⁸

⁴²The government initially appointed Dr Kalu Idika Kalu, a former World Bank economist who had served twice as finance minister and also as national planning and transport minister, as chairman, but bowed to the objections of Delta leaders that he was not from the core Delta but from Abia State, and the committee should be allowed to elect its own chairperson.

⁴³Ms Nkoyo Toyo, a lawyer and development consultant from Akwa Ibom State, is executive director of Gender and Development Action. She was a delegate to the National Political Reform Conference convened by the Olusegun Obasanjo administration in 2005. She was nominated while serving on the technical committee and subsequently confirmed as Nigeria's ambassador to the African Union.

⁴⁴The sub-committees dealt with (i) critical infrastructure; (ii) health and education; (iii) economic development and regional planning; (iv) environment, sustainable development and corporate social responsibility; (v) governance and the rule of law; (vi) community, youth and women's empowerment; (vii) resource ownership, management and distribution; and (viii) conflict, militancy and decommissioning.

⁴⁵These included representatives from state security agencies, international development agencies and various ethnicities within and outside the Delta.

⁴⁶A submission was made by the Joint Revolutionary Council (JRC), an umbrella militant body, on behalf of MEND, The Reformed Niger Delta People's Volunteer Force (NDPVF) and the Martyrs Brigade. Crisis Group interview, Technical Committee member, March 2009.

⁴⁷The reports that the committee reviewed, both those published by the government and those published by communities or international organisations, including Crisis Group, are listed in Appendix C.

⁴⁸Henry Omunu, "Nigeria: ACF, Afenifere, Massob, militants submit memos to Niger Delta Committee", *Daily Trust*, 30 September 2008.

Based on its analysis of these, it presented its recommendations in three parts.⁴⁹

The first part was a "Compact with Stakeholders on the Niger Delta". On the premise early action was needed to build stakeholder confidence so it could address longer-term tasks, it recommended that the government:

- ❑ increase immediately the Delta's allocation from oil and gas revenues from the present 13 per cent to 25 per cent, to be dedicated largely to new infrastructure and sustainable development of the region;
- ❑ complete within six months initial steps to support a process for disarming youths involved in militancy, including a comprehensive ceasefire and pull-back of forces; bail (with a view to an eventual negotiated release) for Henry Okah; credible amnesty conditions; a negotiated undertaking by militant groups to stop all kidnappings, hostage taking and attacks on oil installations; and formation of a Demobilisation, Disarmament and Rehabilitation (DDR) Commission.
- ❑ improve the operational integrity of security forces and police in the Delta sufficiently to assure communities and businesses about their safety;
- ❑ establish by mid-2009, with state and local governments, a Youth Employment Scheme (YES) to give at least 2,000 young people community work in each local government of the nine Delta states;
- ❑ complete by June 2010 the work to turn the the East-West Road from Calabar to Lagos into a dual carriageway and the construction of at least a link road to the coast in each state, backed by a fully funded roads maintenance program.
- ❑ ensure by June 2010 a total of 5,000mw of power for the Delta region;
- ❑ strengthen independent regulation of oil pollution, including work towards an effective environmental impact assessment (EIA) mechanism, and end gas flaring by 31 December 2008, as previously ordered by the federal government; and
- ❑ rehabilitate all health care facilities and give free medical care to those 65 and above, children under five, and pregnant women, as well as free drugs to malaria patients.

The second part laid out broad themes and roles for stakeholders in a regional transformation agenda running to 2020. The third part recommended that the federal government create institutions and mechanisms

⁴⁹The report was submitted to the government on 1 December 2008 but has not been made public.

to implement the Compact and other medium- and longer-term processes, including a Multi-Stakeholder Niger Delta Policy and Project Compliance Monitoring Agency⁵⁰ to monitor the implementation of the Compact and longer-range recommendations; a Niger Delta Special Infrastructural Development Fund⁵¹ to receive contributions from federal and state governments, oil companies, donors and others;⁵² a Niger Delta Futures Trust Fund for developing agriculture and industries outside the oil and gas sector;⁵³ and a Community Trust Fund Scheme and National Minorities Commission to advance the rights of Delta minority and micro-minority groups and ensure compliance with affirmative action policies and programs.

Political leaders outside the Delta have made few public comments on the still unpublished report. The general attitude, especially in the north and west, has been to refrain from statements, while quietly urging the government to be “generally very cautious”⁵⁴ in responding to the recommendations. Those recommendations have drawn modest praise but also considerable criticism from the Delta. MEND affirmed that “the Technical Committee’s report in part does reflect some of our thinking as well as that of our affiliates” but added that it had expected more “candour (and punch)”; and that the report was “drafted with some caution, perhaps not to rock the boat with the Northern ruling class”, and failed to deal with “some key

issues, such as fiscal federalism, which is on everyone’s mind”.⁵⁵

The Conference of Ethnic Nationalities of Niger Delta (CENND), an umbrella organisation of the region’s ethnic groups, was even more critical, saying “the report failed to meet the aspiration of the ethnic nationalities of the Niger Delta”, because it did not recommend that the Delta receive initially a minimum of 50 per cent of derivation revenue and ultimately full control of resources by states and communities. It stressed that nothing short of control of resources, with payment of appropriate taxes to the federal government, would satisfy grievances.⁵⁶

This view notwithstanding, some of the report’s recommendations seem overly ambitious and unrealistic, and the timelines set for their implementation were bound to be overtaken by events. But the key ones – an amnesty and DDR and increased derivation revenue – targeted the major challenges of ending unrest and meeting the most fundamental Delta demand. If carried out carefully and with effective measures to ensure better accountability for derivation revenue, they would form a road-map with which the administration could begin to resolve the conflict and address the insecurity in the region.

B. OTHER INITIATIVES

The Yar’Adua government’s most significant initiatives to respond to the Delta crisis, other than the aborted summit and the Technical Committee process, have been the establishment of a cabinet ministry and an attempt to co-opt the militants by giving them responsibility for guarding the region’s oil and gas installations.

1. The Ministry of Niger Delta Affairs

Created on 10 September 2008, the Ministry for Niger Delta Affairs has a twin mandate focusing on infrastructure development and youth empowerment. According to the government, it is to be responsible for development projects in the region, including roads, electricity and other utilities, previously executed by multiple ministries, in order to provide better focus and quick

⁵⁰The report, p. 62, alternatively referred to it as the Niger Delta Policy and Project Compliance Monitoring Committee.

⁵¹The report referred to the proposed fund as both the Special Niger Delta Infrastructural Intervention Fund (p. 63) and the Special Niger Delta Infrastructure Intervention Development Fund (p. 68).

⁵²The report proposed that the Fund might also explore other funding possibly available from donors or from value added tax (VAT), the Excess Crude Oil Account, foreign exchange reserves and the private sector. It also suggested that some resources might be drawn from the 12 per cent increase in derivation revenue the region is demanding.

⁵³The report, p. 63, said this fund might be resourced from “a fraction of the additional 12%” demanded by the region. On structure and operations, it said the following principles must be observed: a) foreclosure on spending capital so that interest earnings might grow over at least fifteen years; b) independent and conservative management under international standards that protect the fund from opportunistic raids; and c) a policy that visibly empowers communities in the region and involves them in decisions on the long-term use of the fund.

⁵⁴Crisis Group interview, official of Arewa Consultative Forum, Kaduna, 28 March 2009.

⁵⁵Crisis Group correspondence, Jomo Gbomo, MEND, 20 February 2009.

⁵⁶Statement by the steering committee of the Conference of Ethnic Nationalities of Niger Delta (CENND) at the end of its meeting in Uzere, Delta State, 17 December 2008.

implementation and to demonstrate commitment to the Delta.⁵⁷

The ministry drew mixed reactions, particularly in the Delta. Some welcomed it as a significant sign of commitment. The prominent Ijaw leader, Chief Edwin Clark, said it was “a step in the right direction and evidence of political will and sagacity by the President”.⁵⁸ MEND warned: “The people of the region should receive this latest dish with apprehension. It will be yet another avenue for corruption and political favouritism”.⁵⁹

Creation of the ministry has also raised several unanswered questions and attracted criticism from other parts of the country. Firstly, the timing pre-empted to a degree the Technical Committee, which was still working.⁶⁰ Secondly, addressing regional problems with a new ministry risks opening a Pandora’s Box of demands for region-specific ministries elsewhere.⁶¹ Thirdly, the relationship with the Niger Delta Development Commission (NDDC), in existence since 2000, is unclear. The NDDC is mandated to facilitate “the rapid, even and sustainable development of the Niger Delta into a region that is economically prosperous, socially stable, ecologically regenerative and politically peaceful”.⁶² Yar’Adua’s statement that the new ministry is to become the primary vehicle for addressing “the challenges of infrastructural development, environment protection and youth empowerment in the region”⁶³ suggests potential duplication and conflict of responsibilities. The government disputes this, saying the NDDC will function as a parastatal body under the ministry, but the law establishing the NDDC is yet to be amended in this sense.

⁵⁷ Juliana Taiwo, “Nigeria: Yar’Adua creates Ministry of Niger Delta”, *Thisday*, 11 September 2008.

⁵⁸ “Nigeria: Why we created Niger Delta Ministry, by Yar’Adua”, *Thisday*, 12 September 2008.

⁵⁹ “Nigeria militants criticise new Niger Delta Ministry”, Reuters, 11 September 2008.

⁶⁰ A committee member told Crisis Group: “One would have thought that the government which set up a committee to suggest strategies, mechanisms and vehicles for bringing peace and development to the Delta would have waited to receive that committee’s report before creating new institutions it suggests that the government already has its own hidden agenda which it is going ahead to implement, regardless of the submissions of the committee”. Crisis Group interview, 16 September 2008.

⁶¹ See, for example, George Orji and Ali M. Ali, “Nigeria: Dasuki – Niger Delta Ministry unnecessary”, *Thisday*, 4 January 2009.

⁶² Niger Delta Development Commission Act. no. 2, of 1999. See also “NDDC: About Us”, <http://nddc.gov.ng/about>.

⁶³ “Nigeria: Why we created Niger Delta Ministry, by Yar’Adua”, *Thisday*, 12 September 2008.

Funding is a further complication. The federal government still owes the NDDC 326 billion naira (about \$2.2 billion). It may have been more reasonable to rectify that funding deficit than to create an entirely new organisation with which the NDDC must now share the money. Donu Kogbara, a member of the Oil and Gas Sector Reforms Implementation Committee (OGIC), commented: “The NDDC does not need to be replaced or eclipsed because it can do everything that a ministry can do — if it is given the human and financial resources with which to play a dynamic coordinating role. There’s a very real risk that the new ministry will largely turn out to be nothing more than a glorified version of the NDDC and a cynical, expensive window-dressing”.⁶⁴

Doubts have also been expressed about the ministry’s leadership, funding and mode of operation. A first source of misgivings is the appointment of Ufot Ekaette, a former secretary to the federal government, as minister, with Godsday Orubebe as his deputy. Ekaette was selected for his long experience in the federal bureaucracy and because he is both a Delta native and acceptable to elites and officials from elsewhere, notably the north. The appointment inspired limited enthusiasm, however, especially in the Delta.⁶⁵ As a bureaucrat who has spent his entire career in the public service, he is considered conservative and unlikely to break new ground. Although he served briefly as deputy governor of Akwa Ibom State in the early 1990s, many in the Delta view him as too much a federal establishment figure. Many also doubt that, at 70, he has the energy necessary to drive urgent change.⁶⁶

Militant leaders have no confidence in Ekaette or the ministry.⁶⁷ His comment in February, that the detained MEND leader, Henry Okah, who is seeking specialist medical attention abroad, was playing tricks with his

⁶⁴ Donu Kogbara, “Do we really need a Niger Delta Ministry?”, *Vanguard*, 5 December 2008.

⁶⁵ Crisis Group interview, former federal minister from Kaduna State, northern Nigeria, 6 March 2009.

⁶⁶ Prince Presley I.G. Iyalagha, general coordinator of Niger Delta Peace Forum (NDPF) and coordinator of South South Youth Leadership Forum in Delta State, said, “the appointment of Chief Ufot Ekaette is the greatest injustice that President Yar’Adua has done to the people of the Niger Delta. He did nothing for the people when he was Secretary to the Federal Government We do not think that there will be any change in the region with his appointment and we need a drastic change in the region”. Emma Amaize, “Ekaette’s appointment, greatest injustice to N’Delta people”, *Vanguard*, 1 January 2009.

⁶⁷ Crisis Group correspondence, Jomo Gbomo, MEND, 19 February 2009.

health to avoid justice,⁶⁸ further alienated him. MEND said of Orubebe that “this same man was always in touch with Henry to assist him build his political relevance, yet today he is acting as if he never knew the man. MEND cannot trust a man who betrays his friend”.⁶⁹

A second cause for concern is the relatively low funding provided for the ministry in the 2009 budget. The raw figures showed an allocation of N47 billion (about \$314 million), while the NDDC, which in previous years received between N58 billion (\$387 million) and N79 billion (\$527 million), was to be slashed to N27 billion (\$180 million). This meant that the two organisations together were to receive about N5 billion (\$33 million) less than what the NDDC alone obtained in some past budgets. Government officials initially suggested that this cut was, to an extent, a function of Nigeria’s rapidly worsening financial position, but that explanation was unacceptable to many in the region. Some, like Isaacs Kekemeke, secretary to the Ondo State government (and a member of the Technical Committee), said the underfunding of the ministry signalled that the administration was not ready to tackle the region’s problems.⁷⁰

On 21 April, President Yar’Adua sent a proposal to the National Assembly requesting another N96.62 billion (about \$640 million) for the NDDC in 2009.⁷¹ With this substantial additional money intended for the Commission in contrast to the much lower provision for the new ministry, it would seem that the government intends to continue to rely on the former for Delta

development, thus raising further questions about the ministry’s relevance.

A third major cause for concern is the ministry’s approach to its mandate. As far back as March 2007, the federal government launched a Niger Delta Regional Development Master Plan (NDRDMP) for sustainable development based solely on stakeholders’ inputs and experts’ analytical guidance. It covered 25 sectors, including health, education, transportation, and agriculture, was designed to be implemented over fifteen years and was considered comprehensive by many development experts. Yet, rather than follow it, Ekaette has embarked on what appears to be an entirely new approach, touring the nine Delta states to solicit views on what should be done. This is seen as a waste of time and resources that may produce haphazard, ill-conceived and poorly integrated efforts.

If the ministry fails to deliver early credible results, many in the Delta will add it to the list of institutions by which they have been hoodwinked by successive federal administrations. That would deepen the sense of betrayal and alienation across the region that fosters support for the continued insurgency.

2. Militants as pipeline guards

On 20 May 2008, the then defence minister, Alhaji Yayale Ahmed, outlined what was thought to be a major policy initiative for reining in militant activities in the Delta. At a briefing to the House of Representatives Committee on Defence, he said the federal government had formulated plans for “constructive engagement”.⁷² This specifically included negotiating with the militants to form private companies that would be hired to provide security for oil pipelines and other installations. The rationale was that the scheme would wean the militants from armed conflict and solve some of the region’s unemployment problem.⁷³

This evoked a torrent of questions from the public: would the government arm the militants? If yes, would they operate like the military or the police? If no, how would they be able to guard pipelines? If they were to be armed, what would guarantee that they would not someday turn those arms against the government and overrun the installations?⁷⁴ Several critics argued that protecting critical national infrastructure is an integral part of a government’s national security responsibility.

⁶⁸ Okah, arrested in Angola in September 2007 and extradited to Nigeria in February 2008, is on trial for treason, terrorism and kidnapping, all carrying the death penalty. His case has been delayed repeatedly over technicalities and health questions. His lawyers and relatives say the 43-year-old needs kidney treatment not available in Nigeria. A specialist urological surgeon at Jos University Teaching Hospital found he needs “a diuresis renography”. The government has refused to allow treatment abroad; the attorney general insists he be treated in an Abuja clinic that his attorney says has no facilities to treat kidney problems. Femi Falana, “Request for Urgent Treatment of Henry Emomotimi Okah”, letter to President Umaru Yar’Adua, 11 February 2009. On 18 February, Delta Affairs Minister Ekaette dismissed appeals for foreign medical treatment as “one of those tricks to escape justice”. “Ekaette dismisses appeal over Okah’s medical trip”, *Businessday*, 19 February 2009.

⁶⁹ Crisis Group correspondence, MEND leader, 17 March 2009.

⁷⁰ Dayo Johnson, “Nigeria: Ondo SSG tackles FG on Niger Delta”, *Vanguard*, 24 December 2008.

⁷¹ Inalegwu Shaibu, “Yar’Adua sends N96.62bn NDDC budget proposal to National Assembly”, *Vanguard*, 22 April 2009.

⁷² Leon Usigbe and Tordue Salem, “Pipeline vandalisation: FG set to hire Delta militants”, *Vanguard*, 21 May 2008.

⁷³ Crisis Group Interview, defence ministry official, Abuja, 29 November 2008.

⁷⁴ *Thisday*, 21 May 2008.

ity, for which its security forces are trained and constitutionally mandated. Ceding that responsibility to armed groups would be unconstitutional and ultimately dangerous.⁷⁵

Furthermore, some insisted, even if such an arrangement could address the criminal or security dimension of the Delta crisis, it would not respond to its more fundamental political, socio-economic and environmental aspects. A strategy that focused on only one dimension could not provide a lasting solution. MEND, one of the main groups whose members the government was trying to attract, spoke of a “desperate and laughable” diversionary scheme that could not persuade it to abandon its campaign for control by the Delta of its own oil resources.⁷⁶ Shredded by intense public criticism and spurned by the militants, the idea was still-born.

IV. BREAKING THE IMPASSE

To break the present impasse, the government must follow up its commitment to resolving the Delta crisis with concrete action. Silent on the Technical Committee report, it seems to be relying on a solution based on force: in November 2008, it set up a special task force on security in the maritime sector,⁷⁷ and it has boosted JTF resources. The chief of police has pushed for a law compelling all mobile phone companies to register names and addresses of subscribers, in order to better track kidnapers,⁷⁸ while the Rivers State government adopted a law prescribing lifetime sentences for kid-

⁷⁵ See, for example, Abubakar Atiku Nuhu-Koko, “Hiring of Niger Delta militants as pipelines security guards: an exercise in futility!”, *Sahara Reporters*, 21 May 2008.

⁷⁶ Ifeanyi Izeze, “Niger Delta Militants Company Limited: Articles of Association?”, <http://pointblanknews.com/artopn494.html>.

⁷⁷ On 25 November 2008, the government established an Inter-Agency Maritime Security Task Force on Acts of Illegality in Nigeria’s Territorial Waters (IAMSTF), to identify all illegal activities and security breaches in the coastal waters and recommend immediate remedial action. Headed by Rear Admiral Dele Ezeoba, its members were drawn from the Nigerian Armed Forces, Nigeria Police, Nigeria Customs Service, State Security Service and Nigerian Maritime Administration and Safety Agency among others. It was given 90 days to complete its work.

⁷⁸ “A bill for an Act to make it mandatory for all GSM Companies to register their Subscribers”, sponsored in the National Assembly by the inspector general of police, aims at better tracking of kidnapers and would provide for heavy fines or criminal prosecution of both mobile companies and subscribers who did not register mobile phone use with the authorities.

nappers.⁷⁹ These measures may improve security in the short term but are insufficient to resolve the crisis permanently.

A. CLARIFYING PRIORITIES, TIMETABLE AND RESPONSIBILITIES

In spite of its shortcomings, the Technical Committee report offers a base from which the Yar’Adua administration can relaunch efforts to end the armed conflict. It needs to respond to that report urgently with decisions on its recommendations, and to publish its own White Paper, awaited since December 2008. Its response must clearly address both the immediate measures in the Compact with Stakeholders and the longer-term issues.

The government should apply the recommendations to end the armed conflict and follow up vigorously by improving infrastructure and utility services in the Delta. Although the Technical Committee report highlights some priorities and sets some goals, it does not offer a comprehensive regional development plan. The government should adjust the NDRDMP to accommodate the specific goals identified in the report, then fast-track programs for achieving them. It also needs to clarify and coordinate the relationship between the new ministry, the NDDC, state and local governments and all other relevant actors.

In particular, the ministry needs to refocus on the adjusted NDRDMP as the guiding document for development in the region. It is crucial for all stakeholders, including donors, to see and follow a properly integrated and commonly accepted roadmap. If that plan can no longer be implemented as initially envisaged, it should be modified in line with emerging priorities and within the limits of available resources. Ekaette and Orubebe need not only to show greater energy in leading the ministry but also to demonstrate greater sensitivity to the stakeholders, whose cooperation is essential for early results. The government must give the ministry supplementary funding, so it can execute at least a few visible infrastructure projects, in accordance with the NDRDMP, before the end of 2009.

⁷⁹ Rivers State’s governor, Rotimi Amaechi, advocated capital punishment for kidnapers, but the Kidnapping Prohibition Bill 2008, passed by the Rivers State House of Assembly on 17 February 2009, prescribes a mandatory life sentence and twenty years for attempted kidnapping. The Enugu State government is seeking to amend Section 315 of its criminal code to substitute the death penalty for the present ten-year sentence for anybody who unlawfully imprisons another person.

B. RESPONDING TO STAKEHOLDERS, BUILDING TRUST

In order to start the long and difficult task of rebuilding trust with Delta communities, the government must seriously consider the Technical Committee's recommendations. It should promote confidence building by accepting mediated dialogue with armed groups with the aim of DDR, a limited amnesty, an increase in derivation revenue and better guarantees on spending and accountability. For their part, the leaders of ethnic and militant groups must commit to ending armed violence and pursuing their regional aspirations through constitutional and democratic channels, freeing all hostages and ending hostage taking, and cooperating with security agencies against organised crime, especially the illicit flows of guns and stolen oil.

The government insists on handling the Delta crisis as a strictly internal matter and remains cold to involving external mediators.⁸⁰ Yet, given the very low level of mutual trust, credible and sustained progress requires external support for the peace process. One option may be to engage an organisation like Coventry Cathedral, based in the UK but with considerable experience on Delta issues and apparently good relations with both the militants and the president.⁸¹ Another option, preferred by most Delta leaders,⁸² is for higher-profile assistance, such as from the UN or a group of eminent persons drawn from different countries. The government needs to recognise the imperative of external support and reach agreement with Delta leaders on mutually acceptable mediation arrangements.

Among the first issues a mediated negotiation is likely to deal with are amnesty and release of prisoners, which can only be achieved as part of a deal for an end to hostage taking and a release of captives. The problem again is lack of trust and unwillingness to go first. The way forward is for both sides to take small steps, building confidence toward amnesty for Delta militants, limited strictly to those whose actions were fundamentally motivated by political rather than criminal con-

siderations.⁸³ At that point, Okah's trial should be terminated so he could be released from detention,⁸⁴ to facilitate the DDR program. On 2 April 2009, President Yar'Adua told the national executive of his ruling People's Democratic Party (PDP) that his administration was "working on terms for the granting of amnesty for those who are prepared to lay down their arms", but also said the government was buying new equipment for the JTF in the Delta so it could fight the militants more effectively. The terms of the possible amnesty remain unclear.⁸⁵

These mixed messages elicited cold to negative reactions from the militants. MEND said it would not disarm on the strength of Yar'Adua's remarks but only pursuant to "a well-coordinated peace arrangement, under the supervision of a respected international mediator".⁸⁶ The government needs to offer its amnesty not as a stand-alone act, but within a comprehensive peace process, as the Technical Committee recommended. Lack of clarity on the terms and modalities of the possible amnesty⁸⁷ has also created room for further complications. Militant leaders allege they are being offered a bargain: to enlist in a PDP scheme to rig the 2011 elections in the Delta in exchange for general amnesty, partial disarmament and substantial payments monthly until after the polls.⁸⁸ The government needs to ensure

⁸⁰ Crisis Group interview, director, foreign ministry, Abuja, 5 March 2009.

⁸¹ In 2004, it was appointed by President Obasanjo to formulate the framework for reconciliation between the Ogoni people of the Delta, Shell and the government. Dr Stephen Davis, Canon Emeritus at the Cathedral, has served as consultant to the managing director of Shell (Nigeria), special advisor to Obasanjo and presidential envoy under President Yar'Adua.

⁸² Crisis Group interview, several Delta-based ethnic and civil society leaders, Abuja, March, and Washington DC, April 2009.

⁸³ This is admittedly a difficult distinction, but Delta ethnic leaders already have a list of those whose activities they consider politically driven.

⁸⁴ The Technical Committee had recommended that the government set amnesty conditions and give Okah an open trial. Several Delta ethnic, militant and civil society leaders have objected, saying he should be free to participate in the peace process. That would not be unprecedented; Mujahid Asari Dokubo, leader of the Niger Delta People's Volunteer Force (NDPVF), was granted bail on the intervention of Delta governors five days after the Supreme Court upheld a Court of Appeal finding that he was "a real threat to national security". Crisis Group Report, *Ending Unrest in the Niger Delta*, op. cit., p. 1.

⁸⁵ Crisis Group interviews, government officials, Abuja, March 2009.

⁸⁶ MEND email to Crisis Group and others, 3 April 2009.

⁸⁷ Crisis Group interviews, several government officials, Abuja, March 2009.

⁸⁸ On 10 April 2009, MEND claimed that agents of Yar'Adua's PDP had, in secret talks, offered its fighters amnesty and a robust monetary incentive if the group assisted the party in winning the 2011 gubernatorial election in the Delta region. Party officials allegedly proposed that MEND mobilise its fighters to assist the JTF in rigging votes and commandeering ballot boxes, working closely also with the IYC, the Delta State Waterways Security and Delta governors. In return, they were said to have offered that Okah and the other detainees would be released, and the group would receive agreed monthly payments as security con-

that the amnesty and other elements of the peace process are negotiated transparently.

Both sides should start to reduce tensions and armed confrontations. The government, supported by an external mediator, should immediately begin an honest and transparent dialogue with the militants for implementing DDR as recommended by the Technical Committee, while also halting raids on militants' camps and gradually reducing JTF deployment in the region, a deployment that is increasingly seen as oppressive and exploitative. DDR talks need to emphasise not only handing in weapons but also education, rehabilitation, counselling, training, apprenticeships, jobs and business opportunities for militants.

The recommendation for an immediate increase from 13 per cent to 25 per cent in derivation monies the federal government allocates to the Delta is the most controversial recommendation. The 1999 constitution provides for giving producing states not less than 13 per cent of the revenue accruing to the federation account directly from natural resources. This subject is particularly sensitive, because virtually all Nigeria's public revenue derives from the oil and gas exports from the Delta, and an increased allocation to any part of the country or tier of government would instantly reduce the shares of others. The recent large fall in the oil price exacerbates this tension.

The northern political elite has expressed reservations. The Northern Union (NU), a socio-political group supportive of the interests of the north of the country,⁸⁹ urged the president to deal carefully with the Technical Committee report, arguing that some of its recommendations "needed to be treated with caution".⁹⁰ Any decision will have to take contending interests into account⁹¹ but also be implemented in a manner that

sultants, including lucrative oil and gas contracts. MEND said it rejected the "evil agenda".

⁸⁹ Chief Patrick Adaba, chairman of its executive committee, described the Northern Union, formed in 2005, as "a socio-political organisation formed principally to protect the geopolitical entity called the North". See Ebomhiana Musa, "Insult! Poverty, not a northern affair, says Adaba, ex-dep governor tells Soludo", *Daily Sun*, 28 October 2008. Its leaders distinguish themselves from the better known Arewa Consultative Forum (ACF) by emphasising that ACF is a "socio-cultural organisation", while theirs has a "socio-political" focus. Both groups, in practical terms, pursue the same broad objectives.

⁹⁰ Ifeatu Agbu, "Nigeria: Niger Delta – president must act now", *Daily Independent*, 25 December 2008.

⁹¹ An academic and civil society leader said, "the issue as to the percentage of the increase from the present 13% derivation allocation is a matter deserving mature political nego-

does not destabilise the economies of non-oil producing states. "The adjustments must be implemented in slow but steady increases over a number of years, a step at a time, in such a way as to allow non-oil producing states to seek out alternative sources of revenue in their own domains".⁹²

While Delta communities have a case for derivation, not least that their environment has been severely damaged by oil exploration, serious questions remain about the management of revenues by state governments in the region, particularly given the close historical links between governors, who stand to gain the most, and some militant groups. A rise of derivation revenue to 17 per cent, as recommended by the National Political Reform Conference in 2006, would be a fair starting point. But it must be accompanied by serious reforms in the state governments on budget tracking, revenue transparency and program evaluation.

As noted above, the Technical Committee also recommended urgent government action on infrastructure and utility services in the Delta, including completing the East-West Road from Calabar to Lagos by June 2010, ensuring dedicated allocation of at least 5,000mw of electricity to the region by that date (a huge increase on current levels), ending gas flaring and rehabilitating educational and health institutions. These are ambitious targets. Completing the East-West Road, for example, depends on cessation of the militant and criminal activities that forced the lead company, Julius Berger PLC, to abandon the project and withdraw from the region.

Improved security arrangements are central to all progress on Delta issues. The Technical Committee report recognised that scaling down the military presence, within the context of easing tensions and implementing DDR, might create a security void. It therefore proposed that the federal government accompany military withdrawal with improvements in the operational integrity of the police and other security agencies, including steps to eliminate harassment and other abuse by security personnel, such as re-orientation, retraining and strengthened accountability standards and procedures.

tiation within the context of the Nigerian political economy and understanding by all the national stakeholders. The time to engage in this delicate negotiation is now". Crisis Group interview, Abubakar Atiku Nuhu-Koko, executive director, Shehu Shagari World Institute for Leadership and Democracy, Sokoto, 19 March 2009.

⁹² Crisis Group interview, Dr Tukur M. Baba, director, Centre for Peace Studies, Usman Dan Fodiyo University, Sokoto, 1 April 2009.

This has fallen behind schedule – it was to have been completed in the first quarter of 2009 – but the goal remains valid. On 17 April 2009, the London-based rights group Amnesty International reported it was seeing what appears to be “a worrying rise in the use of extreme violence by the police in the Niger Delta”, including torture, illegal killings and enforced disappearances.⁹³ There is a compelling need not only to increase police numbers and operational effectiveness in the region, but also to implement programs for improving professionalism, accountability and respect for citizen rights.

While the government, on 13 April, named a fourteen-member committee to coordinate implementation of its White Paper on Police Reform, action in the Delta need not wait for the long processes of that committee. The government should promptly strengthen police formations in the region, with equipment as well as personnel. Furthermore, even before comprehensive reforms, the police command there should be brought under the close oversight of the National Human Rights Commission (NHRC) as well as the Niger Delta Civil Society Coalition.

C. STRENGTHENING MONITORING ARRANGEMENTS

The Technical Committee recommended a Multi-Stakeholder Niger Delta Policy and Project Compliance Monitoring Agency to keep an eye on implementation of its Compact as well as longer-term development. While there is need for more intensive monitoring, it is doubtful whether this requires yet another agency. The same objective can be achieved by strengthening existing arrangements and ensuring that they work. The Senate and House committees on the Delta, in partnership with the Niger Delta Civil Society Coalition (NDCSC),⁹⁴ should organise periodic public forums where all stakeholders can present reports and assessments. The Partners for Sustainable Development (PSD), participating in regional, state and local stakeholder forums, should play an active role.

⁹³Remarks by Amnesty’s Nigeria researcher, Aster van Kregten, quoted in “Men arrested in Niger Delta region of Nigeria feared tortured and killed”, statement by Amnesty International with several other international and Nigerian organisations, 17 April 2009. Nigerian police spokesman, Emmanuel Ojukwu, denied the allegations.

⁹⁴NDCSC is an umbrella organisation of over 80 community-based, human rights, ethnic minority and professional organisations that work in Rivers, Bayelsa and Delta States.

The monitoring, review and evaluation provisions of the regional development master plan already include procedures for assessing implementation, both internally by the NDDC and externally by other stakeholder agencies such as the UN Development Programme (UNDP). These and other partners should report to the public periodically. The combined effect of all this should constitute a comprehensive assessment.

A second institutional innovation the Technical Committee called for was a National Minorities Commission to protect and advance the rights of Delta minority groups. It is again doubtful whether another government body is needed, since the responsibility is reflected in the mandates and functions of several agencies. For example, the NHRC’s work includes protecting minority rights; and the Federal Character Commission (FCC) is meant to guarantee equitable distribution of government employment opportunities to all geo-ethnic groups at all levels.⁹⁵ The government needs to ensure that these and related institutions work, and minority groups in the Delta and elsewhere should demand their rights through these existing avenues.

D. THE INTERNATIONAL ROLE

The international community has an important stake in resolution of the Delta crisis. Nigeria’s oil is vital for global energy security; the security of the Gulf of Guinea is likewise a requirement of international maritime trade. Nigeria’s partners, including the U.S., UK and other leading members of the G8 and European Union (EU), can and should lend their voices to persuading Yar’Adua to act urgently on the Technical Committee report. They need to emphasise that delay in resolving the Delta crisis is undermining the country’s image as a stable democracy and a reliable oil producer, exacting a high cost in terms of human security and foregone socio-economic development in the country and undermining Yar’Adua’s vision of transforming Nigeria into one of the world’s twenty largest economies by 2020.

The international partners should push the government to accept external third-party support for mediating and coordinating the peace process, as this appears to be the only basis on which negotiations with the militants can be conducted effectively. External support will be needed, particularly from the UN, for setting up the proposed DDR Commission, funding its activities and carrying out its work.

⁹⁵“Constitution of the Federal Republic of Nigeria 1999”, Third Schedule, Part 1, Sections 8 (a) and (b).

The partners also need to support improvement of Nigeria's security sector, in relation to the Niger Delta in particular, and promote maritime security in the Gulf of Guinea. However, offers and provision of combat equipment and other material support to the armed forces have tended to further inflame passions in the Delta. In July 2008, MEND and its affiliates saw British Prime Minister Gordon Brown's offer to Yar'Adua of help in dealing with the Delta insurgency as "a declaration of war"⁹⁶ and responded with further hostilities. In February 2009, when the visiting Italian foreign minister, Franco Frattini, offered two boats to assist the navy, MEND attacked facilities operated by the Italian company Agip.

Further military aid in the Delta should come within a broader and transparent framework of security sector reform designed to improve professionalism, accountability, human rights and the administration of justice with regard to security personnel involved in oil-related crimes. The EU, which is increasing financial grants to Nigeria by nearly 30 per cent through 2013 and has indicated that military assistance will be a "large part" of the package,⁹⁷ should emphasise security sector reform, especially in relation to military and police operations in the Delta.

International cooperation and support are also needed to ensure that the development agencies – the new Delta ministry and NDDC – deliver results. Partners should encourage the government to clarify how those agencies can work together and what blueprint should guide Delta development. Donors could assist with technical advice and capacity building, particularly in the ministry. Such help should also be extended to credible civil society bodies that may be involved in monitoring and assessing implementation of Technical Committee recommendations.

V. CONCLUSION

The Technical Committee on the Niger Delta's December 2008 report to the president offers a new opportunity for renewing engagement on resolving the region's long and deepening crisis. The government, regional leaders and the militants need to respond urgently and decisively to arrest the public's growing distrust, end armed violence, create an environment for arresting

organised crime and set the stage for sustained, longer-term development. If they miss this opportunity, the Delta risks sliding deeper into conflict, insecurity could spread further across the Gulf of Guinea, and Nigeria's oil production and drive for socio-economic advancement will be even more severely disrupted.

Abuja/Dakar/Brussels, 30 April 2009

⁹⁶ Adekumbi Ero and Anayochukwu Agbo, "A dilemma in the creeks", *TELL*, 4 August 2008, p. 35.

⁹⁷ Joseph Ushigiale, "Nigeria: EU boosts aid to country", *Thisday*, 28 February 2009.

APPENDIX A
MAP OF NIGER DELTA



APPENDIX B

MEMBERS OF THE TECHNICAL COMMITTEE

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- Ledum Mitee, President of the Movement for the Survival of Ogoni People, MOSOP (Rivers State)
- Nkoyo Toyo, Executive Director, Gender and Development Action (Cross River State)
- Prince Tonye Princewill, Action Congress governorship candidate for the 2007 elections (Rivers State)
- Tony Uranta, Executive Secretary, United Niger Delta Energy Development Security Strategy (Rivers State)
- Magnus Njei Abe, Secretary to the Rivers State Government (Rivers State)
- Chibuzor Ugowoha, Total Exploration and Production Nigeria Ltd. (Rivers State)
- Anyakwe Nsirimovv, Executive Director, Institute of Human Rights and Humanitarian Law, Port Harcourt (Rivers State)
- Timi Alaibe, Executive Director, Niger Delta Development Commission, NDDC (Bayelsa State)
- Atei Beredugo, Director of Planning, Niger Delta Development Commission (Bayelsa State)
- Dr Kalu Idika Kalu, economist, former Minister of Finance, National Planning and Transport (Abia State)
- Chief Anthony Ani, former Minister of Finance (Akwa Ibom State)
- Sam Amuka, journalist, publisher of *Vanguard* newspapers (Delta State)
- Lawrence Ekpebu, Professor of Political Science, former Ambassador and Chairman, Presidential Monitoring Committee on NDDC (Bayelsa State)
- Austin Ikein, Professor of Business Economics, Finance and Development, Delaware State University, USA (Bayelsa State)
- Omofume Onoge, Professor of History (Delta State)
- B. I. C. Ijeoma, Professor of Sociology (Delta State)
- Peter King, professor and Fulbright scholar (Delta State)
- G. M. Umezurike, former Vice Chancellor, Imo State University (Imo State)
- Julius Ihonvbere, Professor of Political Science, former Special Adviser to President Olusegun Obasanjo (Edo State)
- Stella Omu, Senator 1999-2003 (Delta State)
- D. I. Kekemeke, former member of the Ondo State House of Assembly and present Secretary to the Ondo State Government (Ondo State)
- Nduese Essien, member of the House of Representatives 1999-2007 (Akwa Ibom State)
- Chief E. C. Adiele (Imo State)
- Chief Tony Esu, former member of the House of Representatives (Delta State)
- Chief Isaac Jemide, one time member of the House of Assembly in the old Bendel State, now split into Delta and Edo States (Delta State)
- Chief John Anderson Eseimokumo, chartered accountant, Commissioner representing Bayelsa State in NDDC (Bayelsa State)
- Chief Olusola Oke, former Chairman, Ondo State Oil Producing Areas Development Commission (Ondo State)
- Dr Youpele Banigo, lecturer in History, University of Port Harcourt (Bayelsa State)
- Dr Sam Amadi, former Special Adviser to Senate President Ken Nnamani (Rivers State)
- Dr Godswill Ihetu, former Group Executive Director (Engineering and Technology), Nigerian National Petroleum Corporation (Edo State)
- Charles Edosomwan, Senior Advocate of Nigeria, former Attorney General and Commissioner for Justice in Edo State (Edo State)
- Benard Jamaho, legal practitioner (Cross River State)
- Cyril Anyanwu, legal practitioner, Special Assistant (Special Duties) to the Governor of Imo State (Imo State)
- Grace Ekong, former Secretary to the Government of Akwa Ibom State (Cross River State)
- Ukandi Gabriel Ogar, former Head of the Cross River State Civil Service (Cross River State)
- Ben Boyegha, civil society leader (Edo State)
- Peter Ebhalemen, retired Rear Admiral (Edo State)
- Cletus Emein, retired Brigadier General and former military administrator of Niger State (Delta State)
- Paul Edor Obi, retired Colonel and former military administrator of Rivers State (Cross River State)
- Wole Ohunayo, retired Colonel (Ondo State)
- Dr Abel Dafioghor, representative of Niger Deltans in the diaspora, U.S.(Delta State)
- Ombrai Oguoko, representative of Niger Deltans in the diaspora, UK (Rivers State)
- Ayebaemi I. Spiff, Professor of Chemistry (Rivers State).

APPENDIX C

REPORTS REVIEWED BY THE TECHNICAL COMMITTEE

Major reports published by the Nigerian government, which the Technical Committee reviewed, included the following:

Report of the Commission Appointed to Enquire into the Fears of the Minorities and the Means of Allaying them (1958);
The Constitution of the Federal Republic of Nigeria, 1963;
Report of the Judicial Commission of Inquiry into Cause of Fuel Shortages in Nigeria, 1992;
Report of the Ministerial Fact-Finding Team to Oil Producing Communities in Nigeria, 1994;
Report of the Vision 2010 Committee, 1996;
Report of the Presidential Committee on the Development Options for the Niger Delta, 1996;
Report of the UN Special Rapporteur on Human Rights Situation in Nigeria, 1997;
Report of the Special Security Committee on the Oil Producing Areas, 2001;
White Paper on the Report of the Presidential Panel on National Security, 2003;
National Political Reform Conference Report, 2005; Niger Delta Human Development Report, UNDP, 2006;
Niger Delta Regional Development Master Plan, NDDC, 2006; and
Report of the Presidential Council on the Social and Economic Development of the Coastal States, 2006.

Among the major petitions earlier submitted by ethnic nationalities and communities that the committee reviewed were the following:

The Ogoni Bill of Rights, 1990;
The Charter of Demands of the Ogbia People, 1992;
The Kaiama Declaration, 1998;
Resolutions of the First Urhobo Economic Summit, 1998;
The Akalaka Declaration, 1999;
The Warri Accord, 1999;
The Ikwerre Rescue Charter, 1999;
First Niger Delta Indigenous Women's Conference;
The Oron Bill of Rights, 1999; and
The Niger Delta Peoples' Compact, 2008.

The Committee also reviewed documents of major international organisations on the Niger Delta, including the following by the International Crisis Group:

Africa Report N°115, *The Swamps of Insurgency: Nigeria's Delta Unrest*, 3 August 2006;
Africa Report N°118, *Fuelling the Niger Delta Crisis*, 28 September 2006;
Africa Report N°135, *Nigeria: Ending Unrest in the Niger Delta*, 7 December 2007; and
Africa Briefing N°54, *Nigeria: Ogoni Land After Shell*, 18 September 2008.