

# **MEMORANDUM SUBMITTED**

to the

## **HOUSE OF REPRESENTATIVES COMMITTEE**

on the

### **PETROLEUM INDUSTRY BILL 2009**

by

#### **OMADINO AND UGBORODO COMMUNITIES**

on behalf of

**THE OIL GAS HOST COMMUNITIES OF NIGERIA  
(ITSEKIRI CHAPTER) AND THE AMALGAMATED  
ITSEKIRI OIL & GAS PRODUCING COMMUNITIES IN  
WARRI NORTH, WARRI SOUTH & WARRI SOUTH WEST  
LOCAL GOVERNMENT AREAS OF  
DELTA STATE**

## **INTRODUCTION**

This memorandum is submitted by the Omadino and Ugborodo Communities on behalf of themselves, the Oil & Gas Host Communities of Nigeria (Itsekiri Chapter) and the Amalgamated Itsekiri Oil & Gas Producing Communities in Warri South, Warri North and Warri South West Local Government Areas of Delta State of Nigeria pursuant to an invitation published by the Joint Committee of the Senate of the Federal Republic of Nigeria in the **Vanguard** of Tuesday, July 21, 2009, at page 24.

The Omadino and Ugborodo Communities and other Itsekiri Communities in Warri Kingdom made up of Warri South, Warri North & Warri South West Local Government Areas are the biggest oil & gas producing communities in Delta State. Ugborodo Community is host to the Chevron/Texaco Escravos Tank Farm, and the EGTL Projects in Escravos. These several Itsekiri communities are also host to numerous oil & gas fields and flow stations.

The sector strikes at the very foundation of the agitation in the Niger Delta for fiscal federalism and resource control. That this Bill is coming at such a time when the Federal Government is employing all tactics to arrest the crisis in the Niger Delta from where oil & gas is extracted is, perhaps, divinely appointed to correct the age-old injustices being done to the people of the region for close to 50 years.

Before and after independence in 1960, when cocoa, groundnut and palm oil were the main sources of Nigeria's revenue, ownership of resources were left to the governments of the various Regions. When suddenly oil became the largest source of revenue, the rules of the game changed: all revenues from oil are thrown into a melting pot and shared between the Federal, States and Local Government Councils, using various phony principles like *population, equality of states, land mass, terrain, etc.* This led to agitations disguised as conflicts over revenue allocation. The Federal Government thus between 1982 – 1992 gave 1.5% for derivation; and later increased it to 3% and now 13%.

What really lies at the bottom of the agitations in the Niger Delta is demand for fiscal federalism and resource ownership. The agitation is well founded. Perhaps, apart from Nigeria, there is no country in the world that practices federalism that vests ownership of natural resources in the central government. Even in Sudan, there is a petroleum sharing arrangement that gives greater share to Southern Sudan, which has the smallest population but is the main source of production.

The Technical Committee on the Niger Delta in its report at page 124 in volume 3 noted: "fiscal federalism and resource ownership are necessary to address the yearnings of the people of the Niger Delta that produce most of Nigeria's revenue".

It is submitted that vesting of ownership of petroleum in the communities and having the sovereign nation of Nigeria allocated a definite percentage of the revenue accruing from petroleum will consolidate a greater genuine peace to the Niger Delta Region than the jejune amnesty programme of the Federal Government.

Following from the above, it is our submission that ownership of petroleum resources be vested in the sovereign states of Nigeria in trust for the petroleum producing communities.

This Bill should therefore be amended to reflect this demand in addition to the few suggested below.

## **COMMENTS ON THE PETROLEUM INDUSTRY BILL, 2009**

### **1. SECTION 1 OF PART 1**

#### **COMMENTS**

This section should vest the property and sovereign ownership of petroleum within Nigeria, its territorial waters, the continental shelf, the Exclusive Economic Zone and the extended Continental shelf in the sovereign state of

Nigeria in trust for the communities in which petroleum is found. In line with our position we recommend the following amendments.

## **RECOMMENDATIONS**

We recommend that section 1 of part 1 of the Bill should read:

“Property and sovereign ownership of petroleum within Nigeria, its territorial waters, the continental shelf, the Exclusive Economic Zone and the extended continental shelf shall vest in the sovereign state of Nigeria, in trust for the communities in which petroleum is found.”

### **2. SECTION 9 OF CHAPTER I OF PART II:**

This section should read:

“9. The minister in charge of petroleum resources who must come from a petroleum producing community, shall be responsible for the co-ordination of the activities of the petroleum industry and shall have overall supervisory functions over petroleum operations and all the institutions of the industry.”

### **3. SECTION 13 OF CHAPTER II OF PART II:**

This section states the functions of the National Petroleum Directorate (NPD) which serves as the secretariat of the Minister. Following our recommended amendment to section 1 to vest ownership of petroleum in the sovereign state of Nigeria in trust for the communities where petroleum is found, maximum benefits from all contracts and fiscal arrangements entered into in the industry, should accrue to the petroleum producing communities, and not the Federal Government. The following subsections, namely, 13(d), 13(m)(iv) & 13(q) should be amended as recommended below:

4. **SECTION 13(d):**

This section should be amended to read:

“(d) ensure that the petroleum producing communities, derive maximum advantage from all petroleum contracts and fiscal arrangements that may be entered into by any of the institutions and companies for the economic benefit of the communities.”

5. **SECTION 13(m) (iv):**

Should read:

“(iv) Petroleum producing communities”

6. **SECTION 13(q)**

Should read:

“(q) hold, on behalf of petroleum producing communities, all unallocated acreages of crude oil and natural gas”

7. In this memorandum, the word “communities” or “community” include ethnic nationalities.

8. **REQUEST TO REPEAL THE FOLLOWING LAWS**

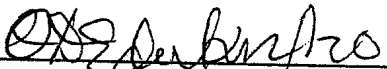
Following our request above for fiscal federalism and resource control, we demand that the following enactments be repealed by the proposed Bill.

- a) The Land Use Act, CAP L5.2004
- b) The Petroleum Act, CAP P10.2004
- c) Lands (The Vesting etc) Act (Decree No. 52 of 1993)
- d) Territorial Waters Act, CAP T5.2004
- e) Petroleum Equalization Fund (Management Board etc) Act, CAP P11.2004
- f) Petroleum (Special Trust Fund) Act, ACT P14.2004
- g) Oil in Navigable Waters Act, CAP 06.2004
- h) Oil Terminal Dues Act, CAP 08.2004

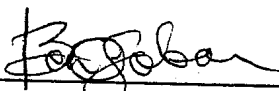
- i) Exclusive Economic Zone Act
  - j) Sea Fisheries Act, CAP S4.2004
  - k) Special Petroleum Offences Miscellaneous Decree
  - l) Petroleum Drilling and Production Act
  - m) The NNPC Act
- etc.

Dated at Warri this 26<sup>th</sup> day of July, 2009


*Signed for and on behalf of Omadino and Ugborodo Communities for themselves and on behalf of the Oil & Gas Host Communities of Nigeria (Itsekiri Chapter) and the Amalgamated Itsekiri Oil & Gas Producing Communities in Warri North, Warri South & Warri South West Local Government Areas of Delta State.*

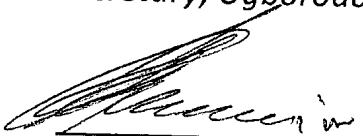
  
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