



# ISDS

in **NIGERIA**

Investment Regime Reforms  
and the threats of joining  
**the ECT**

September 2022



FRIEDRICH  
EBERT  
STIFTUNG



Published by the Transnational Institute (TNI) and Public Services International  
Netherlands - Nigeria • SEPTEMBER 2022



**WRITTEN BY** • Bettina MÜLLER and Cecilia OLIVET

**DESIGNED BY** • Mauricio TARDUCCI

The contents of this report may be cited or reproduced for non-commercial purposes provided that the source is mentioned in full. TNI would be grateful to receive a copy of or a link to the text in which this report is cited or used.

**ACKNOWLEDGEMENTS** • We would like to thank Daniel Oberko for insightful comments on the text

*The Nigerian government has recently initiated a process to reform its international investment agreements. Nigeria has joined the growing number of countries that are critical of the current international arbitration system, even though the country has seen relatively few investment treaty lawsuits from investors at international arbitration tribunals. In 2016, Nigeria developed a new model for its future bilateral investment treaties, which includes some innovative features but maintains the much criticised Investor State Dispute Settlement (ISDS) process.*

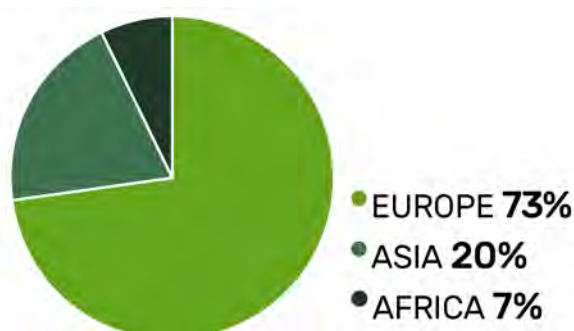
*This report sheds light on Nigeria's investment protection regime and its consequences for one of Africa's biggest countries. It points out the risks of continuing the path of strengthening investors' rights to sue the State by joining the Energy Charter Treaty, instead of protecting people's rights to a healthy environment and argues for abandoning all treaties that include ISDS. The report is based on data from the United Nations Committee on Trade and Development (UNCTAD), World Bank's International Centre for Settlement of Investment Disputes (ICSID) and media sources.\**

## NIGERIA'S INVESTMENT PROTECTION REGIME

As of December 2021, **Nigeria has 15 bilateral investment agreements (BITs) in force**. Most of these BITs have been signed with European countries: Germany, Sweden, Finland, Romania, Spain, Italy, Switzerland, Serbia, the Netherlands, France and the United Kingdom. Other BITs are with China, Taiwan and South Korea and South Africa.

### GRAPH 1 • BITs IN FORCE ACCORDING TO CONTINENT

Source: UNCTAD policy Hub<sup>1</sup>



Besides these existing BITs, Nigeria has also actively negotiated and signed others - between 2011 and 2016 Nigeria signed 7 new BITs - none are yet in force. Since 2016, the country has not signed any new BITs, or at least there is no public information confirming new signatures.

### TABLE 1 • BITs SIGNED DURING THE LAST DECADE

YEAR	BITs signed with
2016	Morocco • Singapore • United Arab Emirates
2014	Canada
2013	Austria
2011	Kuwait • Turkey

Source: UNCTAD policy Hub<sup>2</sup>

\* All information in this report is updated until 31 of December 2021

Different to other countries, Nigeria has very few Free Trade Agreements in place, and none of them includes a chapter on investment protection with the ISDS mechanism.<sup>3</sup>

## REFORMS OF NIGERIA'S INTERNATIONAL INVESTMENT TREATIES

The Nigerian government has recently embarked on a reform process of its International Investment Agreements. In 2016, the government approved a new model BIT. In 2020 it announced that it would modernise the existing stock of old treaties.<sup>4</sup> Once finalized, all BITs signed between 1990 and 2001 will be revised according to the new model BIT, meaning that Nigeria will re-negotiate 12 out of the 15 BITs that are currently in force.

***The aim of the reform process is to establish a new model BIT which complies with “global standards on labour, human rights, environment, corporate social responsibilities” and provides safeguards to Investor-State dispute settlement (ISDS) provisions, Patience Okala, Director of the Legal Department, Nigeria Investment Promotion Commission (NIPC)<sup>5</sup>***

Nigeria is keen to avoid further ISDS claims that could cost the State billions of dollars,<sup>6</sup> like the contract-based claim of UK firm Process and Industrial Development (P&ID), which related to a gas facility contract. Nigeria was ordered to pay US\$9.6 billion in compensation to the company.<sup>7</sup>

### THE NIGERIA-MOROCCO BIT <sup>8</sup>

In 2016, Nigeria signed a BIT with Morocco based on the new model BIT it had developed.<sup>9</sup> This BIT is often cited as an example of a balanced “new generation” investment treaty because it aims to strike a better balance between the private and public interests at stake. The treaty includes some key differences from the “old generation” treaties:<sup>10</sup>

- it excludes portfolio investment.
- it restricts the definition of what is considered an investor.
- Even though the treaty includes most standards of investment protection included in traditional BITs, some are articulated in a more limited manner, which could restrict the possibility for investors to sue. For example, the provisions on
  - National Treatment - meaning that foreign investors have to be treated equally to national ones
  - Fair and Equitable Treatment - which attempts to restrict the interpretation of this clause to issues related to denial of justice. This is important since Fair and Equitable Treatment has been invoked repeatedly by investors and interpreted very broadly by arbitrators.
  - Full Protection and Security - which refers to policy protection and links it to customary international law.

The most novel feature of the treaty, however, is that it imposes obligations upon the investor, requiring them to comply with environmental and social impact assessments, to apply the precautionary principle and to uphold human rights and international labour standards, among others. However, the State cannot sue the investor at an international arbitration tribunal in the case of violation of these obligations.

The BIT also attempts to restrict the scope of investors to sue at international arbitration tribunals. Before initiating an arbitral procedure, the Parties' dispute must first be assessed by a Joint Committee, which is formed under the BIT. If the dispute is not solved by the Committee, the investor is required to exhaust domestic remedies before resorting to international arbitration.

The BIT does not contain the so called sunset clause, which defines the period of survival of a treaty after it has been terminated (usually 5 to 15 years). Thus it can be terminated at any time without being applicable after its termination.

While the Nigeria-Morocco BIT was celebrated as one of the “most innovative and balanced BITs ever concluded”<sup>11</sup>, the treaty still leaves plenty of room for investors to continue suing States and does not resolve the main structural injustice inherent in the international arbitration system. It still allows only investors to access arbitration tribunals, whereas states and affected communities or individuals do not have the same option to address their grievances.

## **NIGERIA IN LINE TO JOIN THE ENERGY CHARTER TREATY**

Although Nigeria has been critically revisiting its BITs, in recent years, the government has also been actively engaging in the process to join one of the most outdated investment treaties in existence: the Energy Charter Treaty (ECT). This international agreement from the mid-1990s, ratified by 53 countries stretching from Western Europe through Central Asia to Japan, plus the EU, grants corporations in the energy sector the right to sue states at international investment tribunals for billions of dollars. For example, if a government decides to stop new oil or gas pipelines, it can be sued by a corporation negatively impacted by this decision, under this treaty.<sup>12</sup>

The ECT is currently the investment agreement used most frequently by investors to sue states. Until the end of 2020, 135 ISDS claims had been brought against states under the ECT.<sup>13</sup> This represents almost 12% of all known ISDS claims registered by UNCTAD.<sup>14</sup> Nigeria has already completed the first three steps of accession to the ECT. By the end of 2019 it had handed in all necessary reports and was nearing the ratification stage of accession.<sup>15</sup> This process was put on hold while the ‘modernization’ of the agreement is ongoing. Despite the obvious risk of facing multiple ISDS claims associated with becoming an official member of the ECT, according to the Energy Charter Secretariat, the National Energy Summit of Nigeria in April 2021 showed that “substantial enthusiasm continues to exist within Nigeria for the country to ultimately join the ECT.”<sup>16</sup>

## **ISDS CLAIMS AGAINST NIGERIA**

Until December 2021, the Nigerian state had received four ISDS claims based on bilateral investment treaties and five other claims based on contracts and the 1995 Nigerian Investment Law. All cases, except for one, are linked to the exploitation and selling of oil or gas.

Three of the four investment treaty cases are based on the BIT between Nigeria and the Netherlands, and have been filed by energy multinationals Shell and Eni. One claim is based on the BIT between China and Nigeria and was registered by Zhongshan Fucheng Industrial Investment Co. Ltd.

# SUMMARY OF INVESTOR LAWSUITS AT INTERNATIONAL ARBITRATION TRIBUNALS

Case name	Year of initiation	Origin of investor	International Investment Agreement used	Administering Institution	Case number	Result	Amount claimed by investor	Amount of award or settlement	Economic sector
BILATERAL INVESTMENT AGREEMENTS									
Shell Petroleum N.V. and The Shell Petroleum Development Company of Nigeria Limited v. Federal Republic of Nigeria	2021	Netherlands	BIT Netherlands - Nigeria 1992	ICSID	ICSID Case No. ARB/21/7	Pending	No information	Case still open	Oil, Gas & Mining
Eni International B.V., Eni Oil Holdings B.V. and Nigerian Agip Exploration Limited v. Federal Republic of Nigeria	2020	Netherlands	BIT Netherlands - Nigeria 1992	ICSID	ICSID Case No. ARB/20/41	Pending	No information	Case still open	Oil, Gas & Mining
Zhongshan Fucheng Industrial Investment Co. Ltd. v. Federal Republic of Nigeria	2019	China	BIT China-Nigeria 2001	Ad hoc	No information	Decided in favour of investor	No Information	\$70 million	Management and operation of Free Trade Zone
Shell Nigeria Ultra Deep Limited v. Federal Republic of Nigeria	2007	Netherlands	BIT Netherlands - Nigeria 1992	ICSID	ICSID Case No. ARB/07/18	Settled	\$1.8 billion	In a settlement, Shell and Eni paid more than \$1 billion, and were granted the exploration licence	Oil, Gas & Mining
OTHER INSTRUMENTS WITH INVESTMENT PROTECTION									
Sunrise Power and Transmission Company v Nigeria <sup>17 18</sup>	2017	Nigeria	Contract	International Chamber of Commerce (ICC)	n.i.	Settled	\$2.3 billion	\$200 million	Construction of dams (Mambilla project)
Interocean Oil Development Company and Interocean Oil Exploration Company v. Federal Republic of Nigeria	2013	United States	Investment Law - Nigeria (1995)	ICSID	ICSID Case No. ARB/13/20 <sup>19</sup>	Decided in favour of the State	\$3 billion <sup>20</sup>	0	Oil, Gas & Mining
Process & Industrial Developments Ltd v Nigeria <sup>21</sup>	2012	British Virgin Islands	Contract	Commercial Court in London	n.i.	Decided in favour of the investor	No information	\$6.6 billion (With interest said to be accruing at the rate of \$1.3 million per day, the award is now worth approximately \$10 billion) <sup>22</sup>	Oil, Gas & Mining
Enron Nigeria Power Holding vs. Nigeria <sup>23</sup>	2006	Cayman Islands	Contract	International Chamber of Commerce (ICC)	n.i.	Decided in favour of investor	\$475 million	\$11.2 million	Generation and Provision of Energy
Guadalupe Gas Products Corporation v. Nigeria <sup>24</sup>	1978	US	Contract	ICSID	ICSID Case No. ARB/78/1	Settled	No information	No information	Oil, Gas & Mining



## DESCRIPTION OF INVESTMENT TREATY CASES

### *Shell Petroleum N.V. and The Shell Petroleum Development Company of Nigeria Limited v. Federal Republic of Nigeria (ICSID Case No. ARB/21/7)*<sup>25</sup>

A claim registered by the Dutch oil company Shell Petroleum in February 2021 using the 1992 Netherlands - Nigeria BIT. This claim was registered after the Nigerian Supreme Court in 2020 upheld a ruling of the Nigerian Federal High Court (from 2010) in favour of communities affected by massive oil spills in the Niger Delta region around 1970.<sup>26</sup> The amount claimed by Shell is unknown.

Already in 2011, a United Nations report criticised Shell and the operators of the joint venture, Total (France), Agip (Italy) and the State-owned Nigerian National Petroleum Corporation, for more than 50 years of environmental destruction in the Niger delta. The report indicated that repairing the damage could prove to be the world's most wide-ranging and long-term oil clean-up exercise ever, costing at least \$1 billion and taking at least 30 years.<sup>27</sup> Members of affected local communities have brought numerous claims against Shell before Nigerian courts over the last two decades, many of which were decided in favour of the communities. Yet, in most of the claims Shell has refused to pay and instead appealed the court decision.<sup>28</sup> It appears that in this case, Shell offered to pay \$111 million to satisfy the High Court's decision from 2010 and compensate the affected communities for the damages. It is unclear if this settlement affects the ICSID claim.<sup>29</sup>

### *Shell Nigeria Ultra Deep Limited v. Federal Republic of Nigeria (ICSID Case No. ARB/07/18)*<sup>30</sup>

2021 was not the first time the Anglo-Dutch oil company Shell sued Nigeria before an arbitration tribunal. They did so for the first time in 2007, using the same BIT. The claim related to the reallocation of the license for oil exploration field OPL245 by the government in 2006 to the Nigerian oil company Malabu Oil & Gas.<sup>31</sup> According to Nigerian media sources, Malabu was a company founded by former government officials (among them the then minister of petroleum, Dan Etete) and others to obtain part of the OPL245, one of the most important oil fields in Nigeria.<sup>32</sup> In the same year the company was founded, 1998, it was given the license for exploration of OPL245. The oil field changed owners in 2002 when the license was granted to Shell and Eni. In 2007, the European companies registered the ISDS claim shortly after the license was again reallocated back to Malabu. Shell and Eni asked for \$1.8 billion in compensation.<sup>33</sup> The claim was withdrawn in 2011 because Shell and Eni reached a settlement with the Nigerian government, which included a reallocation of the license back to the European companies in exchange for a payment of \$1.3 billion, of which \$1.1 billion ended up with Malabu. According to Nigeria's Premium Times from 2012,<sup>34</sup> and the ongoing investigation of the Nigerian Economic and Financial Crimes Commission (EFCC), the settlement was achieved through fraud and bribery. Following the settlement, Shell and Eni paid the agreed amount to a federal government bank account at JP Morgan in London, from where it was transferred to Malabu, fuelling suspicion that the oil companies knew that the transaction was potentially corrupt, and wanted to avoid being directly linked to it.<sup>35</sup> According to the official charges by the EFCC, the then Attorney General of the Federation and Minister for Justice, Mohammed Adoke, who mediated the 2011 settlement with the European companies, received a share of the deal in 2013, some 300 million Nigerian Naira (more than \$1.8 million at that time).<sup>36</sup> Leaked documents also indicate that Shell and Eni used the ISDS claim as leverage to obtain the 2011 settlement.<sup>37</sup>

## *Eni International B.V., Eni Oil Holdings B.V. and Nigerian Agip Exploration Limited v. Federal Republic of Nigeria (ICSID Case No. ARB/20/41)*<sup>38</sup>

This claim, registered by three subsidiaries of the Italian oil company Eni in October 2020 using the 1992 Netherlands - Nigeria BIT, is directly related to the above-mentioned ISDS claim and the “purchase” of the oil prospecting license OPL245 by Eni and Royal Dutch Shell. Due to the strong suspicion that the 2011 settlement (which gave Eni and Shell the right to continue exploring OPL245) was achieved through corruption, the Nigerian government refuses to convert OPL245 into a mining license.

In fact, Nigeria has initiated civil proceedings against Eni, and is involved in a criminal proceeding at the courts of Milan, trying to recover the price the two oil companies paid for OPL245. This settlement money ended up in obscure accounts of Malabu and its director, former minister of petroleum Dan Etete, who has been charged with money laundering in France. Eni denies all charges related to corruption and bribery and is, for its part, alleging that Nigeria is using third party funding by US litigation funding firms Poplar Falls and Drumcliffe Partners to fund its claim, and thus arguing that the claims against Eni are driven by undisclosed financial interests.<sup>39</sup>

The amount claimed by Eni is not known.

## *Zhongshan Fucheng Industrial Investment Co. Ltd. v. Federal Republic of Nigeria*

This ad hoc ISDS claim based on the BIT between China and Nigeria from 2001 is one of the two known treaty based ISDS claims against African States (the other one is against Ghana). The Chinese investor Zhongshan Fucheng Industrial Investment entered into a joint venture with the government of Nigeria's Ogun State and a local entity, Zenith Global Merchant Limited, to establish the Ogun Guangdong Free Trade Zone (FTA) in 2013.<sup>40</sup> Three years later, the joint venture was terminated by the state government, apparently because Zhongshan Fucheng had been neglecting the development of the FTA and had obtained the joint venture agreement fraudulently. According to a diplomatic note by the Chinese government from 2016, another operator, Guangdong New South Group, was the investor authorised to manage the zone.<sup>41</sup> The ad hoc tribunal sided with the investor that had alleged that its investment had been completely eviscerated by the actions of state authorities and awarded Zhongshan Fucheng \$70 million dollars, including an unknown sum for moral damages.<sup>42</sup>

## **JOINING THE ECT CONTRADICTS NIGERIA'S EFFORTS**

Although so far Nigeria has received relatively few ISDS claims, joining the ECT would likely lead to an increase in cases against the country. Even more so, as almost all known ISDS claims against Nigeria are related to the energy sector. By ratifying this international investment protection agreement, the Nigerian government would contradict its efforts to restrict the possibility of foreign investors suing the state via arbitral tribunals. It would also compromise the state's ability to regulate, undermine its capacity to decide upon its energy policies and to use the revenues of its energy sector to benefit the entire population, instead of channeling them into the hands of a few international private corporations.

Therefore, the Nigerian State should:

- abandon all BITs that include ISDS
- revise its new model BIT again in order to find a balance between national interests, people's rights and investors
- abandon its plans to join the ECT



# REFERENCES

- 1 • Nigeria - International Investment Agreements Navigator. UNCTAD Investment Policy Hub.  
<https://investmentpolicy.unctad.org/international-investment-agreements/countries/153/nigeria> (consulted May 2021)
  - 2 • Nigeria - International Investment Agreements Navigator. UNCTAD Investment Policy Hub.  
<https://investmentpolicy.unctad.org/international-investment-agreements/countries/153/nigeria> (consulted May 2021)
  - 3 • Nigeria - International Investment Agreements Navigator. UNCTAD Investment Policy Hub.  
<https://investmentpolicy.unctad.org/international-investment-agreements/countries/153/nigeria> (consulted May 2021)
  - 4 • Nigeria Begins Reforms of International Investment Agreements. Kingsley Alu, AllAfrica, August 2020.  
<https://allafrica.com/stories/202008100025.html>
  - 5 • Nigeria begins reforms of international investment agreements. Kingsley Alu, Leadership. August 2020.  
<https://www.bilaterals.org/?nigeria-begins-reforms-of&lang=en>
  - 6 • Nigeria begins reforms of international investment agreements. Kingsley Alu, Leadership. August 2020.  
<https://www.bilaterals.org/?nigeria-begins-reforms-of&lang=en>
  - 7 • Nigeria and P&ID: The story behind the \$9.6 billion judgement. Stears Business, November 2019.  
<https://www.stearnsng.com/article/nigeria-and-pid-the-story-behind-the-96-billion-judgement>
  - 8 • Although it has received less attention, the Nigeria-Singapore BIT has been negotiated using the same model BIT:  
<https://www.bilaterals.org/?nigeria-signed-28-investment&lang=en>
  - 9 • RECIPROCAL INVESTMENT PROMOTION AND PROTECTION AGREEMENT BETWEEN THE GOVERNMENT OF THE KINGDOM OF MOROCCO AND THE GOVERNMENT OF THE FEDERAL REPUBLIC OF NIGERIA. December 2016.  
<https://investmentpolicy.unctad.org/international-investment-agreements/treaty-files/5409/download>
  - 10 • Nigeria and Morocco Move Towards a “New Generation” of Bilateral Investment Treaties. Tarcisio Gazzini, European Journal of International Law, May 2017.  
<https://www.ejiltalk.org/nigeria-and-morocco-move-towards-a-new-generation-of-bilateral-investment-treaties/>
- The 2016 Morocco–Nigeria BIT: An Important Contribution to the Reform of Investment Treaties, Tarcisio Gazzini, Investment Treaty News, September 2017. <https://www.iisd.org/itn/en/2017/09/26/the-2016-morocco-nigeria-bit-an-important-contribution-to-the-reform-of-investment-treaties-tarcisio-gazzini/>
- 11 • The 2016 Morocco–Nigeria BIT: An Important Contribution to the Reform of Investment Treaties, Tarcisio Gazzini, Investment Treaty News, September 2017. <https://www.iisd.org/itn/en/2017/09/26/the-2016-morocco-nigeria-bit-an-important-contribution-to-the-reform-of-investment-treaties-tarcisio-gazzini/>
  - 12 • Which countries are about to sign on to the ECT and who is pushing for the treaty’s expansion? - ECT’s dirty secrets. TNI, CEO, October 2020. <https://energy-charter-dirty-secrets.org/#section3> (consulted May 2021)
  - 13 • International Energy Charter – Statistics. <https://www.energychartertreaty.org/cases/statistics/> (consulted May 2021)
  - 14 • Investment Dispute Settlement Navigator. UNCTAD Investment Policy Hub.  
<https://investmentpolicy.unctad.org/investment-dispute-settlement> (consulted May 2021)
  - 15 • National Energy Summit: Nigeria retains interest in joining the Energy Charter Treaty. International Energy Charter, May 2021. <https://www.energycharter.org/media/news/article/national-energy-summit-nigeria-retains-interest-in-joining-the-energy-charter-treaty/>

- 16 •** National Energy Summit: Nigeria retains interest in joining the Energy Charter Treaty. International Energy Charter, May 2021.  
<https://www.energycharter.org/media/news/article/national-energy-summit-nigeria-retains-interest-in-joining-the-energy-charter-treaty/>
- 17 •** Sunrise resubmitted the claim in May 2021 after the Nigerian government refused to pay the agreed US\$200 million because of crippled income due to low oil prices. In the resubmission claim the investor is allegedly asking for US\$400 million.
- 18 •** Nigeria in new ICC dispute over hydro project. Cosmo Sanderson, GAR News, May 2021.  
<https://globalarbitrationreview.com/nigeria-in-new-icc-dispute-over-hydro-project>
- 19 •** Interocean Oil Development Company and Interocean Oil Exploration Company v. Federal Republic of Nigeria. ICSID.  
<https://icsid.worldbank.org/cases/case-database/case-detail?CaseNo=ARB/13/20> (consulted May 2021)
- 20 •** Nigeria defeats multibillion-dollar oil claim. Cosmo Sanderson, GAR News, October 2020.  
<https://globalarbitrationreview.com/nigeria-defeats-multibillion-dollar-oil-claim>
- 21 •** Process and Industrial Developments Limited vs. The Ministry of Petroleum Resources of Nigeria – Final Award. January 2017. <https://pacer-documents.s3.amazonaws.com/36/194469/04516479471.pdf>
- 22 •** Nigeria and P&ID: The story behind the \$9.6 billion judgement. Stears Business, November 2019.  
<https://www.stearnsng.com/article/nigeria-and-pid-the-story-behind-the-96-billion-judgement>
- 23 •** Nigeria damages award revealed in US court. Kyriaki Karadelis, GAR News, July 2013.  
<https://globalarbitrationreview.com/nigeria-damages-award-revealed-in-us-court>
- 24 •** Guadalupe Gas Products Corporation v. Nigeria. ICSID.  
<https://icsid.worldbank.org/cases/case-database/case-detail?CaseNo=ARB/78/1> (consulted May 2021)
- 25 •** Shell Petroleum N.V. and The Shell Petroleum Development Company of Nigeria Limited v. Federal Republic of Nigeria. ICSID. <https://icsid.worldbank.org/cases/case-database/case-detail?CaseNo=ARB/21/7> (consulted May 2021)
- 26 •** Shell takes Nigeria to ICSID. Jack Ballantyne, GAR News, February 2021.  
<https://globalarbitrationreview.com/shell-takes-nigeria-icsid-0>
- 27 •** Cleaning up Nigerian oil pollution could take 30 years, cost billions – UN. UN News, August 2011.  
<https://news.un.org/en/story/2011/08/383512-cleaning-nigerian-oil-pollution-could-take-30-years-cost-billions-un>
- 28 •** Shell takes Nigeria to ICSID. Jack Ballantyne, GAR News, February 2021.  
<https://globalarbitrationreview.com/shell-takes-nigeria-icsid-0>
- 29 •** [Updated] Shortly after the tribunal is constituted, Nigeria challenges Shell's nominee in ICSID case – while underlying fifty-year-old oil spill dispute is reportedly settled. IAREporters, August 2021.  
<https://www.iareporter.com/articles/nigeria-challenges-shells-nominee-in-icsid-case-while-underlying-fifty-year-old-oil-spill-dispute-is-reportedly-settled/>
- 30 •** Shell Nigeria Ultra Deep Limited v. Federal Republic of Nigeria. ICSID.  
<https://icsid.worldbank.org/cases/case-database/case-detail?CaseNo=ARB/07/18> (consulted May 2021)
- 31 •** Shell comments on the verdict from the Milan Tribunal over OPL-245. Ben van Beurden, Shell, March 2021.  
<https://www.shell.com/media/news-and-media-releases/2021/shell-comments-on-the-verdict-from-the-milan-tribunal-over-opl-245.html>
- 32 •** INVESTIGATION: The fraud called Malabu Oil & Gas (Part 1). Idris Akinbajo, Premium Times, June 2012.  
<https://www.premiumtimesng.com/business/5827-investigation-the-fraud-called-malabu-oil-gas-part-1.html>
- 33 •** Shell v. Nigeria. Investment Dispute Settlement Navigator, UNCTAD Investment Policy Hub.  
<https://investmentpolicy.unctad.org/investment-dispute-settlement/cases/257/shell-v-nigeria> (consulted May 2021)

- 34 • INVESTIGATION: The fraud called Malabu Oil & Gas (Part 1).** Idris Akinbajo, Premium Times, June 2012.  
<https://www.premiumtimesng.com/business/5827-investigation-the-fraud-called-malabu-oil-gas-part-1.html>
- 35 • Leaked documents reveal how Shell blackmailed Nigeria in Malabu deal.** Sodiq Yusuff, Petro Barometer, January 2018.  
<https://www.bilaterals.org/?leaked-documents-reveal-how-shell&lang=en>
- 36 • \$1.1billion Malabu Oil Scam: EFCC Re-arraigns Ex-AGF, Adoke, Others On 42 Counts Of Corruption.** Sahara Reporters, January 2021.  
<http://saharareporters.com/2021/01/28/11billion-malabu-oil-scam-efcc-re-arraigns-ex-agf-adoke-others-42-counts-corruption>
- 37 • Shell put Nigeria under pressure with ISDS process to obtain oil field OPL 245.** Bart-Jaap Verbeek, Somo, February 2019.  
<https://www.bilaterals.org/?shell-put-nigeria-under-pressure&lang=en>
- 38 • Eni International B.V., Eni Oil Holdings B.V. and Nigerian Agip Exploration Limited v. Federal Republic of Nigeria.** ICSID.  
<https://icsid.worldbank.org/cases/case-database/case-detail?CaseNo=ARB/20/41> (consulted May 2021)
- 39 • Nigeria is facing treaty-based arbitration as it alleges corruption in deep-water oil exploration dispute, while claimants seek discovery from US-based litigation funders.** Vladislav Djanic, IAREporter, October 2020. <https://www.iareporter.com/articles/nigeria-is-facing-treaty-based-arbitration-as-it-alleges-corruption-in-deep-water-oil-exploration-dispute-while-claimants-seek-discovery-from-us-based-litigation-funders/>
- 40 • Nigeria is facing treaty-based arbitration as it alleges corruption in deep-water oil exploration dispute, while claimants seek discovery from US-based litigation funders.** Vladislav Djanic, IAREporter, October 2020. <https://www.iareporter.com/articles/nigeria-is-facing-treaty-based-arbitration-as-it-alleges-corruption-in-deep-water-oil-exploration-dispute-while-claimants-seek-discovery-from-us-based-litigation-funders/>
- 41 • Ogun backs Chinese firm on Free Trade Zone (FTZ) development.** Bola Badmus, Nigerian Tribune, September 2016.  
<https://tribuneonlineng.com/ogun-backs-chinese-firm-free-trade-zone-ftz-development/>
- 42 • Revealed: Under-the-radar BIT claim by Chinese investor against African state results in an award.** Damien Charlotin, International Arbitration Reporters, September 2021. <https://www.iareporter.com/articles/revealed-under-the-radar-bit-claim-by-chinese-investor-against-african-state-results-in-an-award/>



The **Transnational Institute (TNI)**

is an international research and advocacy institute committed to building a just, democratic and sustainable planet. For more than 40 years, TNI has served as a unique nexus between social movements, engaged scholars and policy makers.

**[www.tni.org](http://www.tni.org)**



**Public Services International (PSI)** is a Global Union Federation of more than 700 trade unions representing 30 million workers in 154 countries. PSI brings their voices to the UN, ILO, WHO and other regional and global organizations, defending trade union and workers' rights and fighting for universal access to quality public services.