ANALYSIS

NIGERIA

There will be blood... and oil

The stink of the OPL 245 scandal won't go away. General Sani Abacha's son, now seeking political office with the governing People's Democratic Party (PDP), is building a coalition to obtain his part of the plunder. Middlemen are still litigating over their share and abroad, criminal investigations are under way. Oil Prospecting Licence 245 represents the peak of a system of assigning Nigeria's oil wealth to its rulers and their friends and allies. The methods employed in this affair – and for other oil blocks and concessions – continue to plague the exchequer and oil industry and, far from declining, are expected to be applied with greater diligence as politicians amass their war chests for the 2015 elections.

Even hardened cynics were amazed by the tale of greed and plunder emerging from the saga of Oil Prospecting Licence 245 last July and August. **Dan Etete**, aka **Chief Dauzia Loya Etete**, an Oil Minister in the notoriously corrupt regime of the late General **Sani Abacha**, had in 1998 awarded a shell company he controlled, Malabu Oil and Gas, the rights to one of the richest oil deposits in Nigerian waters (AC Vol 40 No 7). After 13 years of stops and starts, Etete finally cashed in. In April 2011, **Shell** and **Italy's ENI** (*Ente Nazionale Idrocarburi*) paid US$1.09 billion to the government for OPL 245. The government took $208 million as a signature bonus and passed the rest to Malabu (AC Vol 39 No 25). Etete swiftly emptied Malabu's accounts into others and thence into oblivion, at least as far as the Nigerian public and officialdom were concerned.

Many believed that the oil majors' purchase of OPL 245 had drawn a line under the affair. Yet the case shows no sign of going away. Middlemen whom Etete had hired to find oil companies to buy the licence from him are still litigating so as to recover the finders' fees Etete had promised. Etete also cut out **Mohammed Sani Abacha** from the profits. However, the General's son is still seeking his share of the plunder of OPL 245 and now has important support, especially since he has emerged as a political player of influence in Kano State for next year's elections.

The PDP has wooed Mohammed Abacha away from the Congress for Democratic Change and his fortune is needed (see Box). As the eldest son of the late dictator, he is still believed to be enormously rich but on 5 March, the **United States** government froze $458 mn. in accounts, loot from his father's reign that he had allegedly controlled until then. Along with his brothers **Abba** and **Sadiq**, Mohammed has already had to give up $700 mn. of their father's plunder, which had been salted away in **Switzerland** and then returned to Nigeria by the Swiss courts. Abba Sani Abacha was convicted of being a member of a criminal organisation in Switzerland and failed in his efforts to prevent the Geneva court from seizing $350 mn. from him.

The US Department of Justice filed evidence that Gen. Abacha, or people acting for him, had delivered over $700mn. to Mohammed Abacha in 'bags or boxes full of cash' and 'systematically embezzled public funds' from the Central Bank of Nigeria 'on the false pretence that the funds were necessary for national security.' Amid concern about what will happen to the $458 mn. if it is returned to Nigeria, Attorney General **Mohammed Bello Adoke** has formally applied to the US for the funds (AC Vol 52 No 24).

If the Department of Justice is not satisfied that the money will be spent on the public good, the funds will remain with the US Treasury. Although Mohammed's political heft in Kano indicates that he is still not short of funds, the US action will have added importance to his task of seeking restitution from Etete. To that end, he has even received the backing of Nigeria's House of Representatives. His 'business manager' during his father's rule,

CHIPS OFF THE OLD BLOCK

The children of the late dictator General **Sani Abacha** are making headlines. The oldest, **Mohammed Sani Abacha**, operates a political network based in Kano, where his father was brought up. Mohammed was a stalwart of the mainly northern Congress for Democratic Change but when it joined with others to form the All Progressives Congress, he accepted the invitation to defect to the governing People's Democratic Party (AC Vol 54 No 14). He was seen in February at a PDP rally in Kaduna, according to a Nigerian press report.

Although much depends on who the various parties put up as candidates, Kano would not be expected to vote across the board for the PDP in the 2015 general elections. However, a substantial minority vote would help the PDP nationally, especially if other parties were not united. 'The PDP would not have approached him if they had not thought him an important player in the state,' said one political observer. Nor, said another, if he were not able to bring large sums of money to the party. Local press reports say Mohammed Abacha ruffled feathers when taking over the PDP organisation in Kano State.

Two of Mohammed's siblings broke surface in March after Nobel laureate **Wole Soyinka** pointedly refused the government's offer of its Centenary Award, which named 100 distinguished Nigerians – including Gen. Abacha – to mark the country's 100th birthday. Soyinka described the the offer as an insult, calling Abacha a 'murderer and thief of no redeeming quality'.

Soyinka bemoaned the fact that a hospital was named after the dictator and recounted how 'a head of state' had mumbled about 'difficulties' when Soyinka asked him directly and in person to rename an Abuja street named after Abacha. 'I reject my share of this national insult,' Soyinka declared. The families of three late Nigerians who had opposed Abacha also turned down the awards: Chief **Moshood Kahimawo Olawale Abiola**, the publisher and businessman whom Abacha had imprisoned for four years before he died of poisoning in 1998 and whose wife, **Kudirat Abiola**, was shot dead; **Fela Anikulapo Kuti**, the dissident singer, composer and band leader; and leading human rights lawyer **Gani Fawehinmi** (AC Vol 53 No 2).

Abacha's daughter, **Gumsu Sani Abacha**, responded to Soyinka: 'I reject his stupid, foolish, insignificant statement'. Her brother **Sadiq Sani Abacha** wrote an incoherent 1,800-word 'open letter' insulting Soyinka, calling him a coward, casting aspersions on his honesty and defending his father's record, including bringing down inflation and increasing foreign currency reserves. ●

Abubakar Atiku Bagudu, is a Senator for Kebbi State (AC Vol 41 No 7).

In February, there was uproar in the House of Representatives when members protested at a committee's findings that Mohammed Abacha still had a beneficial interest in Malabu. On 20 February, the House adopted a 70-page report from a committee chaired by **Leonard Okuweh Ogor**, Deputy Leader of the House. It recommends that the Shell-ENI deal be torn up, leaving the way open to Mohammed Abacha to make another bid for a share in the proceeds from a sale. Close observers of the parliamentary scene say, however, that little store is generally accorded to recommendations of this sort and most Nigerians assume that special interests have brought them forth.

HOW THE BLOCK WAS WON

Shell and ENI paid the government $1.09 bn. for the right to exploit the oil concession in an April 2011 deal brokered by Attorney General Bello Adoke. The government passed on most of the money to Etete's Malabu. There, the facts could have remained obscure if it had not been for a quarrel over the spoils that reached the High Court in London and the Supreme Court of New York State. The Ministry of Petroleum Resources awarded Malabu the rights to OPL 245 in 1998 'in obedience to the minister', according to 2003 submissions from the federal government to the House of Representatives. Those submissions suggested that the original allocation process was 'flawed' and 'lacked transparency and was unethical', according to a 2013 judgement of the England and Wales High Court of Justice Queen's Bench Division Commercial Court by Justice **Elizabeth Gloster**.

Malabu never paid for the licence because there was an understanding that Etete, his partners and the government would be paid all at once, when the block had been sold on to oil majors, *Africa Confidential* understands. This was a typical arrangement for politicians and such companies. Etete did scrape together $2 mn. at the time, however. Thus, the government did not receive its $210 mn. signature bonus until Shell-ENI bought the licence in April 2011, whereupon Etete saw his $2 mn. returned to him.

Etete was sharing the proceeds of OPL 245 with Mohammed Abacha only because his father had ordered it. When Gen. Abacha died in June 1998, Etete had no further use for his son and cut him out of Malabu, a fate Mohammed experienced in other deals involving favours for his father. He even went to prison in 1999 on suspicion of murdering the late Chief **MKO Abiola**'s wife, **Kudirat Abiola** (AC Vol 53 No 6).

He was cleared in 2002 and reportedly returned about $750 mn. to the state at the same time. Etete had, according to Mohammed Abacha's lawyers in 2007, simply altered 'Mohammed Sani' to 'Alhaji Mohammed, Ahmed Sanni' on the share register, reducing his ten million shares to only four million. Etete's man also allotted new shares to two names which turned out to be aliases for Etete or at least agents for him. These two names received ten million shares each at extraordinary board meetings in 2000, according to an Economic and Financial Crimes Commission (EFCC) interim investigation report that we have obtained. Ten million shares were also awarded to a company called Pecos Energy which, says the British High Court judgement, 'appears to have acted as some sort of nominee for President **[Olusegun] Obasanjo**, a subsequent president of Nigeria'.

In the hearings before Lady Justice Gloster, Etete alleged that Obasanjo had tried to get a piece of OPL 245 for himself through Pecos Energy but the judge did not rule on the truth or otherwise of that allegation. After Obasanjo became President in 1999, Etete's efforts to cash in on OPL 245 were stymied. The OPL 245 licence was revoked in 2006, leaving Etete high and dry until his fortunes turned again with the coming to power of President **Goodluck Jonathan** in 2010. Progress towards a final deal then began. Etete's lawyers, Edwards Wildman, didn't respond to emailed requests for comment, which also asked them to forward the questions to Etete in case he preferred to respond independently. We received no independent response from Etete. Mohammed Abacha, Malabu's Company Secretary **Rasky Gbingie** and Obasanjo could not be reached for comment.

Mohammed Abacha may have been aggrieved that Etete removed him from Malabu but at that time, his Swiss money was safe and the US Justice Department was not about to freeze his other gigantic holdings. He took no action over Malabu until the huge proceeds of the government's sale of OPL 245 to Shell-ENI came through in April 2011. In February 2012, he petitioned the EFCC, alleging conspiracy, forgery and 'uttering of forged documents for the purpose of misappropriating the funds of Malabu Oil and Gas by Chief Dan Etete', according to

ANATOMY OF A DEAL

- **November 1993:** General Sani Abacha seizes power in Nigeria.
- **1995–1998:** Chief Dan Dauzia Loya Etete serves as Minister for Petroleum Resources.
- **April 1998:** Malabu Oil and Gas Ltd. is incorporated. Half owned by Abacha's son Mohammed Sani Abacha, half by Etete.
- **15 May 1999:** Etete provides funds for Malabu to pay US$2.04 million of required $20 mn. signature bonus to Federal Government of Nigeria.
- **June 1998:** Sani Abacha dies.
- **June 9 1998 – May 29 1999:** Interim government of General **Abdulsalami Alhaji Abubakar**.
- **May 29 1999:** Olusegun Obasanjo becomes President.
- **May 2000:** Etete has share register edited, transferring MS Abacha's shares to aliases for Etete.
- **May 2003:** Nigerian government describes award of the OPL 245 licence to Malabu in 1998 as 'unethical' and 'flawed'.
- **November 2007:** French court convicts Etete *in absentia* for receiving corrupt payments from Addax oil company. French magistrate describes $2.5 mn. transfer into Swiss bank accounts held by Etete under a false name between 1996 and 1998.
- **December 2008:** Ex-Soviet diplomat Ednan Agaev first meets Etete in his house in Nigeria.
- **March 2009:** French appeals court upholds Etete's conviction for money laundering.
- **April 2009:** Agaev meets Etete in Paris and is asked to start approaching potential investors.
- **May 2010:** Goodluck Jonathan sworn in as President after death of President Umaru Yar'Adua. Jonathan names Mohammed Bello Adoke Attorney-General.
- **April 18 2011:** Goodluck Jonathan declared winner of Presidential election.
- **April 2011:** After an April 11 three-way meeting in the Abuja offices of Attorney-General Adoke, Shell and Eni buy rights to OPL 245, paying $1.092 billion to the Federal Government of Nigeria.The government retains a signature bonus worth $207.96 mn. and then wires $801.54 mn. to two Malabu bank accounts at First Bank of Nigeria and Keystone Bank.
- **February 2012:** MS Abacha files petition with Nigeria's Economic and Financial Crimes Commission (EFCC) alleging conspiracy, forgery, and 'uttering of forged documents' by Etete to misappropriate Malabu's funds.
- **July 17 2013:** High Court in London awards $110.5 mn. of $200 mn. middlemen claim that Etete promised them but did not pay, for brokering the sale of OPL 245. Judge takes evidence from Etete in Paris because he is under a ten-year British visa ban. Judge describes his evidence as 'deliberately dishonest'.
- **July 2013:** Senator Leo Okuweh Ogor, deputy leader of the Nigerian House of Representatives, publishes 70-page committee report recommending the investigation of alleged fraud and conspiracy and that Nigeria's federal government 'cancel' the 100% award of the block to Shell and Eni and restore 50% of Malabu to MS Abacha.
- **September 2013:** Nigerian media report MS Abacha as having defected to governing Peoples Democratic Party.
- **Jan 18 2014:** Nigeria Supreme Court orders MS Abacha to face trial for 123-count charges relating to possession of property stolen from the state by his father.
- **March 5 2014:** US Department of Justice freezes $485 mn. in what it calls the proceeds of Sani Abacha's corruption, naming MS Abacha as a 'co-conspirator' with his father.

the EFCC interim investigation report. When he filed the EFCC petition, Mohammed Abacha didn't explain why he appeared only as 'Mohammed Sani' on the Memorandum and Articles of Association of Malabu but he did admit it was him, the EFCC interim report said. Like the Ogor committee, the report uncovered much wrongdoing yet both support Abacha's case that he merits restitution. Mohammed Abacha was not alone in believing himself cheated by Etete. In the London High Court, middlemen sued Etete for over $200 mn. in commission fees and an alleged 'Secret Commission Agreement'. They claimed they had been crucial to finding buyers for OPL 245 and yet had been cut out of the action, much like Abacha, when they finally succeeded. The action was still going on, with some $110.5 mn. awarded to the middlemen in March this year.

Justice Gloster's judgement last July declared that the middlemen had been responsible for brokering the three-way deal between Shell-ENI, Malabu and the government. She found that the Malabu accounts were 'solely controlled by Etete'. He had been trying to claim that he was not the beneficial owner of Malabu, although he had already admitted it separately in a **French** court. One of the brokers was **Ednan Agaev** of International Consulting Ltd. of Geneva. He went to work for Etete in April 2009, to find investors for OPL 245, and he eventually helped to bring in Shell and ENI. Yet, he claimed, Etete did not pay him, so he brought a case in the New York State Supreme Court over a $66.5 mn. commission which he said Etete owed him.

'THE GHOST OF SANI ABACHA'

In an affidavit in the New York Court, Agaev claimed that **John Copleston**, a former British diplomat working with Shell, had contacted him in the last week of December 2010 and told him that Mohammed Abacha claimed to be the real owner of the rights to OPL 245. Agaev also stated that **Roberto Casula**, Africa Director of ENI-AGIP [*Azienda Generale Italiana Petroli*], had also contacted Agaev and told him that 'in view of the new claim by Mohammed Sani [Abacha] a direct deal with Malabu would not be possible'. He added, 'the ghost of Sani Abacha's reputation seemed likely to kill the deal.' This was what scuppered Etete's direct sale to the oil majors and led to the involvement of the Nigerian government. With Shell-ENI purchasing OPL 245 from the federal government, they would not be party to any subsequent law suits from Mohammed Abacha.

Agaev said this was a proposal designed to 'put off Mohammed Sani [Abacha] from realising his claim', the EFCC report quoted the affidavit as saying. It certainly made sense for the oil majors. If they bought from the federal government, Mohammed Abacha would have to deal with Etete or the government only. In sorting all this out, Judge Gloster said that Etete was 'prone to make wild allegations of fraud and forgery, or point the finger of blame at others, including his own trusted financial advisors and lawyers, without any appreciation of the serious implications of his accusations.'

Agaev was not the only middleman mentioned in the High Court case. The other was **Zubelum Chukwuemeka Obi**, a dual British-Nigerian citizen, trading as Energy Venture Partners. Obi went to dinner with ENI Chief Operating Officer **Claudio Descalzi**, Etete and Agaev at Milan's swanky *Hotel Principe di Savoia* in February 2010, according to the London High Court judgement. The discussions culminated on 11 April 2011 in a three-way meeting in the Abuja offices of Attorney General Adoke. Also present, according to Gbingie's evidence to the High Court, were **Peter Robinson**, Shell's Vice-President for Africa, two other Shell representatives, Malabu representatives, Professor **Yinka Osayame Omorogbe**, Company Secretary and Legal Advisor to the state-owned Nigerian National Petroleum Corporation, and other NNPC counsel. Adoke, said Gbingie, had told the meeting that a settlement had to be reached before the imminent end of the presidential term. *AC* could not reach Obi, Agaev, Adoke or Omorogbe for comment. The deal came just seven days before President Jonathan, who had taken office because of the incapacity and then death of President **Umaru Musa Yar'Adua**, won the general elections.

Malabu's representatives protested that the offer was too low but they settled on $1.09 bn. as the purchase price, according to Gbingie's evidence. They had also all already agreed that the oil companies would pay the government and that the government would pay Malabu. The New York Supreme Court judgement said the Nigerian government was 'the proverbial "straw man" holding $1.1 bn. for ultimate payment to Malabu.'

THE MAJORS RESPOND

Asked about these events, Shell and ENI offered blanket statements and did not say whether they knew that most of the money was going to Etete. 'Any payments relating to the issuance of the licence were made only to the FGN [Federal Government of Nigeria],' a Shell spokesperson told us. 'No payments were made by NAE [Nigerian AGIP Exploration] or Snepco [Shell Nigeria Exploration and Production Company] to Malabu Oil and Gas… Shell companies have acted at all times in accordance with both Nigerian law and the terms of the OPL 245 resolution agreement with FGN,' the spokesperson said.

Although *AC* had not asked if any payments had been made to third parties, an ENI spokesperson said: 'We categorically deny ENI has paid any compensation to third parties in respect to the allocation of the block. The transaction was totally transparent, the assignment of the block was negotiated directly with the Government of Nigeria, without the intervention of any intermediaries.' None of these statements, though, denies that the companies had been in talks with Malabu and had paid the government because of the threat of litigation. Yet the Nigerian government, even 13 years after Etete's award of the licence to himself, saw nothing untoward either.

ENI admitted having met Malabu representatives and that the possibility of litigation was an issue. 'It emerged,' ENI told *AC*, 'that there was no evidence of full ownership of the block by Malabu itself because of the existing disputes.' The spokesperson noted that a lawsuit had been lodged in the Federal Court of Nigeria by Malabu shareholders – i.e. Mohammed Abacha – in relation to the ownership of the company's shares. 'The Government of Nigeria had started negotiations directly with Shell (which had already invested in exploration activities in the block) and ENI (owner of the nearby block) in order to find a possible solution for the final allocation of the block.'

PARLIAMENTARY OBJECTIONS

The Ogor report, however, takes issue with the agreements that the government signed with Shell-ENI. The report wanted the licence agreement withdrawn, the sale to Shell-ENI to be cancelled and NAE to be 'formally censured or reprimanded' by the House of Representatives for its role in the Resolution Agreement, 'which lacked transparency and did not meet international best practices'. The Ogor committee report unearthed much apparent dishonesty, but it was clearly sympathetic to Mohammed Abacha and declared that it considered both Abacha and Pecos Energy still to be shareholders in Malabu, with 50% and 30% shares respectively. It wants the government to cancel its award of OPL 245 to the oil majors, based on what it called a 'highly flawed Resolution Agreement which was 'ceding away our National Interest'. Parliamentary reports are regarded with scepticism locally and usually assumed to be representing special interests.

An expert on the oil industry said the Resolution Agreement is a standard form of oil company agreement and that the Ogor committee's objective was to put Etete in the position of having to return the money he had received. Meanwhile, oil industry experts say that OPL 245 is the largest and most lucrative of all Nigeria's unexploited oil blocks. If it were not being greedily argued over, it would have been pumping oil and benefitting the economy long before now. ●

NIGERIA/ITALY: ENI in the cross-hairs, AC Vol 55 N0 20, 10th October 2014 www.africa-confidential.com/article-preview/id/5806/ENI_in_the_cross-hairs

NIGERIA

ENI in the cross-hairs

Italian prosecutors want British help in investigating ENI for possible bribery of Nigerian officials

Italian public prosecutors have asked **Britain** to freeze an account holding US$85 million in their preliminary investigation into whether top officials in the ENI oil company conspired to bribe Nigerian officials, *Africa Confidential* has learned. We have seen a confidential letter from Milan public prosecutors **Fabio de Pasquale** and **Sergio Spadaro** asking the Home Office to seize the money, held in a National Savings and Investment account managed by the City of London branch of Natwest Bank, which is part of the Royal Bank of Scotland Group, because, they claim, it is the proceeds of a bribe. They say that ENI used the Nigerian government as a conduit for bribes to facilitate the award of Oil Prospecting Licence 245 (OPL 245).

The money is, the letter says, 'part of the money transferred by ENI to Malabu Oil & Gas Ltd, through the escrow account of the Nigerian Government'. Malabu was a shell company set up by President **Sani Abacha**'s Oil Minister, Chief **Dan Etete**, to hold the ownership of OPL 245. Etete awarded Malabu OPL 245 – i.e. to himself – in 1998 (AC Vol 55 No 7). The Italian investigation began in September 2013 and four men were charged in November: **Gianluca di Nardo** and **Zubelum Chukwuemeka Obi**, respectively Italian and Nigerian middlemen, and ENI executives **Roberto Casula** and **Vincenzo Armanna** (AC Vol 55 No 10). ENI and Shell, which jointly bought OPL 245 in 2011, have both claimed that they cannot have been guilty of bribing any Nigerian officials since their contract was with the Nigerian government, not Malabu. An ENI spokesperson contacted by *AC* said there was no illegal conduct.

Whatever may or may not have happened to the $1.09 billion they paid Nigeria for the licence is not their affair, they say. Yet the Italian investigators seem convinced that ENI officers knew that the price they were paying for the

oil licence included an element to cover bribes to Nigerians. The letter to the Home Office says, 'The prosecution believes that a considerable part of that sum ($1,092,040,000) was destined for the remuneration of Nigerian officials.' The 20-page letter then sets out *prima facie* evidence from their investigation to support the allegation and back their request for Britain to freeze the $85 mn. The Home Office has refused to confirm or deny the request.

Previously, the Metropolitan Police's Proceeds of Crime Unit had acknowledged to us that it was pursuing enquiries in relation to money-laundering in the context of OPL 245 and confirmed again that inquiries continue but would not discuss the matter further. The UK Serious Fraud Office told us that it could neither confirm nor deny SFO interest, and the Royal Bank of Scotland did not respond to a request for comment.

The Italian prosecutors' interest in OPL 245 was piqued by telephone calls intercepted in the course of their investigation into ENI's oil services company Sapiem SpA over suspected payments to unnamed members of the government in **Algeria** and its state oil company Sonatrach. They kept hearing the phrase 'OPL 245' without initially understanding what it was, people close to the Italian investigation told *AC*.

In a statement to Italian prosecutors included in the letter to the Home Office, **Luigi Bisignani**, a middleman who worked with Di Nardo on OPL 245, said, 'We expected commissions. In particular, we thought that Obi would have paid us a part of the money he would get from Etete. In any case, Di Nardo and I did some work in the negotiations and so we expected a payment. This payment couldn't come from Eni because Eni didn't pay commissions.'

PRIOR KNOWLEDGE

If the investigation results in charges being laid, the Milan prosecutors' case is likely to rest on attempting to prove that ENI always knew the money it paid would go to Nigerian officials. Italian prosecutors say they have new evidence from non-public banking records obtained from the Financial Information Unit of the central bank, the *Banca d'Italia*. That squares with what *AC* reported earlier this year. The letter says that $215 mn., which was frozen in the course of the dispute between Obi and Etete over Obi's fee as a middleman, was also 'certainly intended for the remuneration of public officials and the payment of kickbacks to ENI SpA managers and the intermediaries.'

The prosecutors believe that their phone taps of Bisignani's calls with various individuals in ENI and with Di Nardo prove a conspiracy to bribe. So that eavesdroppers would not be able to identify who he was talking about, Bisignani had code names for ENI and Nigerian government officials, some of them at the highest level.

The edited transcripts, which the prosecutors provided to the Home Office in the letter, reveal Bisignani's worries that Nigerian officials were circumventing their efforts to strike a deal over OPL 245 and that middlemen were being cut out. ●

NIGERIA/ITALY: Follow the money, AC Vol 55 N0 21, 24th October 2014
www.africa-confidential.com/article-preview/id/5820/Follow_the_money

NIGERIA/ITALY

Follow the money

A leak from Italian prosecutors reveals more details about the recipients of the US$800 million from the OPL 245 licence sale

Telephone taps of Italian middlemen in the deal over Oil Prospecting Licence 245 reveal extraordinary detail about the manoeuvring that led to the agreement between the Nigerian government, and ENI SpA and Shell, in April 2011 (AC Vol 55 No 20 & No 7). The leak from an Italian government investigation of ENI (*Ente Nazionale Idrocarburi*) reveals that ENI officials made direct contact with Nigerian President **Goodluck Jonathan** and his then Oil and Petroleum Resources Minister, **Diezani Allison-Madueke**, to break the logjam over the contentious OPL 245.

The two oil majors ended up paying US$1.09 billion to Abuja, which then swiftly passed most of the money on to Nigerian private companies and individuals, foremost among them Chief **Dan Etete** and his shell company Malabu (AC Vol 55 No 10). Investigations into the recipients of the money are ongoing. Milanese prosecutors are investigating whether ENI masked the payment of bribes to Nigerian officials to win rights to the block. The edited transcripts reveal middleman **Luigi Bisignani**'s worry that the contact between ENI top officials and the Nigerian presidency could cut the middlemen out of the fees they would earn from brokering the deal.

When they talked on the phone, Bisignani and his fellow Italian middleman **Gianluca di Nardo** assigned code names to the principals in the deal. Jonathan was 'Fortunato' (Lucky), Allison-Madueke was 'Lady', Etete was 'Fatty', Obi (a Nigerian middleman working for Etete) 'the child' and ENI's then Chief Executive Officer, **Paulo Scaroni**, 'the Number One', while **Claudio Descalzi**, then Scaroni's deputy and now ENI's CEO, was known as 'the Number Two', 'the good guy' or 'Baldy'. Di Nardo and Bisignani were highly elliptical, as in this extract from an intercepted call at 17.34 on 18 November 2010:

Man [Di Nardo]: Hello.
Bisignani: Eh, so, ahhhhh, tell the chap that Mr Fortunato and the lady...
Man: Yes.
Bisignani: Hell, Mr Fortunato and the lady have said they want to do this tomorrow or the day after.
Man: OK, I'll tell him to ring whatsit so they're invited [as heard] but it comes right from Mr Fortunato and the lady.
Man: I'll tell him straight away.
Bisignani: So... the two that in short...
Man: OK, I'll tell him straight away.

The meaning is unclear and the prosecutors do not explain why Bisignani and Di Nardo felt the need to give code names to the President and Oil Minister.

A document from the prosecutors shows that when they questioned Bisignani on 16 April 2014 in the presence of his lawyer, he talked about Allison-Madueke. Bisignani said, 'As far as the relations of Obi and Etete with the Nigerian environment are concerned, I found out from Di Nardo that, in turn, he had been told by Obi that a lady minister of the Nigerian government of the time was a former assistant of Etete at the time when [he] was Minister of Petroleum. Obi and Di Nardo therefore took the support of the minister for granted.'

Other information from the Italian prosecution reveals, after enquiries at the central bank, the *Banca d'Italia*, and other financial institutions around the world, the destination of much of the $800 mn. that went to Malabu. Some $523 mn. of it was to companies and accounts linked to **Abubakar Aliyu**, an oil man who is close to President Jonathan and his former Oil Minister.

They also mention the payment of $10 mn. to a former senior law officer in the government of General **Olusegun Obasanjo**. Some of the payments, the prosecutors said, include 'the purchase of armoured cars and aircraft'. They conclude: 'What can be said with certainty, based on the information so far obtained, is that the money paid by ENI, and already distributed, was the origin of a very high number of opaque and anomalous financial transactions...'. ●

NIGERIA: The ripples of OPL 245, 16 May 2014, AC Vol 55 No 10
www.africa-confidential.com/article/id/5625/The_ripples_of_OPL_245

NIGERIA/BRITAIN

The ripples of OPL 245

Police and regulators are still investigating the consequences of Chief Dan Etete awarding himself an oil licence

The Metropolitan Police's Proceeds of Corruption Unit (POCU) in London has confirmed to *Africa Confidential* that it is investigating allegations of money laundering through Britain linked to Nigeria's Oil Prospecting Licence 245 (AC Vol 55 No 7). Subsidiaries of Royal **Dutch** Shell and **Italy**'s ENI (*Ente Nazionale Idrocarburi*) bought OPL 245 from the Nigerian government for US$1.09 billion, which passed most of it to Malabu Oil and Gas. This is a shell company controlled by Chief **Dan Etete**, aka **Dauzia Loya Etete**, the Oil Minister under General **Sani Abacha**, who ruled in 1993-98. The funds paid to Malabu were quickly transferred to other shadowy companies whose beneficial owners are unknown.

The State Prosecutors' office in Milan, Italy, has launched its own inquiry, which is likely to increase in scope since one of ENI's negotiators with Etete, **Claudio Descalzi**, has recently been named Chief Executive of the oil major. The international advocacy group Global Witness has called on him to explain his role in the OPL 245 deal. ENI refused to comment on any ongoing investigations. Etete met Descalzi at a dinner on 4 February 2010 at Milan's Hotel Principe di Savoia when Shell and

ENI were negotiating to buy OPL 245 from Etete. Descalzi was then the Chief Operating Officer of ENI's Exploration and Production Division. ENI has been exploring successfully in the OPL 245 area. In February, it declared that one of its main exploration successes for 2013 came about 'with the appraisal of the oil field in Zabazaba in OPL 245 Block (ENI operator with a 50% interest)'.

The POCU wouldn't confirm or deny if it's investigating any companies, financial institutions or individuals connected to the OPL 245 transaction, or if the Unit has received any request for help from Nigerian, **United States**' or Italian regulators. Britain's Serious Fraud Office and its Financial Conduct Authority also had nothing to say. After Shell and ENI paid the Abuja government in the April 2011 deal brokered by Attorney General **Bello Adoke**, a New York escrow account at JP Morgan Chase transferred \$801.45 million into Nigerian bank accounts controlled by Etete. First Bank Nigeria and Keystone Bank invoices signed by Etete, which we have obtained, show that he emptied \$401.54 mn. and \$400 mn. out of the accounts and thence into oblivion.

ROCKY TOP

A report from Nigeria's Economic and Financial Crimes Commission says that \$336.5 mn. of the \$400 mn. wired into Malabu's Keystone Bank account went to Rocky Top Resources Limited, \$60 mn. was transferred to another account for 'forex trading', leaving a zero balance in Malabu's Keystone Bank account. The \$401.54 mn. wired to Malabu's First Bank of Nigeria account went into four accounts: A Group Construction Company Ltd. (\$157 mn.), Megatech Engineering Co. Ltd (\$180 mn.), Imperial Union Ltd. (\$34 mn.) and Novel Property Development Ltd. (\$30 mn.). On 28 February 2012, after those transfers, the balance of Malabu's First Bank account was \$143,500. All these companies are believed to be fronts for Etete or financial vehicles owned by people who were owed fees for having helped in the original enterprise.

A **French** court convicted Etete of money-laundering in 2007 and sentenced him *in absentia* to three years in gaol and a fine of 250,000 euros (\$343,000). A series of news reports in Nigeria claims that France had pardoned him. In fact, an appeal against his conviction succeeded on a technicality: receiving bribes from oil companies, the charge on which he was convicted in 2007, was not illegal at the time that they were allegedly received, between 1996 and 1999. His prison sentence was therefore rescinded but the fine was increased to €8 mn. (\$11 mn.). Nigerian media only reported his supposed pardoned and ignored the increased fine. ●

NIGERIA/LIECHTENSTEIN

The trade-off

The Alpine principality is returning some of Sani Abacha's loot after the Nigerian government drops charges against his son Mohammed

In what bears the hallmarks of a backroom political deal, Liechtenstein is to return 167 million euros (US$228 mn.) stolen by General **Sani Abacha** in the 1990s. This follows the decision a day earlier by the Nigerian government to drop criminal charges against his son, **Mohammed Sani Abacha**, 46. Gen Abacha, military ruler of Nigeria from 1993 until he died in 1998, is reckoned to have stolen over $4 billion from the Nigerian state, much of which has been claimed by his family.

Mohammed Abacha, who is expected to stand for the governorship of Kano State for the People's Democratic Party in the next election, was facing charges of laundering 446.3 bn. naira ($2.7 bn.). The day before the Liechtenstein deal, Nigeria's Attorney General and Minister of Justice, **Mohammed Bello Adoke**, ordered the federal charges dropped, even though the nine counts were only laid in February.

The decision to let the late dictator's eldest son off the hook has attracted a storm of criticism of President **Goodluck Jonathan**'s government from opposition parties and local rights groups. 'Allowing the theft of public funds to go unpunished sends the wrong message that those with powerful connections can act with impunity. The case should have been fully prosecuted and the government has not given adequate reasons for dropping the charges,' said **Chantal Uwimana**, Africa Director for the Berlin-based Transparency International.

Recovery of the Liechtenstein funds was blocked by four companies linked to the Abacha family. They had filed a case with the European Court of Human Rights alleging infringement of their human rights and their rights to property. 'In May 2014,' according to Liechtenstein's statement, 'the complaint pending in Strasbourg was withdrawn by the four Abacha companies, clearing the path for repatriation of the assets once and for all.' A World Check compliance report dated 23 June lists 14 pages of sanctions and embargos against Mohammed Abacha in places as diverse as **Japan**, **Jamaica**, **Ukraine**, the **United States**, the British Virgin Islands, Gibraltar, **Venezuela**, **Switzerland** and Britain.

CONFIDENTIAL CONNECTIONS

Africa Confidential asked Enrico **Monfrini**, a Swiss lawyer who has helped trace $2.4 bn. in Abacha loot in separate investigations, if there was a connection between Liechtenstein's action and the dropping of the charges. He said, 'Mohammed wants to put an end to the case and so does the Nigerian government. What is being discussed behind the scenes is highly confidential. What will be the consequence I cannot disclose.'

After the Liechtenstein deal, Finance Minister **Ngozi Okonjo Iweala** told journalists that the charges against Mohammed Abacha were dropped 'to ease the return' of the Liechtenstein funds. But it's a costly trade-off: the government is forgoing the chance to recover N100 bn. ($613 mn.) referred to in charges against Abacha so as to obtain the return of only $228 mn.).

No sooner had Liechtenstein's return of the funds been announced than reports started to appear in the Nigerian media that Abacha would stand for the governorship of Kano, his home state, for the PDP in the 2015 polls. The current Governor, **Rabiu Kwankwaso**, who last year defected from the PDP to the opposition All Progressives Congress, has become one of the Jonathan government's most influential critics. Kano is the second most important commercial centre in Nigeria after Lagos and a vital fiefdom for the opposition.

On 8 June, Kwankwaso and three kingmakers appointed suspended Central Bank Governor **Sanusi Lamido Sanusi** as Emir of Kano and the PDP wanted to respond strongly (see Page 3). Abacha had been a stalwart of the opposition Congress for Progressive Change in Kano but had defected to the PDP after he was snubbed by **Muhammadu Buhari**. Although the Abacha family is widely despised in Kano, Mohammed will bring substantial money into the PDP campaign.

Chief **Joseph Bodunrin Daudu**, Mohammed's lawyer, didn't respond to emailed requests or telephone calls to discuss the case. Daudu represented Mohammed at a January Supreme Court hearing at which Justice **Olukayode Ariwoola** read out a unanimous decision that Mohammed should stand trial in the Abuja High Court on a 123-count charge for possessing properties stolen by his father. This charge, which had also named **Abubakar Atiku Bagudu**, was replaced by the nine-count indictment naming only Mohammed in February.

The later indictment accused Abacha of concealing money, including £141.1 mn. and $384.4 mn. in cash and travellers' cheques. Count two said that, between August and December 1995 in Abuja, he voluntarily assisted in concealing $58 mn. believed to have been stolen from the government. Count three charged that between October and December 1996 in Abuja, he dishonestly received $26.9 mn. believed to have been stolen from the government.

In January 2005 the Liechtenstein Attorney General's Office requested the indictment of Mohammed Abacha, his brother **Abba Abacha** and four Liechtenstein businessmen for breach of trust and money-laundering. It was then envisaged that the government would be allowed to participate in the hearings and to request any forfeited assets be returned to Nigeria. A British former financial regulator who wished to remain anonymous told *AC* that dropping the investigation into Mohammed was a 'dubious precedent', especially in view of the US Department of Justice's decision in March to freeze over $458 mn. in Abacha loot. ●