# Swiss traders' opaque deals in Nigeria

BD
Berne Declaration
Déclaration de Berne
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Table of Contents



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## Introduction

The number one producer of crude oil in Africa, the Federal Republic of Nigeria is having trouble lifting its population out of extreme poverty. For the last ten years the country has experienced strong growth, largely due to oil revenues. And yet this West African country, the most populous of the continent with around 173 million inhabitants, has hardly benefited. Both the percentage of children in full-time education as well as life expectancy are significantly below the average for sub-Saharan Africa. Moreover, the Gini coefficient shows that Nigeria is one of the most inegalitarian countries in the world. Oil, which makes up 58 % of State income,[1] is clearly not contributing to the development of this country as much as it could and above all as much as it should.

This situation owes a great deal to the corruption that is rotting the State, which ranks 139th out of 179 countries in the Transparency International classification for 2012. The all-powerful national company, the Nigerian National Petroleum Corporation (NNPC), categorised as the most opaque national oil company on the planet,[2] itself is evidence of Nigeria's 'resource curse' at work. The extent of the problem is illustrated by the fact that the NNPC has not published detailed financial reports since 2005! But this company, with its dozen subsidiaries operating at all levels of the supply chain, from production to distribution, cannot be ignored by anyone wanting to produce, export or import crude oil or petroleum products in Nigeria. It is here that Swiss commodity traders occupy a position of choice. The breadth of their activity in this country extends from the exporting of crude oil – the subject of the first part of this report – to the delivery to local importers of petroleum products necessary for Nigeria's domestic consumption – the subject of the second part. In effect, this country is in a paradoxical situation: despite being the thirteenth largest producer worldwide, the structural failings of its refineries oblige the country to import petrol, kerosene and fuel oil.

In the export business, the top Swiss traders are dominant: according to the figures compiled by the Berne Declaration (BD), in 2011 they bought up no less than 36 % of the 223 million barrels put up for sale by the NNPC. In value, the proportion of Nigerian oil exports allocated to Swiss firms reached 35.05 % (8.731 billion dollars out of a total of 24.9 billion – see table in appendix).[3] If Nigerian companies with a Swiss subsidiary are added to the Swiss traders, this proportion even rises to 56.22 % (14.004 billion dollars). The Swiss traders operating in Nigeria appear to be closely in business with the badly managed NNPC.

The Geneva companies Trafigura and Vitol outclass their competitors thanks to opaque partnerships with the NNPC established in Bermuda. Instances show that sales between the NNPC and its two Swiss partners were carried out at prices lower than the market rates. This type of operation appears incongruous: why would the NNPC sell its crude oil at a discount? Who benefits from these transactions? The opacity of these arrangements and the frequent involvement of subsidiaries domiciled in tax havens make it impossible to answer these questions.

Swiss traders also play an important role in imports. They supply Nigerian importers with petroleum products necessary for domestic consumption. In this case it is difficult to know their market share, because the Nigerian authorities do not attribute their imports to the Swiss traders, but rather to local operators who act as intermediaries, and whose transactions are often performed outside of Nigeria.

In order to guarantee that petroleum products are sold at an affordable price on the internal market, imports are massively subsidised. But this importing system has given rise to one of the most massive frauds that the African continent has experienced. No less than 6.8 billion dollars of unjustifiable subsidies were paid out in 2009 and 2011 – that is the equivalent of nearly four times the Nigerian health budget for 2013. Police investigations carried out by the Economic and Financial Crimes Commission (EFCC), the Nigerian squad in charge of financial crimes, show that the Swiss traders do not hesitate to deal with questionable Nigerian firms, firms which in fact have no operational capacities or which are ultimately owned by politically exposed persons (PEPs). In this context, five Swiss trading firms are the object of a request for mutual legal assistance submitted by the authorities of Abuja to Berne. Moreover, as we will see in the third part, at least seven of the Nigerian 'importers' involved in this fraud have a subsidiary in Switzerland.

1 http://eiti.org/fr/news/l-itie-nig-ria-apporte-un-claircissement-sur-la-spirale-des-subventions-p-troli-res; consulted on 30.09.2013.

2 Revenue Watch and Transparency International, "Promouvoir la transparence des revenus. Rapport 2011 sur les performances des compagnies pétrolières et gazières" (Promoting the transparency of income. Report for 2011 on the performance of oil and gas companies), 2011.

3 The table in the appendix compiles data coming from: "Domestic crude oil sales 2011", Crude oil marketing department, NNPC and "Crude oil sales profile 2011", NNPC.

## Part 1: Export – from knock-down prices to opacity

When it comes to Nigerian crude oil exports, Swiss traders have it both ways. On the one hand, they deal in ordinary exports, coming from the oil that the producing firms pour out, via the federal State, to the NNPC in the form of payments in kind. In value, Swiss companies bought up 28.92 % of the barrels put up for sale in this way in 2011 (4.125 billion dollars). This proportion rises to 36.9 % if the Nigerian traders with a subsidiary in Switzerland are included (5.264 billion dollars). On the other hand, the traders are allocated by the NNPC a major proportion of the crude oil that the four refineries in the country do not manage to process. In fact, these refineries only rarely run at more than half their capacity,[4] and usually only between 30 % and 40 % of it.[5] Despite this, since 2003, the NNPC has nevertheless continued to allocate them 445,000 barrels of crude oil per day, which corresponds to 100 % capacity. This means that a balance of at least 222,500 barrels a day has to be exported. It is sold to traders, Swiss in 43.28 % of cases (4.605 billion dollars), or to foreign refineries.[6] Or it is exchanged for refined petroleum products, within the framework of 'SWAP contracts' (exchange of crude oil for petroleum products).[7] If Nigerian firms owning a branch in Geneva are included as well, the 'Swiss' share of the oil dedicated to refineries reached 82.12 % in 2011 (8.739 billion dollars).

As mentioned above, more than half of Nigerian crude oil exports pass through Switzerland. The BD has identified three especially problematic aspects in the way in which Nigeria exports its crude oil through the intermediary of Swiss traders.

### Politically exposed 'letter boxes'

First problem: Nigeria is the only major producing company that sells 100 % of its crude oil to private traders, rather than marketing it itself and benefiting from the resulting added value. A number of beneficiaries of export allocations are nothing but letterbox companies whose sole merit is that they are linked to high-ranking political officials or their entourage. As the Nigerian Task Force recorded in its report: *"COMD [Crude Oil Marketing Division] also awards a number of contracts each year to 'briefcase traders' with little or no commercial and financial capacity."*[8] Politically-linked holders of such letterboxes are known, in banking terminology, as 'politically exposed persons' (PEPs), towards whom any financial intermediary must exercise particular duties of due diligence by virtue of the law on money laundering in order to ensure the legality of the funds. In Switzerland, traders are not subject to such duties and have no obligation to question the credibility of their partners. This leaves them full latitude to trade with fake entities. But in Nigeria, such fake entities represent a major part of the 'market'. As pointed out by a Chatham House report produced by two Nigerian oil specialists, only 25 to 40 % of the holders of export allocations actually have *"the capacity or will to finance, ship and sell their own cargoes directly to refiners with all the market and price risks involved. Most of the remaining ones are so-called 'briefcase companies' – small entities which sell their allocations of crude to the main traders for a margin, most often at the higher end of $0.25 –0.40 per barrel in 2013."* [9] Again according to the report, this system *"attracts many shadowy middlemen and 'politically exposed persons'"*, because these letterboxes typically belong to *"one or more private individuals acting as a 'front' for top political office-holders and power-brokers"*. This is the type of player that the Swiss traders are doing business with in Nigeria, when they are not dealing directly with the NNPC.

### Secret calls for tender

Second problem: Swiss traders do not acquire this crude oil based on public and transparent calls for tender, which would guarantee to the Nigerian population that its oil is sold at the best price. On the contrary, each year, generally in the spring, the NNPC grants the allocations of exports under obscure conditions and on the

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[4] Patrick Smith, "The Geo-Economics of Resources and conflict in Africa", International Institute for Strategic Studies, 7–9 April 2013, p. 11.

[5] Jean Balouga, "The political Economy of the Oil Subsidy in Nigeria", International Association for Energy Economics, Second Quarter 2012, p. 33; Report of the Petroleum Revenue Special Task Force, August 2012, p. 28. This official report was order by the Nigerian Minister for Oil. The Revenue Watch Institute, "Selling the citizen's oil. The Governance of oil states: early lessons on good practices", Briefing, April 2012, p. 5. In 2011, the rate of absorption of the refineries over this manna of 445,000 barrels a day was 43.2 %, for example.

[6] "Domestic crude oil sales 2011", Crude oil marketing department, NNPC.

[7] "Domestic crude oil sales 2011", Crude oil marketing department, NNPC.

[8] Report of the Petroleum Revenue Special Task Force, August 2012, p. 60.

[9] Chatham House, "Nigeria's Criminal Crude: International Options to Combat the Export of Stolen Oil", September 2013, p. 8.

basis of criteria that are unknown outside the restricted circle of the decision makers. Even more serious, several official reports support the fact that at least a part of this oil is sold at prices below the market rates.[10]

As one of the reports of the Nigerian Task Force emphasises, *"it is alleged that traders are allowed to choose the most lucrative pricing option for individual cargoes retroactively. There is also a question of whether favoured traders may receive 'subsidized' prices well below market […] The lack of transparency in Nigerian crude sales encourages fraudulent activities."*[11] Some cases detailed below support these suspicions.

**Opaque and lucrative partnerships in Bermuda**

The third problem lies in the 'numerous roles' that the NNPC fulfils, in particular the partnerships that it establishes. Described as "operational and financial black boxes"[12] , two of these opaque partnerships lead back to Vitol and Trafigura, respectively the first and third largest Swiss enterprise in terms of turnover in 2012.[13] The two joint ventures are established in Bermuda, a tax haven reputed for its opacity.[14]

In reality, the profit generated by these entities escapes State coffers, first, because no taxation in Bermuda is paid, since the tax on profits is zero, and then it seems that any profits that are collected in Nigeria for the State are not actually getting through – several years ago the NNPC simply stopped paying the State its share of income from the export of crude oil initially allocated to the Nigerian refineries![15] Indeed, these sums are by no means trivial. By way of example, in 2011 the amount withheld came to 8.739 billion dollars. The public coffers were directly penalised: the same year, the revenues from oil fell by 39 % against the amount budgeted. And this despite a rise – not budgeted – in the price of oil. The explanation? The unilateral retention of these revenues by the NNPC.[16] Swiss traders bought up 43.28 %, i.e. 4.605 billion dollars, of this crude oil – oil that, in light of NNPCS's behaviour, could be described as illegitimate. Although the majority of the major traders based in the Confederation were all involved in exporting it, it was indeed Vitol and Trafigura who took the lion's share, having received more than half of the crude oil. Including ordinary crude oil, Vitol and Trafigura alone took respectively 13.44 % and 13.49 % of Nigerian crude oil exports in 2011 for a cumulative value of 6.7 billion dollars. The information available on these partnerships is inversely proportional to their importance.

**Double blessings for Vitol**

Hyson (Nigeria) Ltd and Calson (Bermuda) Ltd were created in August 1988 as joint ventures between NNPC and Chevron, with the objective of being international companies "for trading in oil, focused on West and Central Africa."[17] More specifically, Hyson, like Calson, is active in "trading in Nigerian crude oil, the excess production coming from Nigerian refineries and petrochemical factories," as well as "the importing of various petroleum products intended to compensate for the insufficient production of the national refineries."[18]

On 1 January 1994, the American major partner sold 40 % of its shares in Hyson to Vitol Energy (Bermuda) Ltd.[19] It is assumed that it was also at that time that Vitol took 49 % of Calson, the rest remaining in the hands of the NNPC. This hypothesis is reinforced by the close connection that links Hyson with Calson, the former having the mandate to supply "logistical and operational services" to the latter.[20]

This joint venture has proven extremely lucrative for Vitol. In 2003, Calson accounted for 17.6 % of the oil supply for the whole group established in Geneva, constituting its primary source of crude oil, with a value of

[10] Patrick Smith, "The Geo-economics of Resources and conflict in Africa," International Institute for Strategic Studies, 7 – 9 April 2013, p. 11; Report of the Petroleum Revenue Special Task Force, August 2012, p. 51.
[11] Report of the Petroleum Revenue Special Task Force, August 2012, p. 60.
[12] Report of the Petroleum Revenue Special Task Force, August 2012, p. 59.
[13] Ranking Handelszeitung 2013.
[14] On this subject, read the latest report of the Tax Justice Network devoted to Bermuda: http://www.secrecyjurisdictions.com/PDF/Bermuda.pdf.
[15] The Revenue Watch Institute, "Selling the citizen's oil. The Governance of oil states: early lessons on good practices". Briefing, April 2012, p. 5.
[16] The Revenue Watch Institute, "Selling the citizen's oil. The Governance of oil states: early lessons on good practices". Briefing, April 2012, p. 5.
[17] http://www.nnpcgroup.com/NNPCBusiness/Subsidiaries/Hyson.aspx ; consulted on 04.07.2013.
[18] http://www.nnpcgroup.com/NNPCBusiness/Subsidiaries/Hyson.aspx ; consulted on 04.07.2013.
[19] http://www.nnpcgroup.com/NNPCBusiness/Subsidiaries/Hyson.aspx ; consulted on 04.07.2013.
[20] http://www.nnpcgroup.com/NNPCBusiness/Subsidiaries/Hyson.aspx ; consulted on 04.07.2013.

over three billion dollars.[21] For Nigeria, Calson and Vitol proved to be just as important, because together the two supplied 22.6 % of petroleum products imported into the country in 2005.[22] In 2006, Hyson imported 47 % of the Nigerian consumption of LPG (liquefied petroleum gas).[23] Two years later, in 2008, Calson generated a turnover of 5.08 billion dollars;[24] the joint venture was then classified as one of the "most significant" participating investments of the Vitol group, the world's number one in oil trading. Vitol's subsequent annual reports unfortunately do not make it possible to know the evolution of this turnover, since the Swiss firm stopped publishing information on Calson.

In 2010, a controversy broke out in Nigeria and threw a harsh light on the way in which Calson was acquiring its crude oil. The Nigerian press then published a letter from Calson to Vitol, dated 24 March the same year, indicating that the oil should, starting in the month of May of the same year, be sold at "competitive prices", that is, at the market price. The insinuation was clear: until then, Vitol had been obtaining oil at knock-down prices.[25] Addressed to Paul Greenslade,[26] of Vitol in Geneva, the letter noted that Calson nevertheless did not intend to stop selling crude oil to Vitol and was going to respect the agreement under which the NNPC supplied at least 30,000 barrels a day to Calson.

When questioned by the BD, Vitol explained that, since the letter does not indicate that the crude oil was obtained "at prices lower than the market rates […] any suggestion" of this nature "is wrong". However, the Swiss firm refused to explain why the letter had used such language if the company had not, until then, acquired this black gold at knock-down prices.

But suspicions had arisen concerning Calson's role even before 2010. The provisional audit carried out for the year 2005 by the British firm, Hart Group, on behalf of Nigeria Extractive Industries Transparency Initiative (NEITI) enjoined the NNPC to "review" the use of Calson in the form of its arrangement with Vitol.[27] The same recommendation was made in 2011, on the occasion of the review of the years 2006 to 2008.[28] An example is cited to justify this recommendation: via Hyson, Vitol and Calson had purchased cargos of crude oil in June 2004 that the NNPC had invoiced at the July price, and which generated a profit thanks to price.[29] Consequently not only did the NNPC take a loss on the transaction, but the added value was siphoned out of the country to Bermuda, with the result that the Nigerian State did not pocket the revenues it should have received.

The alleged misappropriations of funds by these partnerships are not limited to the frontiers of Nigeria. The State joint venture also participated in one of the most enormous corruption schemes discovered to date, when Hyson allowed Vitol to obtain five cargoes, worth a total of 84.954 million dollars, of Iraqi crude oil within the United Nations framework "Oil for Food" programme.[30]

In spite of this, Calson continues to export large quantities of Nigerian crude oil. In 2011, the firm domiciled in Bermuda was credited with exporting nearly 9 % of the national oil, for a value of 2.2 billion dollars. On its own behalf, Vitol obtained an additional 4.5 % equivalent to 1.1 billion dollars. This brings the total revenue earned for the Swiss trader to 3.3 billion dollars, that is, 13.44 % of total Nigerian exports that year.[31]

21 Vitol Master Trust, Supplement to the Offering Circular Dates May 06, 2004, p. 42
22 NEITI, Final draft Report, physical audit 2005, p. 7. NEITI is the Nigerian version of the Extractive Industries Transparency Initiative (www.eiti.org). Each member country must have its petroleum/mining income audited by independent auditors and compare them to the payments declared by the companies that exploit these resources. It should be noted that the statistics on the imports disappear in the final version of the report. According to a report by the British NGO Chatham House, signed by Nicholas Shaxson, a major specialist on Nigeria, the authorities asked the auditor, Hart Group, to revise its copy due to anomalies found in the national accounts. On this subject: "Nigeria's Extractive Industries Transparency Initiative: Just a Glorious Audit?", Nicholas Shaxson, Chatham House, November 2009.
23 http://www.nnpcgroup.com/NNPCBusiness/Subsidiaries/ Hyson.aspx ; consulted on 04.07.2013.
24 Vitol Holding B.V., Annual Report 2008, p. 52.
25 Nigerian Tribune, 19.04.2010.
26 Paul Greenslade currently holds the post of president of Vivo Energy, a joint venture between Vitol (40 %), Shell (20 %) and Helios Investment (40 %), specialising in oil distribution activities in Africa. Vivo has 1300 service stations on the continent. Source: http://www.reuters.com/article/2013/04/17/vitol-africa-oil-idUSL5N0D33LR20130417; article of 17.04.2013.
27 NEITI, Final draft Report, physical audit 2005, p. 11. It should be noted that, for inexplicable reasons, this recommendation disappears from the final version of the report. Cf. note 22.
28 NEITI, Physical and process report, Report 2006–2008, July 2011, p. 16.
29 Africa Energy Intelligence, "Vitol mis en cause" (Vitol called into question), Number 533, 10.05.2006.
30 Independent Inquiry Committee into the United Nations Oil-For-Food Programme, Committee Oil Financier table, Table 4, pp. 29, 30 and 34.
31 It should be pointed out here that not all the sales of Calson necessarily lead back to Vitol, but nevertheless the Swiss firm does indeed benefit from them through its participation in Calson.

It is extremely difficult to establish whether or not this black gold has been sold at market prices. But in the view of experts, there is no doubt that at least part of the sales from the NNPC to its joint ventures are made at prices lower than the market rates.[32] The opacity both of the NNPC and of that characterising Swiss traders, including Vitol, make it impossible to rule out the suspicions of these experts, formulated more than two years after the letter sent by Calson to Vitol. And yet the sums in question are immense and point to what should be a matter of significant public interest, in particular for the Nigerian population.

Contacted by the BD, Vitol asserted that Calson and Hyson "are fully in compliance with international standards", without specifying which ones, that all board meeting minutes are transcribed and that the accounts have been audited. Still, none of these have been published.

### Trafigura is also enjoying Bermuda

Napoil (Bermuda) Ltd, the joint venture between Trafigura (49 %)[33] and NNPC (51 %),[34] is even more opaque. Curiously, although the NNPC devotes a page of its internet site to Hyson and Calson, its partnership with Vitol, no mention is made of Napoil.[35] Nor on Trafigura's site either.[36]

And yet, in 2004, Napoil proved to be even more important than Calson in the area of imports of petroleum products, supplying 30.4 % of Nigeria's needs.[37] But here again the statistics disappear in the final version of the NEITI report, published officially.[38]

In this regard, the NEITI auditors record that Trafigura declared, with the help of the cargo ship "High Tide", that it had imported in one lot 137,646 tonnes of fuel; but the ship had a capacity of only 45,018 tonnes.[39] Is this a matter of a major printing error or of deliberate fraud? The NEITI auditors suggested that NNPC clarify this point. There is no indication that this has been done. Incidentally, these elements disappear in the final version of the report.

Although data on Napoil are lacking, the firm domiciled in Bermuda was still active in 2011. For that year, it exported only 1.27 % of Nigerian crude oil, with a value of 315 million dollars. This 'modest' transaction seems to make Napoil the poor relation of the NNPC's joint ventures, in comparison with the exports made by Calson. But Trafigura is no loser: on its own behalf, and through a contract in kind called a "SWAP" (a swap of crude oil for petroleum products),[40] the Swiss firm obtained in 2011 the right to export twenty-seven tankers loaded with 25.5 million barrels with a value of 2.956 billion dollars.[41] This brings Trafigura's total to 3.3 billion dollars, that is, 13.49 % of Nigerian exports – slightly better than Vitol.

Contacted by the BD in particular on the subject of the cargo ship "High Tide", Trafigura did not wish to respond to the BD's questions.

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32 Patrick Smith, "The Geo-Economics of Resources and conflict in Africa", International Institute for Strategic Studies, 7–9 April 2013, p. 11; Report of the Petroleum Revenue Special Task Force, August 2012, p. 51.
33 Preliminary Offering Circular dated 3 April 2013, Trafigura, section F–56; Trafigura annual reports.
34 Report of the Petroleum Revenue Special Task Force, August 2012, p. 84.
35 www.nnpcgroup.com
36 www.trafigura.com
37 NEITI, Final draft Report, physical audit 2005, p. 7.
38 http://neiti.org.ng/index.php?q=documents/neiti-audit-period-1999-2004. On this subject see notes 22 and 27.
39 NEITI, Final draft Report, physical audit 2005, p. 7.
40 The SWAP contracts have the special feature that only the contracting parties to the agreement supervise its execution. The contracts are executed outside of the banking circuit, which means beyond all control, especially from the point of view of the law on money laundering.
41 "Domestic crude oil sales 2011", Crude oil marketing department, NNPC.

## Part 2: The Swiss side of the misappropriation of import subsidies

In spite of its status as a major oil producer, Nigeria is paradoxically obliged to import 80 % of its needs for refined products, from petrol to kerosene and including fuel oil.[42] And it is worth noting that this domestic consumption is satisfied at international market prices. The structural failings of the four refineries in the country are in question, but even if they were operating at 100 % of their capacity, their output would not suffice to meet the internal demand.

To ease the social tensions within the population and avoid opposition to its oil policy, the government of Abuja instituted a mechanism for providing subsidies on the import of petroleum products, designed to offer Nigerians petrol at bargain rates. This system of subsidies has existed for a long time: in 2003, the country was already spending 3 % of its GDP on subsidies intended to maintain prices at the pump at an affordable level.[43]

In 2006, the subsidy mechanism was substantially remodelled. And as several Nigerian audits have shown, it was the object of one of the most massive embezzlements of public funds that the African continent has ever experienced. In total, 6.8 billion dollars of these subsidies were paid out between 2009 and 2011 without proper justification.[44] This amount represents nearly one-quarter of the annual national public budget.[45] At the time of writing, only 6 % of the unjustified subsidies have been reimbursed to the Nigerian State.[46]

Two reports by the Nigerian authorities – one by the Parliament, the second ordered by President Goodluck Jonathan – show that around seventy locally-based importers are suspected of having taken part in this massive fraud.[47] The BD is in a position to affirm that at least seven of them, enumerated below, have a subsidiary in Switzerland. Only one of these firms is the object of proceedings in Nigeria. Perhaps this is because a third report, also instituted by the presidency, exonerated the majority of the – major – firms of all misappropriation, judging as "legitimate" all the questionable transactions cited in the two previous reports.[48] Curiously the auditors, who worked in a hurry, do not explain in what way the transactions were "legitimate". In addition, this audit examined only the year 2011. In contrast, the two earlier reports mentioned above minutely dissect the suspect transactions between 2009 and 2011.

### The facets of an unprecedented case of fraud

In brief, local "marketers" are appointed by the authorities to import these petroleum products, acquired from international traders, primarily Swiss, as we will see below.

A first fraud plan consists in receiving a subsidy[49] on a cargo while physically importing only a part of it; the balance is thus exported on the international markets or sold locally on the black market, and constitutes an illegal profit. Sometimes the subsidies have been received while not a single drop of petrol has been imported.

Another technique consists in falsifying the maritime documents, in particular the date, to choose a day when the price is higher in order to obtain a subsidy that is higher than the price actually paid.[50] The balance goes back into the pocket of the "importer". The American Embassy in Abuja, the capital of Nigeria, recorded as early as 2004, with the support of two sources, that

42 Jean Balouga, "The political economy of oil subsidy in Nigeria", International Association for Energy Economics, second quarter 2012, p. 31.

43 Jean Balouga, "The political economy of oil subsidy in Nigeria", International Association for Energy Economics, second quarter 2012, p. 33.

44 Petroleum Revenue Special Task Force, Final Report, August 2012; Financial Times, "Nigeria gas deals found to have cost $29 bn", 24.10.2012;
http://www.financialtaskforce.org/2012/08/17/corruption-in-nigerias-oil-sector-fuel-subsidies-gone-missing/;
To give an order of magnitude, Global Financial Integrity estimates that every year 18.2 billion US$ are siphoned off outside of the country.

45 http://www.reuters.com/article/2012/12/10/nigeria-switzerland-probe-idUSL5E8N584W20121210

46 Reuters, "Nigeria fuel list includes firms named in subsidy fraud probe", 23.07.2013.

47 Report of the ad-hoc Committee "To Verify and Determine the actual subsidy Requirements and Monitor the Implementation of the Subsidy Regime in Nigeria", April 2012; Report of the Technical Committee on Payment of Fuel Subsidies, June 2012.

48 The Presidential Committee on Verification and Reconciliation of Fuel Subsidy Payments: Report on PMS Shore Tank Discharges and Sales Proceeds for 2011, November 2012.

49 The subsidy mechanism involves numerous state and para-state agencies that we do not mention here. For detailed information read: Report of the ad-hoc Committee "To Verify and Determine the actual subsidy Requirements and Monitor the Implementation of the Subsidy Regime in Nigeria", April 2012.

50 The subsidies are calibrated to the market price of North West Europe on the day of delivery.

Nigerian importers and Swiss traders were participating in such fraud, underlining the fact that according to the papers documenting these operations, 73 cargo ships had taken one day to reach Nigeria from the Persian Gulf, Venezuela or the United Kingdom![51] Between 2009 and 2011, several importes quite simply "invented" transactions, supplying the whole set of forged documents in order to receive a subsidy paid out for an imaginary import.

For these fraudulent practices to be carried out, the importers had to be able to free themselves from inspection by the authorities. This is why most of the transactions took place abroad, contrary to the system foreseen by the Nigerian authorities, which stipulated that international traders had to supply the Nigerian importers in the territorial waters of Nigeria or in the country's ports, particularly Port Harcourt or Apapa (Lagos). In spite of this 2011 saw no fewer than 857 transactions taking place offshore, primarily in Cotonou (Benin) and in Lomé (Togo).[52]

These offshore transactions allowed the Nigerian operators to be reimbursed in dollars by the Central Bank of Nigeria (CBN) rather than in Nairas; in this way they protected themselves against the exchange risk because they bought the petroleum products in dollars from international traders. Thus, the exchange risk was shifted to the CBN.

But, as we have seen, less legitimate reasons also lay behind the offshore deliveries, giving rise to this massive fraud. In plain language, the tankers chartered by Vitol and consorts dropped anchor at Lomé or at Cotonou. From there, they divided up their cargo ("mother ships") among smaller vessels ("daughter ships") through "ship-to-ship" transfers that can be chartered by several major Nigerian importers. In doing this, the oil companies created particularly complicated paper trail, which makes it nigh on impossible for the authorities to reconcile the Bill of lading they receive with the actual oil delivered. For example, out of 857 transactions performed in 2011, 308 involved three or more ships (sometimes up to six!) between the port of origin and Nigeria.[53] A formidable instrument for covering their tracks![54] It is these ship-to-ship operations that drove the Parliament's auditors to speak of "collusion" between traders and marketers and of the existence of a "clear conspiracy".[55] They thus noted that in 2011 "Vitol SA" carried out more than 250 voyages of this type for 34 different marketers.[56] Before the Parliament – we will return to this – Vitol indicated that it had followed the Nigerian regulations to the letter while stating that it had also conformed to the demands of the marketers, their clients.[57] It is in order "to serve the local market" that Gunvor had a floating warehouse offshore from Cotonou with a capacity of 65,000 tonnes.[58]

**The 'Swiss' dominate the market**

Since most deliveries take place outside Nigerian territorial waters, it is extremely difficult to compile statistics on the share of petroleum products supplied by Swiss traders. Nonetheless, several indicators tend to confirm that they dominate this market of deliveries to Nigerian importers. In the first place, the reports of Bluseas Maritime Service Nigeria Ltd, a company tracing tankers sailing in West African waters, show that the Swiss traders Glencore, Trafigura, Vitol, Mercuria and Gunvor all appear, to varying degrees, on the aforementioned registers. Alongside these trading giants come smaller companies established in Switzerland, opaque and less visible, such as Arcadia Energy or Nimex Petroleum. Another indicator of their prevalence is that several Swiss traders have been called upon to cooperate with the Nigerian authorities. Faced with the firms' refusals, the Nigerian authorities have called for assistance from the Swiss legal system, thus pointing to the role and the importance of the traders in this fraud.

51 http://cablegatesearch.net/search.php?q=Vitol+Trafigura+ Otedola&qo=47616&qc=0&qto=2010-02-28; diplomatic cable of 8 April 2004.
52 Report of the Technical Committee on Payment of Fuel Subsidies, June 2012, p. 40.
53 Report of the Technical Committee on Payment of Fuel Subsidies, June 2012, p. 40.
54 These ship-to-ship operations are, moreover, also used in the opposite direction to load stolen oil from small craft ("daughter ships") to tankers ("mother ships"). This can involve either adding on to a cargo with stolen oil or filling up an entire ship. Read on this subject: Chatham House, "Nigeria's Criminal Code: International Options to Combat the Export of Stolen Oil," September 2013, p. 3.
55 Report of the ad-hoc Committee "To Verify and Determine the actual subsidy Requirements and Monitor the Implementation of the Subsidy Regime in Nigeria," April 2012, p. 89.
56 Report of the ad-hoc Committee "To Verify and Determine the actual subsidy Requirements and Monitor the Implementation of the Subsidy Regime in Nigeria," April 2012, p. 89.
57 Video recording of the hearing of Rodney Gavshon before the Parliament ad-hoc Committee. We will return to his hearing below.
58 Preliminary Offering Circular, Gunvor Group, 2013, pp. 83–84.

## Nigeria requests aid from the Swiss legal system

In October 2012, the Nigerian authority in charge of police inquiries, the Economic and Financial Crimes Commission (EFCC), submitted a request for judicial assistance to the Swiss authorities.[59] Nigeria wanted to obtain documents (accounting documents, letters of credit, sets of bills of lading, etc.) from five Swiss traders who had refused to cooperate on the spot, in order to compare the information supplied by the local marketers suspected of having taken part in the fraud.

Justifying the request for mutual assistance, the Chairman of the EFCC, Ibrahim Lamore, publicly deplored the companies' lack of cooperation, adding that the information requested was not found in their offices in Abuja or Lagos.[60]

This same Ibrahim Lamorde was pleased with the "excellent cooperation" offered by the British judicial authorities, to whom they also appealed.[61] The London courts blocked the accounts of certain beneficiaries of this massive misappropriation of public funds. Switzerland has not yet acted in similar fashion. The Swiss Federal Justice Department received the request for mutual assistance in October 2012 and transmitted it, as legally required, to the Office of the Public Prosecutor of the Canton of Geneva, specifically to the section for complex affairs. However, so far no information has been transmitted to the Nigerian authorities, who are thus hampered in proceeding against those responsible for the embezzlement. Questioned on this point, the judicial authorities explain that they have started looking into this request but have not yet conducted investigations.

According to the BD's information, the letter of request concerns five companies, namely Vitol, Litasco, Gunvor, Arcadia Energy and Petrade Brassleto. This last firm, completely unknown, is not listed in the trade register, but is said to be domiciled at the same address as Vitol, that is at 28 boulevard du Pont d'Arve, in Geneva.[62]

Formally, the Swiss firms are not directly targeted by the request for mutual assistance;[63] the Geneva authorities are requested to obtain from the traders the documents making it possible to document the fraud committed by the Nigerian importers. Does the lack of cooperation of the Swiss firms in Nigeria indicate mistrust with regard to the Nigerian legal authorities or, on the contrary, a determination to evade possible complicity in the fraud? As things stand, it is impossible to answer this question.

Contacted by the BD, Litasco and Gunvor said they had no knowledge of a request for mutual assistance concerning them. Arcadia did not respond to our questions. For its part, Vitol acknowledges having "received requests for information on the part of the Swiss authorities, upon request of the Nigerian authorities", explaining that "Vitol is happy to work with the competent authorities". The firm added that it has "cooperated with the Nigerian authorities to the extent permitted by Swiss legislation", without explaining which Swiss law(s) would prevent it from divulging what information. On the other hand, Vitol affirms that Petrade Brassleto "does not form part" of its group and that it was unaware of its existence before the approach from the BD.

## Vitol is lectured by the Parliament

The Nigerian Parliament is convinced that Swiss traders, in particular Vitol, are not exempt from all blame. Before the Parliament's investigation committee, Vitol had a difficult time. Its representative, Rodney Gavshon,[64] was lectured by the MP's, within the context of a hearing, filmed and made public by the Nigerian press.

First of all, Rodney Gavshon was quickly obliged to acknowledge the fact that Vitol docks outside Nigerian territorial waters (in Lomé and Cotonou) deprives Abuja of port duties. In this regard, he had considerable difficulty explaining why, when the customer is the NNPC, Vitol is apparently able to deliver to the Nigerian ports, but when in contrast the customer is a private company, the Swiss firm brought up excuses like the depth of the Nigerian ports or the fact that the insurance costs were higher in Nigeria than is the case with its neighbours. The excuse for the offshore tanker is made all the more questionable by the fact that, as we saw in the first part,

59 Reuters, "Nigeria seeks Swiss help in $6.8 bln fuel subsidy probe", 10.12.2012.
60 Reuters, "Nigeria seeks Swiss help in $6.8 bln fuel subsidy probe", 10.12.2012.
61 Economic and Financial Crimes Commission, "Fuel subsidy fraud: EFCC set to repatriate funds in foreign accounts," press release of 27 March 2013.
62 Often the traders make use of front organisations. This practice is especially widespread in Nigeria. Thus, Glencore operated under its own name as well as that of Folawiyo Energy Ltd, of which the Swiss firm owns 45%; Trafigura does the same with Delaney Petroleum.
63 Reuters, "Nigeria seeks Swiss help in $6.8 bln fuel subsidy probe", 10.12.2012.
64 Rodney Gavshon is cited by name in numerous articles in the Nigerian press. In the official reports, mention is made of "Vitol SA".

Vitol is one of the biggest exporters of Nigerian crude oil and as such takes crude oil by tanker directly from the Nigerian ports – and not from Lomé or Cotonou. Faced with this contradiction, Mr Gavshon murmured that he did not have "all the details".

Citing the case of one of Vitol's customers, Mobil Oil, one of the MP's indicated to Mr Gavshon that he could not fail to notice "thefts that have taken place so to speak, in broad daylight. So you cannot plead ignorance. Didn't this touch upon your conscience, Vitol, with your good name?"

At that moment Mr Gavshon preferred to yield the floor to a person who seemed to be the local lawyer for Vitol: "This is an interesting question. But Vitol has not helped any marketer to violate any regulation. Vitol is a supplier and not an importer, contenting itself to obey those [sic]."

At the end of the hearing, questioned by a MP, Mr Gavshon acknowledged that Vitol did not act, "to his knowledge", in any other part of the world in the same way as in Nigeria, that is by delivering products offshore.

**Mercuria, favoured partner of politically exposed fraudsters**

Among the fraudsters against whom legal proceedings have been instituted in Nigeria, several have falsified maritime documents stamped "Mercuria Trading N.V." or "Mercuria Energy Trading SA". This is the case in particular for Ax Energy, a Nigerian company, which quite simply 'invented' deliveries by falsifying the whole set of documents in order to collect the subsidy (sets of bills of lading, letter of credit, quality certificate, import certificate, etc.).[65] Other documents, authentic in this case, show that Mercuria nonetheless was in business with Ax Energy and its directors, who are currently awaiting judgement for fraud concerning 1.1 billion Nairas (6.82 million dollars). One of these latter is called Abdullahi Alao, son of Abdul-Azeez Arisekola Alao, an extremely rich businessman and prominent Muslim leader in his capacity as the Vice-President of the powerful Nigeria Supreme Council of Islamic Affairs.[66]

Mercuria also delivered petroleum products to Eterna Oil and Gas, against which proceedings have been instituted for having wrongly declared the import of 33.288 million litres of petrol.[67] Eterna is managed by Mahmud Tukur, son of Alhaji Bamanga Tukur, the chairman of the Peoples Democratic Party (PDP), the party in power since 1999.[68]

Finally, according to the EFCC, Mercuria was the partner of two other firms that participated in the fraud, Anosyke Group of Companies and Dell Energy.[69]

According to the documents in our possession, nothing leads one to believe that Mercuria participated in this fraud or benefited from it in one way or another. However, as we saw with Vitol, Mercuria's offshore activities make the matter questionable. Above all, the addition of these four cases calls into question the way in which the 'Geneva' firm chooses its business partners on the coast of the Gulf of Guinea. Trading with political exposed persons (PEPs) in a country as corrupt as Nigeria is not without risk. In effect, it is legitimate to ask whether Ax Energy and Eterna obtained import allocations because of their know-how or because of their connections with high-level politicians. Is this is a matter of the 'price' that Mercuria pays to be able to occupy the Nigerian terrain, in particular to export crude oil?

Contacted by the BD, Mercuria did not wish to respond to our questions.

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65 The BD has these documents in its possession.

66 http://premiumtimesng.com/regional/135957-arisekola-alaos-first-wife-passes-on-at-68-buried.html; http://nigerianwiki.com/wiki/Arisekola_Alao; consulted on 23 July 2013 http://nationalmirroronline.net/new/2012-year-of-revelations-mixed-grill-for-politics-and-politicians/; consulted on 23 July 2013.

67 http://www.efccnigeria.org/efcc/index.php/news/81-fuel-subsidy-fraud-trial-of-suspects-begin-as-court-remands-alao-in-efcc-custody; http://www.efccnigeria.org/efcc/index.php/news/427-n1-8bn-scam-defence-team-s-application-stalls-proceedings; http://www.thenationonlineng.net/2011/index.php/news/55259-efcc-how-20-suspects-looted-n13b-subsidy-cash.html; consulted on 23 July 2013

68 http://saharareporters.com/news-page/n12-billion-subsidy-fraud-trial-son-pdp-chairman-bamanga-tukur-challenges-court-jurisdicti; consulted on 23 July 2013

69 http://www.efccnigeria.org/efcc/index.php/news/128-fuel-subsidy-scam-efcc-arraigns-13-suspects; press release of 5 October 2012.

## Part 3: Geneva, a haven for Nigerian fraudsters

Beyond the role played by Swiss traders in the fuel subsidy scam, the BD has been able to establish a link between seven Nigerian companies suspected of having participated in the fraud and their subsidiaries in Geneva. Although most serve only as letterbox companies, they have listed, without any inspection, in the trade register. There are two reasons underlying the creation of these subsidiaries, according to interviews conducted within the framework of this investigation. In certain cases, it is a matter of benefiting from the tax advantages that the cantons offer for companies working primarily abroad – which is undoubtedly relevant for a Nigerian importer. In other cases, the primary motivation is to get closer to banks specialising in financing trading. This hope has often proven vain, due to the reputation of Nigeria and the relative anonymity of these firms. This is all the more so since several of these companies, having no real activities in Switzerland, have contented themselves just with an address in a fiduciary or lawyer's office.

The following paragraphs detail the connections between these Geneva subsidiaries and the facts that they are being criticised for in Nigeria within the context of this fraud concerning the subsidies for the import of petroleum products.

### MRS Group and its Geneva fiduciary

The largest of these seven companies is called MRS Group. This group, which owns a subsidiary, Petrowest Services SA, based on the premises of a Geneva trust company[70], has not supplied the slightest maritime document on eight transactions between 2010 and 2011.[71] Nevertheless, subsidies worth several tens of millions of dollars have been claimed by MRS without ever being backed up by a documented physical transaction. In three cases, the operations have even been denied by the banks concerned.[72] In total, more than 30 transactions concerning over 100 million dollars carried out by MRS have been judged questionable.[73] Without explaining it, however, in a summary report, a third committee instituted by the presidency declared that all the transactions carried out by MRS in 2011 were "legitimate".[74]

MRS Group is directed by Alhaji Sayyu Dantata, cousin of the Nigerian oligarch Aliko Dangote, the richest man in Africa,[75] and by Patrice Alberti, a former executive of BNP Paribas.[76] Dantata worked for his cousin for a long time before founding his own group in 1995, which today is active in most of the countries of the Gulf of Guinea;[77] the major part of the group's assets come from the repurchase in 2008 of the regional activities of the American giant Chevron.[78] Alberti, on the other hand, was the BNP (Paris) correspondent in 2001 for Marc Rich Investment AG, within the context of the Iraqi "Oil for Food" corruption scheme, which implicated the inflammatory trader's firm.[79] The former banker is domiciled in Nice.[80]

On two occasions the BD contacted the Geneva fiduciary, represented by Etienne Kiss-Borlase, whose premises are located at 8, Quai du Rhône, in Geneva; Mr Kiss-Borlase did not wish to respond to any questions.

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70 http://rc.ge.ch. Extract internet; consulted on 15 July 2013.

71 Report of the Technical Committee on Payment of Fuel Subsidies, June 2012, pp. 87–88; Reuters, "Nigeria fuel list includes firms named in subsidy fraud probe", 23.07.2013.

72 Report of the Technical Committee on Payment of Fuel Subsidies, June 2012, p. 87.

73 Report of the Technical Committee on Payment of Fuel Subsidies, June 2012, pp. 83–85

74 The Presidential Committee on Verification and Reconciliation of Fuel Subsidy Payments : Report on PMS Shore Tank Dischargges and Sales Proceeds for 2011, November 2012, p. 6.

75 http://www.forbes.com/sites/mfonobongnsehe/2013/06/01/ aliko-dangote-is-africas-first-20-billion-man/; 01.06.2013. He has in particular a luxury apartment in Divonne, near Geneva.

76 http://www.mrsgroupng.com/bod.html; consulted on 15.07.2013.

77 http://www.forbes.com/sites/mfonobongnsehe/2011/08/12/the-five-richest-nigerian-stockholders/3/; 12.08.2011.

78 http://www.thisdaylive.com/articles/a-deal-gone-sour/72796/; consulted on 15.07.2013.

79 Independent Inquiry Committee into the United Nations Oil-For-Food Programme, Report on Programme Manipulation, 27.10.2005, pp. 64–65. Writing to Patrice Alberti, one of Marc Rich & Co.'s employee, Scott Sheperd, drew the former's attention to the fact that the name of Marc Rich must not be mentioned under any circumstances to a subsidiary of BNP in the United States, where Marc Rich was still, then, the object of criminal proceedings.

80 http://www.linkedin.com/profile/view?id=65460936&auth Type=NAME_SEARCH&authToken=okqw&locale=fr_FR&srchid=05f86a95-5257-4b19-8bd1-60c2f82aa87a-0&srchindex=1&srchtotal=3&goback=%2Efps_PBCK_*1_Patrice_Alberti_*1_*1_*1_*1_*2_*1_Y_*1_*1_*1_false_1_R_*1_*51_*1_*51_true_*2_*2_*2_*2_*2_*2_*2_*2_*2_*2_*2_*2_*2_*2_*2_*2_*2_*2_*2_*2&pvs=ps&trk=pp_profile_name_link; consulted on 15.07.2013.

**Ontario, charged but approved**

Ontario Oil and Gas Ltd has a Swiss subsidiary called Ontario Trading, domiciled c/o Nimex Petroleum, 7 place du Molard, in Geneva. Created on 8 September 2009 and currently in liquidation, it had as its sole director Ugo-Ngadi Adaoha, of Lagos, who is said to have an address in Laax (Grisons). Currently this firm has as its director Oliver Jürgen Hess, who holds the same position for Nimex Petroleum;[81] it should be noted that Nimex has itself been suspended by the Nigerian regulators for not having supplied required maritime documents.[82]

Ugo-Ngadi Adaoha was arrested on 1 August 2012 by the EFFC, before being released on bail. Among nine charges, she is accused in particular of "fraud and conspiracy".[83] Ontario is itself the object of the same accusations. According to the report from the Nigerian Parliament, Ontario had misappropriated subsidies of 4.248 billion Nairas (26.4 million dollars), although the court is claiming only 1.959 billion Nairas (12.19 million dollars) for 39.2 million litres of subsidised petrol.[84] Another report cites four "illegitimate" transactions concerning 4.585 billion Nairas (28.4 million dollars) in subsidies.[85] Despite the fact Ontario disappeared from the list of approved importers in 2013, the firm is nevertheless continuing to export Nigerian crude oil. No judgement has been handed down as yet.

**Rahamaniyya, a similar story**

The third company involved, Rahamaniyya Group has had a subsidiary in Geneva, Rahamaniyya Oil and Gas SA, since 8 October 2010, also domiciled c/o Nimex Petroleum, which seems to be acting as an incubator for fraudsters. Its former director is Dubai-based Bashar Abdulrahman Musa, originally from Nigeria, who is also the director of Ultimate Energy & Shipping SA, a company created the same day at the same address. Today Oliver Jürgen Hess is the liquidator of Rahamaniyya.[86]

Rahamaniyya is among the companies that have not imported what they should have but who are nevertheless continuing their import activities.[87] One of the two reports mentions 507.5 million Nairas (3.1 million dollars) to be reimbursed, unless a "credible explanation" can be provided.[88] In 2011, Rahamaniyya received a licence to import 420,000 tonnes of petroleum products – that is, the second largest allocation after that obtained by MRS – *before* being accredited by the competent agency.[89] Again without explanation, the third report settles the matter in the same way as for MRS: the 31 transactions of Rahamaniyya concerning 26.238 billion Nairas (162.7 million dollars) are mysteriously judged "legitimate".[90]

Contacted by the BD, the current director and liquidator of Ontario and of Rahamaniyya, Oliver Jürgen Hess, indicated that these two firms "have never been active. The idea of a subsidiary in Geneva was to obtain credit at a better price from the banks to finance transactions.

[81] http://rc.ge.ch. Internet extract; consulted on 15 July 2013.

[82] Reuters, "Nigeria seeks Swiss help in $6.8 bln fuel subsidy probe", 10.12.2012.

[83] http://www.efccnigeria.org/20120801_EFCC.html; press release of 1 August 2012.

[84] Report of the ad-hoc Committee "To Verify and Determine the actual subsidy Requirements and Monitor the Implementation of the Subsidy Regime in Nigeria", April 2012, p. 170.

[85] The Presidential Committee on Verification and Reconciliation of Fuel Subsidy Payments: Report on PMS Shore Tank Discharges and Sales Proceeds for 2011, p. 4.

[86] http://rc.ge.ch. Internet extract; consulted 15 July 2013.

[87] Report of the Technical Committee on Payment of Fuel Subsidies, June 2012, p. 43. And table of the import allocations for the third quarter of 2013.

[88] Report of the Technical Committee on Payment of Fuel Subsidies, June 2012, p. 49.

[89] Report of the Technical Committee on Payment of Fuel Subsidies, June 2012, p. 58.

[90] The Presidential Committee on Verification and Reconciliation of Fuel Subsidy Payments: Report on PMS Shore Tank Discharges and Sales Proceeds for 2011, p. 7.

[91] Levinson, the "diplomat", and Joanes, the "banker", form a complementary duo. Discreet, Daniel Roy Joanes worked for Clariden Leu. For all that, he is not unfamiliar with raw materials, as he was a director of RSPE Holding, active in the Czech Republic. Managed by a Russian, Evgueni Abramov, it changed into Vemex Energie SA and did business with Gazprom, the Russian public company (cantonal trade registers; www.infocube.ch; www.moneyhouse.ch). His associate Richard Levinson has a more scandalous past. A former member of the American State Department, then political advisor at the Embassy of Rome, he left the diplomatic corps in 1998 for business. In December 2003, he joined the company Custer Battles (http://online.wsj.com/article/SB115076836185284796.html; 20.06.2006.). This was one of the first to benefit from a contract, or rather two contracts, in the framework of the reconstruction of Iraq after Saddam Hussein. It is also one of the first companies convicted of fraud to the detriment of the Iraqi State with the complicity of Iraqi officials (http://www.theifp.org/research-grants/procurement_final_edited.pdf; pp. 9–13.). Convicted, Custer Battles nonetheless regained all its vigour under the name of Danubia Global, registered in Tortola (BVI) and created on 7 December 2004, that is, at the beginning of Custer Battles's troubles; it belongs to Richard Levinson and employs many former employees of Custer Battles. Danubia is the 'parent' of Security Ventures International Ltd, also belonging to Levinson.

But the banks systematically refused, because they need something that stays the course." He added that the two entities did have Swiss bank accounts. As for the suspension of Nimex, Oliver Jürgen Hess explained that it had been lifted by the Nigerian authorities.

**Mysterious Tridax and Mezcor**

Tridax Energy Ltd and Mezcor Ltd each have a Swiss subsidiary, Tridax SA and Mezcor SA. Both were created on 1 December 2010 and have Richard Levinson and Daniel Roy Joanes as directors.[91] Only the address differs, although originally both were located at Place du Port 1, in Geneva.[92] On 11 July 2011, the two partners then created Lynear SA, situated at 19, rue Prévost-Martin, in Geneva.

Neither Tridax nor Mezcor cooperated with the auditors,[93] while the first was additionally criticised for having received 15.9 million dollars without having imported the petroleum products that it was supposed to bring into the country.[94] Surprisingly, Mezcor and Tridax both received their permits from the Nigerian authorities to import products before having requested them.[95]

Rumours relayed by the Handelszeitung support the idea that Tridax was connected with the younger brother of the Petroleum Minister, Dieziani Allison-Madueke.[96] These rumours were never confirmed, but the sudden appearance of these two "completely unknown firms"[97] both in the export of crude oil and the import of petroleum products, and for quantities that the major Swiss traders would not deny, raises questions. The explanation could come from the presence, as 49 % shareholder of Mezcor Limited in Nigeria, of a certain Donald Chidi Amamegbo.[98] The latter practised law in California[99] and, according to our information, also in Nigeria. But of particular note is the fact he studied law at Howard University (Washington, DC) at the time when the current Nigerian Petroleum Minister, Dieziani Allison-Madueke, was studying architecture there.[100] The 51 % remaining shareholding is attributed to Mezcor SA, the Swiss entity, "represented by Daniel Joanes." However, as the Swiss Trade Register does not give any indication about the shareholding of companies, it is not possible to know to whom this share of 51 % really belongs.

One thing is certain: like others, Tridax and Mezcor have continued to be allocated oil for export.[101] It should be noted that Lynear, the third company founded in Geneva by the Joanes-Levinson pair, made its entrance in 2012 among the exporters of Nigerian crude oil.[102]

Contacted by the BD, Tridax and Mezcor did not wish to respond to our questions. A source close to these companies, however, refuted any allegation connecting them with the Nigerian Petroleum Minister and affirmed that they have never been active in the importing of petroleum products. The mention of Tridax in the Parliament's report concerning the 15.9 million dollars referred, according to this source, to a subsidy that was never received. The source added that the companies would fare "much better if they benefited from political support."

**Sahara Energy, a documentary desert**

Another firm implicated in Nigeria and with subsidiaries in Switzerland is Sahara Energy, which can be found at 7, Quai du Mont-Blanc, in Geneva. The objective of Sahara Energy International Pte Ltd is to supply services to the Sahara group, active in 14 countries,[103] as well as Sahara Energy Services Sàrl, which pursues the same goal. The Nigerian authorities are requesting that Sahara reimburse 6.034 billion Nairas (37.55 million dollars) of subsidies, unless a "credible explanation" can be provided on the subject of these transactions.[104] In addition, the firm is entirely unable to justify a bank statement showing another 33.7 million dollars, and is

92 http://rc.ge.ch. Internet extract; consulted on 15 July 2013.
93 Report of the ad-hoc Committee "To Verify and Determine the actual subsidy Requirements and Monitor the Implementation of the Subsidy Regime in Nigeria", April 2012, pp. 23–24.
94 Report of the ad-hoc Committee "To Verify and Determine the actual subsidy Requirements and Monitor the Implementation of the Subsidy Regime in Nigeria", April 2012, p.146.
95 Report of the ad-hoc Committee "To Verify and Determine the actual subsidy Requirements and Monitor the Implementation of the Subsidy Regime in Nigeria", April 2012, pp. 71–75.
96 http://www.handelszeitung.ch/unternehmen/ex-clariden-leu-banker-mischt-nigerias-oel-business-mit: 28 August 2012.
97 Africa Energy Intelligence, "The mysterious Tridax Company", No 681, 29.08.2012.
98 Corporate Affairs Commission, Abuja, document of 20.02.2013.
99 State Bar Court of California, Hearing Department, Los Angeles, Cas No. 08-0-12370 ; 09-0-14963 (S197725); document dated 20.02.2013.
100 http://www.africa-confidential.com/whos-who-profile/id/2760/; consulted on 30.09.2013.
101 NNPC term crude contracts, 2012.
102 NNPC term crude contracts, 2012.
103 http://www.sahara-group.com/
104 Report of the Technical Committee on Payment of Fuel Subsidies, June 2012, p. 46.

among the companies that have not imported the quantities that they should have but who have nevertheless been able to continue their importing activities.[105]

Just like MRS and Rahamaniyya, Sahara was "exonerated" by the third report, which judged around 16 transactions concerning 27.9 billion Nairas (173.8 million dollars) as "legitimate".[106] Is this sudden absolution explained by the people who manage the firm? It's impossible to say. But Sahara has several high-level figures within it, and in particular Tony Cole, son of Patrick Dele Cole, the former advisor for international affairs of Nigerian President Olusegun Obasanjo.[107] Moreover, the Geneva subsidiary of the group has Thiémélé Amoakon as director, who had held numerous official functions, among them that of Vice-President of the National Assembly of the Ivory Coast. Sahara has benefited for several years from a lucrative SWAP deal between the NNPC and the Ivorian refinery company (SIR).[108]

Contacted on two occasions, Sahara Energy did not return any calls.

**Aiteo, an empty shell c/o Me Sperisen**

Aiteo Energy Resources Ltd, in Lagos, had a subsidiary in Switzerland, Aiteo Suisse AG, domiciled at Maitre Rodrigue Sperisen, in Geneva. Its directors are Bénédicte Peters and Francis Peters, both from Nigeria.[109] Created on 4 November 2009, Aiteo Suisse AG was dissolved by ruling of the Court of First Instance of 19.12.2011.

In Nigeria, the auditors consider that Aiteo should reimburse the whole of the subsidies received, unless it can prove appropriate use, i.e. 578.2 millions of Nairas (36 million dollars).[110] Aiteo also received an import permit before having requested it and obtained official authorisation.[111] For two transactions, with a total value of 4.94 billion Nairas (31.8 million dollars) of subsidies, Aiteo has not produced any supporting documents, either letters of credit, bills of lading or bank documents. There is therefore no proof that the products were imported into Nigeria.[112]

Contacted, Rodrigue Sperisen did not wish to comment.

[105] Report of the Technical Committee on Payment of Fuel Subsidies, June 2012, p. 86 and 43.
[106] The Presidential Committee on Verification and Reconciliation of Fuel Subsidy Payments: Report on PMS Shore Tank Discharges and Sales Proceeds for 2011, p. 6.
[107] Africa Energy Intelligence, "Sahara Pampered by Obasanjo," no. 443, 27.06.2007; The letter of the continent, "Sahara Energy, des actionnaires influents," (Sahara Energy, influential shareholders), no. 523, 20.08.2007.
[108] The BD has this contract in its possession.
[109] http://rc.ge.ch. Internet extract; consulted on 15 July 2013.
[110] Report of the Technical Committee on Payment of Fuel Subsidies, June 2012, p. 48.
[111] Report of the Technical Committee on Payment of Fuel Subsidies, June 2012, pp. 69–73.
[112] Report of the Technical Committee on Payment of Fuel Subsidies, June 2012, pp. 83, 86 and 88.

## Conclusion

*''In many countries (…) the revenues drawn from the ground increase the gap between rich and poor''* wrote Kofi Annan, the former UN Secretary-General, in the preamble to the 2013 Report of the Africa Progress Panel. The world's thirteenth producer of black gold with nearly two million barrels extracted daily, Nigeria undoubtedly belongs to that category of nations corrupted by the 'resource curse'. Since the country's independence in 1960, the elite are said to have ''stolen or squandered'' some 380 billion dollars, according to Nuhu Ribadu, current leader of the opposition and former chairman of the EFCC.[113]

But these excesses and inequalities, whose exceptional violence is quite visible in Nigeria, are made possible by the complexity and opacity that characterise the petroleum industry, whether it be production, trading or distribution. Injecting a dose of transparency constitutes the principal means of changing the situation.

The petro-state needs a profound moralisation of its politicians, who must stop confusing their official function with their private purse. But as long as the will is absent, the host states of companies operating in the producing countries must assume their share of responsibility.

In exports, it is clear that the Swiss traders are contributing to the perpetuation of a corrupt system. This is characterised by:

– 'letterbox' companies drawing crude oil export allocations solely as a result of the owners' proximity to politically exposed persons (PEPs);
– opaque calls for tender whose criteria are unknown to the public;
– suspicions of crude oil sales at knock-down prices, or prices that are unfavourable to the Nigerian state, in particular in the framework of the partnerships concluded between the NNPC and respectively Vitol and Trafigura; and
– unjustified use of opaque jurisdictions, in particular Bermuda, in the context of these same partnerships.

In imports, Switzerland's role in hosting trading companies proves to be equally problematic, in several respects:

– hosting letterbox companies, subsidiaries of Nigerian firms, which have come to benefit from the tax advantages offered to companies operating mainly abroad (special cantonal tax regimes) and the probable subsequent loss of tax revenues for the Nigerian authorities;
– the absence in Swiss legislation of obligations of due diligence obliging trading companies to make sure of the probity of their commercial partners, in particular with respect to PEPs; and
– the lack of cooperation of the Swiss firms approached by the Nigerian authorities in the context of their investigation of the massive misappropriation of public funds in relation to the import subsidies for petroleum products.

### Political recommendations

As world leader in oil trading, Switzerland bears, whether it likes it or not, a fundamental responsibility for allowing unscrupulous groups to prosper on its territory and for exempting them from any regulation. At the summit organised in Lausanne by the Financial Times in April 2013, the manager responsible for regulation at KPMG Switzerland summed up the situation rather well in these terms: *"Today the situation is very simple (in Switzerland) – no regulation, no supervision"*. The BD proposes to remedy this.

### More transparency in payment flows.

The – rare – information available on the Nigerian national petroleum company, the NNPC, as well as the EITI reports, show that trading companies based in Switzerland dominate the export of Nigerian crude oil. They operate within this particularly sensitive and opaque market, in a highly corrupt environment.

At an international level, the EITI, of which Nigeria is a member, has nevertheless this year adopted measures which, if they prove convincing, will lead to an improvement in the situation. Up to now the sales of the state portion of oil, in this case that marketed by the NNPC, were only listed in a scanty manner. The new EITI rules now require the detailed publication of the revenues derived from these sales, revenues that will be compared with the amounts, also published, paid by

[113] BBC News, "Nigerian leaders 'stole' $380 billion", 20 October 2006.

the purchasers of this oil, namely the traders.[114] As a member of the board of the EITI, Switzerland supported the extension of this system of 'dual accounting' to oil sales.[115]

It may however prove difficult for a country producing raw materials to submit the traders to restrictive rules, especially with respect to transparency. Unlike producing firms, generally well established in the countries where they operate, trading companies only rarely have a subsidiary established in these countries. This is why the states hosting trading companies, with Switzerland at the forefront, must assume their share of responsibility. Several of these host states have recognised the need to adopt additional measures to the EITI. The European Union and the United States have taken this step by obliging their companies operating mainly in the extraction sector to publish all details of their payments to governments. Firstly, this solution offers the advantage of making public payments to countries whose need for transparency is high but which have not joined the EITI. Secondly, this solution makes it possible to identify where EITI member states have failed to comply with the EITI standards, whether through lack of will or capacity, through comparison with the figures reported by the companies operating in those states. Finally, this solution makes it possible to include the traders in raw materials who are beyond the scope of the EITI countries.

The case of Nigeria provides four key lessons on the content of the law that should be adopted in Switzerland on the transparency of payments in the context of commodity trading.

- This law should provide for the flow of payments, for example between the NNPC and Vitol, to be published. In this way, the Nigerian media, the NGOs, the members of NEITI ( the Nigerian equivalent of the EITI) and possible parliamentary committees will be able to compare the payments declared by Vitol with the revenues declared by the NNPC and thus to establish whether state revenues have been misappropriated by corrupt officials.
- This report shows that the effectiveness of transparency depends on the inclusion in the law of the payment flows relating to the partnerships concluded by firms, such as that between Vitol, the NNPC and Calson. The case of Calson illustrates the need to include the  details of the participations of all traders, because even where such participation is small, in volume of business, the figures concerned can still prove to be very significant. Failing this, the law would be easily circumvented.
- While it is right to be concerned, as the EITI is, about the transparency of payments between states and companies, some essential aspects remain obscure. Intrinsically, this transparency does not make it possible to know whether the traders acquire raw materials at a fair price, in other words the market price. This is why it is necessary that this transparency of payments be accompanied by precise and broken down data on the price, quality and quantity of the product as well as the timing of the transaction. Only such a measure would remove the doubts on the price paid by Calson, for example, to acquire its crude oil, just as it would remove suspicions surrounding the firms that refuse to feed the corrupted elite. Above all, the question of price is fundamental to increase the share of oil revenues of which the Nigerian population is the legitimate beneficiary.
- The case of Nigeria demonstrates in exemplary fashion that Swiss commodity traders play an essential role not only in the exporting of crude oil (part 1), but also in the importing of petroleum products (part 2). Their indirect participation in this vast scheme of misappropriating import subsidies, imputed to Nigerian operators, shows that transparency is also essential in this activity. By submitting traders to the obligation of divulging the quantities and qualities of the petroleum products delivered, Switzerland can contribute to avoiding such misappropriations of public funds.

**More transparency for Swiss firms and their commercial partners**

The scandal of the misappropriation of subsidies for importing petroleum products has highlighted two types of firm domiciled in Switzerland.

- Firstly, the firms directly implicated in the misappropriations, the Nigerian intermediaries, some of whom have a subsidiary in Switzerland (see part 2). Here it is crucial, both for the public

[114] The EITI Standard, 22.5.2013, Rule 4.1.c., p.27. It should be noted that the States participate in the EITI on a voluntary basis, whereas the firms operating in the member countries are obliged to publish their payments.

[115] Letter of the Federal Secretariat of the Economy sent on 5 March 2013 to the Berne Declaration and to Swissaid.

and for the legal proceedings under way in Nigeria, to have transparency in relation to the economic background of these companies. This makes it possible to identify the politicians who take advantage of their official functions to create letterbox companies in order to enrich themselves at the expense of the State and the population. This is why Switzerland should add the ultimate beneficial ownership to the data publicly accessible at the Trade Register.

– Then while, to our knowledge, the large Swiss trading firms are not directly implicated in the subsidies scandal, their indirect responsibility seems to be clear for the Nigerian authorities: they dominate the supply market for petroleum products to the importers suspected of fraud. They therefore possess privileged information on the importers that the Nigerian authorities are investigating. And yet the Swiss traders assure us that they knew nothing about their doubtful partners, in particular about their owners. This is why Swiss commodity traders must be subject to obligations of due diligence on their commercial partners, just like the obligations applicable to banks when opening a business relationship, so as to identify in particular the politically exposed persons (PEPs) hiding behind companies managed by nominees. Vitol and Mercuria, among the world leaders in oil trading, should not be able to operate in such a risky commercial environment as Nigeria without taking a minimum of precautions.

**More transparency in the flow of commodities**

In Switzerland, the laundering of illegal assets is prohibited, irrespective of whether such assets consist of money or raw materials.[116] However, in practice, only financial flows are subject to specific rules, obligations of due diligence, and are only applicable to actors presenting particular exposure. The Confederation has entrusted the financial intermediaries with the task of preventing black money from infiltrating the Swiss financial centre. In the commodities sector, Switzerland has no instrument for protecting its industry against 'black raw materials' likely to tarnish its reputation (think of the enormous quantities of oil stolen every year from Nigeria).[117] In Nigeria however, Swiss traders are heavily exposed to this risk.

– Like black money, a raw material must be considered as 'black' when it originates from a crime. Any corrupt act or violation of human rights that precedes or accompanies the extraction or exchange of a raw material makes it illegitimate. For its raw materials sector to be irreproachable, Switzerland must urgently establish obligations of due diligence applicable throughout the supply chain, from the place of extraction to the place of consumption.

[116] Swiss Penal Code Art. 305bis.
[117] Chatham House, "Nigeria's Criminal Crude: International Options to Combat the Export of Stolen Oil", September 2013.

## Appendix: Nigerian Crude Oil Sales in 2011

| Nigeria crude oil sales 2011 (in US dollars ($)) | Crude oil exports (Nigerian refineries surplus) | | Export value | Crude oil exports (Ordinary) | | Export value | Total crude oil exports | | Total export value |
|---|---|---|---|---|---|---|---|---|---|
| Swiss Traders | Number of barrels | Sales value in US $ | % | Number of barrels | Sales value in US $ | % | Number of barrels | Sales value in US $ | % |
| **Groupe Trafigura** | 26'343'510 | 2'937'733'823.95 | 27.60 | 3'480'704 | 421'857'201.54 | 2.96 | 29'824'214 | 3'359'591'025.49 | 13.49 |
| Trafigura | 25'437'318 | 2'849'066'561.52 | 26.77 | 633'628 | 89'903'837.98 | 0.63 | 26'070'946 | 2'938'970'399.50 | 11.80 |
| Napoil | 906'192 | 88'667'262.43 | 0.83 | 1'899'079 | 226'743'710.50 | 1.59 | 2'805'271 | 315'410'972.93 | 1.27 |
| Delaney | 0 | 0 | 0.00 | 947'997 | 105'209'653.06 | 0.74 | 947'997 | 105'209'653.06 | 0.42 |
| **Groupe Vitol** | 12'080'626 | 1'353'044'235.80 | 12.71 | 18'018'953 | 1'994'893'750.42 | 13.98 | 30'099'579 | 3'347'937'986.22 | 13.44 |
| Calson | 9'184'333 | 1'036'146'035.78 | 9.74 | 11'171'715 | 1'187'173'863.11 | 8.32 | 20'356'048 | 2'223'319'898.89 | 8.93 |
| Vitol | 2'896'293 | 316'898'200.02 | 2.98 | 6'847'238 | 807'719'887.31 | 5.66 | 9'743'531 | 1'124'618'087.33 | 4.51 |
| Glencore | 906'509 | 101'783'737.03 | 0.96 | 3'872'025 | 434'220'586.56 | 3.04 | 4'778'534 | 536'004'323.59 | 2.15 |
| Gunvor | 949'913 | 101'290'173.10 | 0.95 | 2'757'639 | 324'129'755.35 | 2.27 | 3'707'552 | 425'419'928.45 | 1.71 |
| Mercuria | 0 | 0 | 0.00 | 3'662'066 | 403'882'893.37 | 2.83 | 3'662'066 | 403'882'893.37 | 1.62 |
| Taurus Petroleum | 0 | 0 | 0.00 | 2'757'649 | 313'990'464.14 | 2.20 | 2'757'649 | 313'990'464.14 | 1.26 |
| Arcadia | 949'288 | 111'953'330.99 | 1.05 | 249'743 | 29'631'507.46 | 0.21 | 1'199'031 | 141'584'838.45 | 0.57 |
| Socar | 0 | 0 | 0.00 | 905'208 | 101'858'530.20 | 0.71 | 905'208 | 101'858'530.20 | 0.41 |
| Addax | 0 | 0 | 0.00 | 1'004'420 | 101'261'433.82 | 0.71 | 1'004'420 | 101'261'433.82 | 0.41 |
| Subtotal | 41'229'846 | 4'605'805'300.87 | 43.28 | 36'708'407 | 4'125'726'122.86 | 28.92 | 77'938'253 | 8'731'531'423.73 | 35.05 |
| Nigerian traders with a Swiss-based subsidiary | Number of barrels | Sales value in US $ | % | Number of barrels | Sales value in US $ | % | Number of barrels | Sales value in US $ | % |
| Ontario Trading SA | 10'184'750 | 1'150'527'393.64 | 10.81 | 1'810'448 | 208'073'107.36 | 1.46 | 11'995'198 | 1'358'600'501.00 | 5.45 |
| Taleveras | 10'178'180 | 1'153'016'303.80 | 10.83 | 990'439 | 114'925'219.85 | 0.81 | 11'168'619 | 1'267'941'523.65 | 5.09 |
| Aiteo Suisse AG | 10'231'090 | 1'148'950'566 | 10.80 | 0 | 0 | 0.00 | 10'231'090 | 1'148'950'565.87 | 4.61 |
| Sahara Energy | 5'184'236 | 572'598'213 | 5.38 | 3'829'144 | 390'389'002 | 2.74 | 9'013'380 | 962'987'215.48 | 3.87 |
| Sullam Voe | 0 | 0 | 0.00 | 3'761'587 | 418'608'295.01 | 2.93 | 3'761'587 | 418'608'295.01 | 1.68 |
| Mezcor SA | 919'286 | 108'959'292 | 1.02 | 30'000 | 3'620'430 | 0.03 | 949'286 | 112'579'722.44 | 0.45 |
| Tridax | 0 | 0 | 0.00 | 30'000 | 3'524'160.00 | 0.02 | 30'000 | 3'524'160.00 | 0.01 |
| Subtotal | 36'697'542 | 4'134'051'768.78 | 38.84 | 10'451'618 | 1'139'140'214.67 | 7.98 | 47'149'160 | 5'273'191'983.45 | 21.17 |
| Switzerland's total market share | 77'927'388 | 8'739'857'069.65 | 82.12 | 47'160'025 | 5'264'866'337.53 | 36.90 | 125'087'413 | 14'004'723'407.18 | 56.22 |
| Other subsidiaries or foreign companies | 17'444'919 | 1'902'588'044.33 | 17.88 | 114'887'215 | 9'003'442'687.78 | 63.10 | 132'332'134 | 10'906'030'732.11 | 43.78 |
| Total (without offshore processing and refinery values) | 95'372'307 | 10'642'445'113.98 | 100 | 152'047'240 | 14'268'309'025.31 | 100 | 257'419'547 | 24'910'754'139.29 | 100 |
| Total (with offshore processing and refinery values) | 164'454'254 | 18'363'100'208.35 | 100 | | | | | | |



Source: NNPC, Crude Oil Marketing Department (C.O.M.D.). Domestic crude oil sales 2011 and crude oil sales profile 2011.