

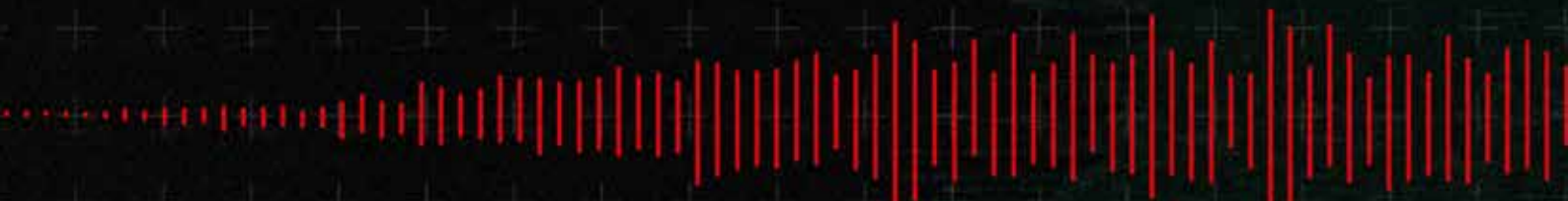


global witness

# SHELL KNEW

Emails show senior executives at UK's biggest company knew it was party to a vast bribery scheme

APRIL 2017



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## EXECUTIVE SUMMARY

A new investigation by Global Witness and Finance Uncovered reveals how Shell, the world's fifth biggest company, participated in a vast bribery scheme for one of Africa's most valuable oil blocks, known as OPL 245.

In 2011 Shell and the Italian oil company Eni paid \$1.1 billion in a murky deal for this lucrative asset located off the coast of Nigeria. After a lengthy investigation, Global Witness tracked down documents showing that this money for the rights to exploit the country's natural resources didn't go to benefit the Nigerian people as it should have done. Instead it went to convicted money launderer and former oil Minister, Dan Etete, who had awarded himself ownership of the block in 1998 via a company he secretly owned, Malabu Oil and Gas.

For six years Shell has denied it did anything wrong, and said it only paid the Nigerian government in securing rights to the block. In 2015 Shell's CEO Ben Van Beurden responded to allegations from Global Witness by stating the payments were "morally OK" and "in accordance with the law of Nigeria and international practice".

However what this carefully worded statement doesn't say is that Shell executives knew the money would go to Malabu and Etete, and was then likely to flow to some of the most powerful people in the country. Senior Shell officials were also briefed that funds could flow on to then President Goodluck Jonathan.

"Etete can smell the money", says one newly leaked email forwarded to then CEO Peter Voser. "If at nearly 70 years old he does turn his nose up at nearly \$1.2 bill he is completely certifiable. But I think he knows it's his for the taking." Another email to Shell's exploration chief stated that "the President is motivated to see 245 closed quickly – driven by expectations about the proceeds that Malabu will receive and political contributions that will flow as a consequence."

Shell portrays itself as an oil company that does good: obeying laws, creating jobs and respecting the human rights of people in the countries where it drills for oil. Yet our new investigation finds evidence of the company's most senior bosses knowingly participating in a vast bribery scheme that would rob

Nigeria of life-saving funds. Right now, five million Nigerians face starvation and one in ten children don't live to see their fifth birthday. The money paid for the block equals more than the 2016 health care budget. It's one and a half times what the UN says is now needed to respond to the current famine crisis. But the Nigerian people saw only a fraction of the money.

In fact, the sale of the oil block was so clearly detrimental to the Nigerian public interest that the most senior civil servant in Nigeria's petroleum department blasted it as "highly prejudicial", in a previously unreported letter. Nigeria was "throwing away an enormous amount of financial resources", said the official. The letter was sent on 1 April 2011, barely a fortnight before the deal was finalised.

Shell's deception and hypocrisy also duped its investors, who include millions of people across the UK whose pensions are invested in the company. They should be deeply concerned about these revelations. In February 2016, Shell's headquarters were raided by 50 police in a joint Dutch-Italian investigation into the deal, and corruption allegations over the deal have sparked law enforcement inquiries in six countries. The potential for Shell to lose this valuable block is therefore a huge risk to investors. Former executives could also face prosecution for corruption.

*Shell Knew* reveals details of a phone call between Shell CEO Van Beurden and the then Chief Financial Officer Simon Henry soon after the raid, wiretapped by Dutch authorities. Van Beurden suggested that Shell should not disclose the raid to shareholders, saying to Henry: "The last thing you want of course is some sort of request to issue a stock exchange release when there is nothing to be said other than that we are being asked to provide information."

He also told Henry: "don't volunteer any information that is not requested" to police investigating the OPL 245 deal.

A Shell spokesperson told Finance Uncovered: "Given this matter is currently under investigation, it would be inappropriate to comment on specifics. However, based on our review of the Prosecutor of Milan's file and all of the information and facts available to Shell, we do not believe that there is a basis to prosecute Shell. Furthermore, we are not aware of any evidence to support a case against any former or

current Shell employee.” If it was ultimately proved that Etete’s company made bribe payments relating to the OPL 245 deal, “it is Shell’s position that none of those payments were made with its knowledge, authorisation or on its behalf”, the company said.

Eni told Global Witness that while proceedings were pending against Eni they did not deem it was appropriate to debate the merits of the new allegations. They noted “inaccurate statements and mischaracterizations of the record, including, for example, your description of the structure of the acquisition OPL 245,” continuing: “None of the contracts relating to the 2011 transaction was executed secretly or designed to ‘hide’ any party’s transaction.”

Both companies said they had commissioned separate, independent investigations. “No illegal conduct was identified,” Eni has said, claiming that it “concluded the transaction with the Nigerian government, without the involvement of any intermediaries”. Shell said it had shared key findings of its OPL 245 investigation with relevant authorities and that “we do not believe that there is a basis to prosecute Shell”.

In January of this year Goodluck Jonathan released a statement, saying he “was not accused, indicted or charged for corruptly collecting any monies as kickbacks or bribes” in the OPL 245 affair.

The OPL 245 scandal is not an isolated case. The oil, gas and mining sector is the most corrupt on the planet, according to a study of hundreds of bribery cases by the Organisation for Economic Cooperation and Development (OECD). Half of these cases implicated senior management.

Some of those responsible for Shell’s participation in this vast bribery scheme now face justice as legal action will shortly start in both Italy and Nigeria. The UK, US, Dutch, Nigerian, Italian and Swiss authorities should continue to cooperate to address the case and investigate potential breaches by Shell and its executives of anti-bribery legislation. But accountability for those involved is only one part of the solution. Global Witness has long called for laws requiring oil companies to disclose their payments to governments on a project level basis. This would help to prevent companies from scheming with greedy government officials to get rich at the expense of ordinary people.

## GW’S ROLE

Global Witness has been working with our partners to expose and investigate this landmark case since 2011. Our findings from the case have been used to develop and implement transparency laws around the world that could detect and deter similar deals in the future.

Over 30 major economies including the US, Canada, Norway, UK, and all 27 members of the European Union now have such laws. A transparency body covering 51 countries – the Extractive Industries Transparency Initiative (EITI) – tightened up its rules last month, requiring oil, gas and mining companies to also report such payments for each project they operate.

Had the US law, section 1504 of the Dodd-Frank Act, been in force when this deal took place, it is highly unlikely that the OPL 245 scandal would have happened. It’s questionable whether Shell, knowing that its payment would be made public, would have gone ahead with the deal as it would have come to light that their payment was for a stolen state asset and would be transferred to the man who stole it.

In spite of the global trend towards transparency, oil companies like Shell are still fighting to keep secrets. Earlier this year their well-paid lobbyists won a big victory when the US Congress voted to overturn the implementation rule for Section 1504. This move sets the US in opposition to a broader global trend towards greater transparency and accountability in how oil, gas and mining revenues are managed. It will make it harder for the public to see what oil companies are paying for oil blocks – and easier for any dodgy deals to go undetected.

Shell and its oil industry peers can no longer masquerade as global leaders for sustainability, good practice and the protection of human rights, while entering into dodgy deals and lobbying to weaken transparency and accountability laws. Oil companies, their investors and governments should publicly support strong, project-by-project disclosure requirements through legally binding rules, including in the US, and during the forthcoming review of the EU Transparency and Accounting Directives, as well as through the EITI. These new developments in the OPL 245 scandal show clearly why robust payment transparency requirements must be established and maintained.

# SHELL KNEW

## SHELL MISLED INVESTORS AND THE PUBLIC ABOUT MEGA-DEAL WITH CONVICTED MONEY-LAUNDERER

After 50 police raided Shell’s headquarters in a bucolic suburb of The Hague, the oil major’s CEO had some advice for a senior colleague—don’t volunteer information.

In the joint raid in February 2016 Dutch and Italian police were looking for one thing: information on a \$1.1 billion deal to acquire oil exploration rights for one of the most valuable oil blocks in Africa, thousands of miles away in Nigeria. Corruption allegations over the April 2011 deal have sparked law enforcement inquiries in six countries.

At the time, Shell said publicly that it took the allegations of bribery seriously and was cooperating with the authorities. “Shell attaches the greatest importance to business integrity,” the company said in a statement. But that’s not quite what the \$235 billion oil giant’s CEO Ben Van Beurden said in a phone call right after the raid.

“Don’t volunteer any information that is not requested,” Van Beurden told Simon Henry, Shell’s CFO at the time, in a previously unreported call tapped by Dutch police. The two top Shell officials agreed that it was best not to tell shareholders about the raid. “The last thing you want of course is some sort of request to issue a stock exchange release,” Van Beurden said. “There is nothing to be said other than that we are being asked to provide information.”



Shell CEO Ben van Beurden referred to emails implicating Shell in a vast bribery scheme that robbed Nigeria of life-saving funds as “pub talk”. Credit: Alamy



The amount paid for the oil block is one and a half times what the UN says is needed to respond to the current famine crisis - but the money was diverted into private pockets. Photo: Alamba/AP/REX/Shutterstock

New emails and documents seen by Global Witness and Finance Uncovered reveal that Shell had good reason to keep quiet.

### “The companies conspired to hide the ex-minister’s role

The Anglo-Dutch major and its Italian partner Eni knew the \$1.1 billion would flow to a notorious former Nigerian oil minister who had been convicted in Paris for money-laundering. The companies conspired to hide the ex-minister’s role, the material shows.

In its statements after the deal Shell would only admit to dealings with the Nigerian government and claimed ignorance of the money-launderer’s role.

The new material shows that Shell was misleading shareholders and the public—and that it knew funds from the deal could flow to senior government officials, including the president (see box: Why we say “Shell executives knowingly participated in a bribery scheme”).

### A TROUBLED GIANT

Nigeria, Africa’s most populous nation, produces over 1.5 million barrels of oil a day but corruption helps explain why a third of citizens live without running

water and electricity. Right now, five million Nigerians face starvation in the north and 450,000 children are suffering acute malnutrition, according to the United Nations.

Shell and Eni paid \$1.1 billion for the block, not including a \$210 million signature bonus. The corrupt former oil minister, Dan Etete, took possession of the entire \$1.1 billion—a sum equivalent to more than Nigeria's 2016 health

care budget. Only a fraction of the money Shell and Eni paid went to the Nigerian state.

The country has always been important for Shell. Ann Pickard, its former Executive Vice President for Africa, told a senior US diplomat in Nigeria in 2009 that Shell “had seconded people to all the relevant ministries” in the country and that “Shell consequently had access to everything that was being done in those ministries”.

## WHY WE SAY “SHELL EXECUTIVES KNOWINGLY PARTICIPATED IN A BRIBERY SCHEME”

The emails leaked to Global Witness and Finance Uncovered show knowledge at the highest levels that Shell and Eni's \$1.1 billion payment for OPL 245 would go to convicted money launderer Dan Etete, and that this money would flow onwards as bribes. Here's how we reached that conclusion.

In January 2011 - less than three months before the deal was finalised - Shell's head of exploration Malcolm Brinded told then CEO Peter Voser that the \$1.1 billion “will be used by the FGN [Federal Government of Nigeria] to settle all claims from Malabu”, Etete's company.

The previous year Shell executives had sent each other emails saying that Etete would spend much of his money on bribes. In July 2010 Senior Business Advisor Guy Colegate wrote to Shell Vice President for Commercial Sub-Saharan Africa Peter Robinson after a meeting with Etete in Paris. Colegate related that Nigerian president Goodluck Jonathan had just written a letter confirming Malabu's rights to OPL 245.

This letter was “**clearly an attempt to deliver significant revenues to GLJ [Goodluck Jonathan] as part of any transaction**” over OPL 245, he said. “**This is about personal gain and politics.**”

In August 2010 Robinson sent exploration head Brinded a brief, saying “the President is motivated to see 245 closed quickly – driven by expectations about the proceeds that Malabu will receive and **political contributions that will**

**flow as a consequence.**” The brief was also sent to three other Shell executives.

Even as far back as January 2009, Strategic Investment Advisor John Copleston wrote to Shell vice presidents Robinson and Ann Pickard, relaying a conversation with a source he described as “my Delta man”: “He spoke to Mrs E this morning. She says E claims he will only get 300m we offering—**rest goes in paying people off.**” “E” is understood from other emails in the chain to be Etete.

The context was clear, as elections in April 2011 drew near. “In Abuja it is still a case of all politics and no government,” Colegate wrote in a 29 March 2010 briefing to senior Shell executives. “Jockeying for ministerial position remains intense, with many aspirants offering substantial sums to purchase their way into office.”

Colegate continued: “With an election only 10 months away **the need to build war chests for campaigning is strong.**”

So, to sum up:


**Did Shell know it was a bribery scheme?** Yes. And the emails show senior Shell executives were aware of this danger more than two years before the deal was signed.

**Was it vast?** Yes. Any scheme involving payments of hundreds of millions of dollars, with money flowing onwards to Nigeria's president, can fairly be characterised as vast.

**Was Shell a party to it?** Clearly yes. It was paying the \$1.1 billion, along with Eni—Shell's then CEO Peter Voser even signed off on the OPL 245 deal.

Shell's annual reports have given scant details about the OPL 245 deal, despite the oil block's huge potential. But with nine billion barrels of "probable reserves" the block could increase Shell's global "proven oil reserves" – a key figure for shareholders – by a third.

The sale of the oil block was so clearly detrimental to the public interest that the most senior civil servant in Nigeria's petroleum department blasted it as "highly prejudicial" in a previously unreported letter. Nigeria was "throwing away an enormous amount of financial resources", said the official. The letter was sent on 1 April 2011, barely a fortnight before the deal was agreed.

 [Click here to see the petroleum department's letter](#)

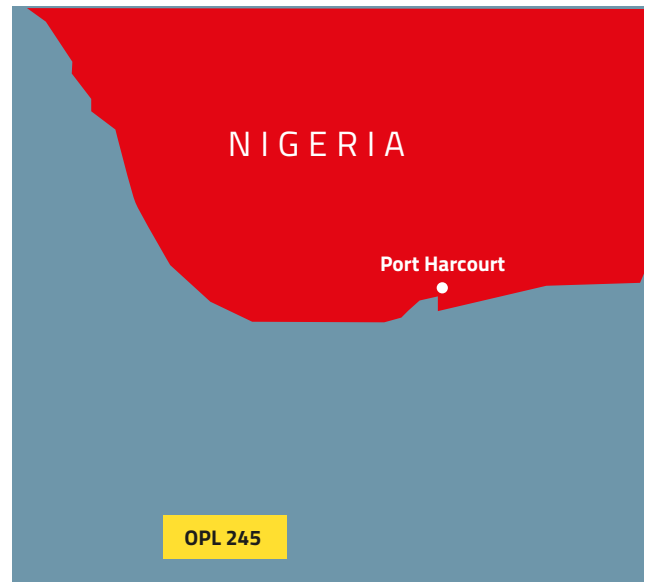
## ***“Prosecutors in Italy are demanding that Shell stand trial for bribery offences***

Now prosecutors in Italy are demanding that Shell, Eni and some of their senior managers – along with Etete – stand trial for bribery offences. Nigerian authorities have charged the two oil majors, senior executives and Etete with "official corruption". The oil companies' ownership of OPL 245 is now in doubt.

Shell did not directly respond to Global Witness' request for comment. In an email to Finance Uncovered on 8 April 2017 Shell said: "we do not believe that there is a basis to prosecute Shell. Furthermore, we are not aware of any evidence to support a case against any former or current Shell employee." If it was ultimately proved that Etete's company made bribe payments relating to the OPL 245 deal "it is Shell's position that none of those payments were made with its knowledge, authorisation or on its behalf", the company said.

Eni told Global Witness that "None of the contracts relating to the 2011 transaction was executed secretly or designed to 'hide' any party's transaction." Global Witness had mischaracterised the structure of the OPL 245 deal and Eni's position would be fully set out in response to the Italian prosecution, the company said.

Both companies said they had commissioned separate, independent investigations. "No illegal conduct was identified," Eni has said, claiming that it "concluded the transaction with the Nigerian




Map showing block OPL 245 off the coast of Nigeria.

government, without the involvement of any intermediaries". Shell said it had shared key findings of its OPL 245 investigation with relevant authorities.

Etete, for his part, did not respond to emailed questions, but spoke out in a florid two-page newspaper ad earlier this year.

"People who live in the dark fringes of our national life have spread unfounded propaganda through their equally dark agents of misinformation," he said. It was entirely untrue to say that he took state funds "for himself and shared amongst his friends, associates and playmates".

 [For Shell's latest reply click here.](#)

 [Click here for Eni's reply.](#)

## **SHADY DEAL**

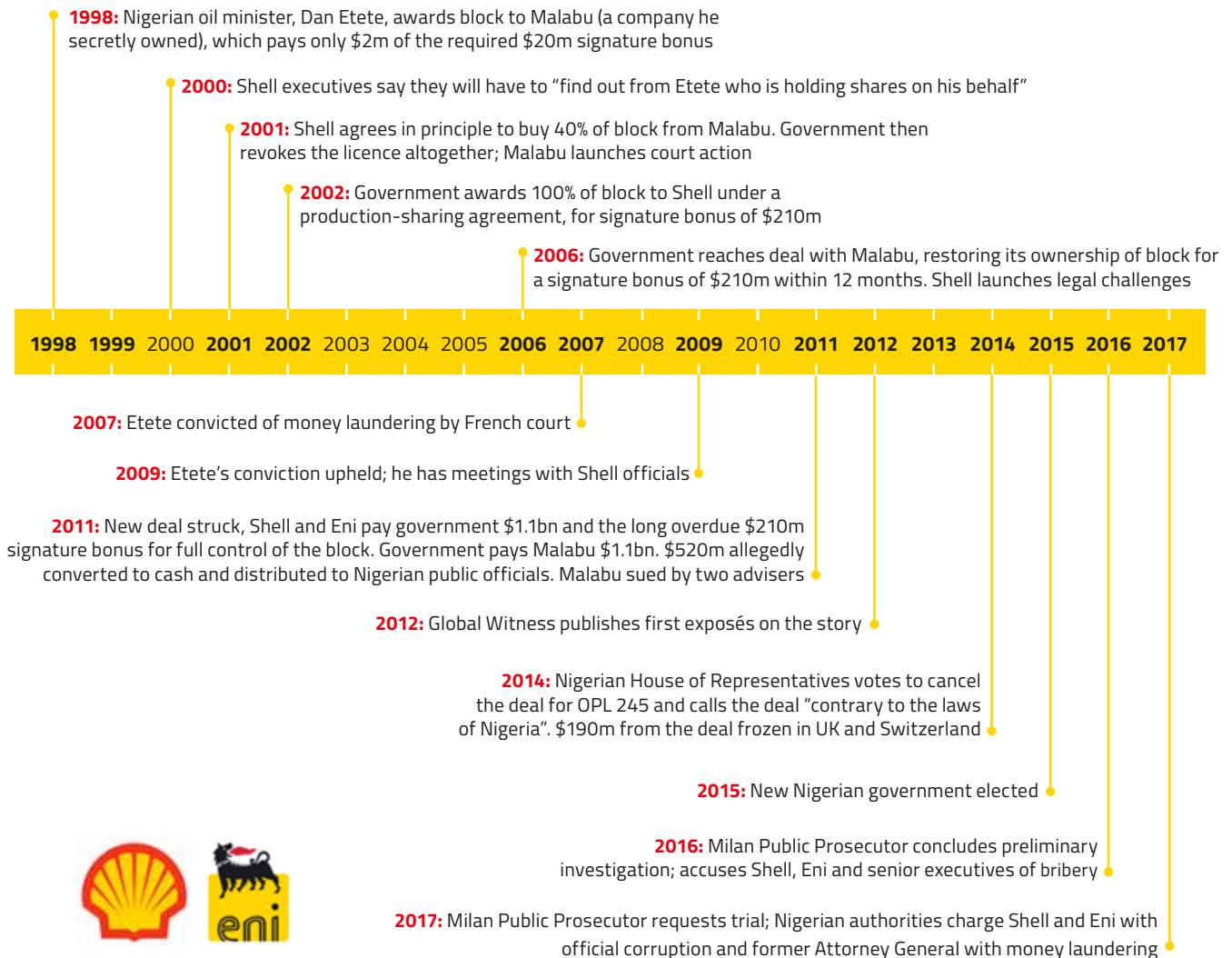
OPL 245 was shady from the start.

In April 1998, when he was Nigeria's Minister of Petroleum, Dan Etete, awarded the block to Malabu, a company that he secretly owned along with Mohammed Sani Abacha, the son of Nigeria's venal dictator General Sani Abacha. Etete was essentially stealing a state asset.

Malabu had only been created five days earlier. It had no experience, no assets and little cash, and could only come up with a tenth of the \$20 million payment required up front.

Just two months after the block was granted Abacha died in the arms of two prostitutes, bringing an end to a regime notorious for jailing and executing opponents, as well as for looting on a staggering

## PASS THE PARCEL The saga of Nigeria's oil block OPL245



scale (Transparency International estimates that Abacha and his family stole between \$2 billion and \$5 billion from the state's coffers over less than five years). With the death of Abacha and his regime, Etete lost his job.

Despite the high corruption risks Shell agreed in 2001 to pay Malabu around \$150 million for 40% of the exploration licence. It has said it did not know of the link with Etete, telling the Financial Times years later: "inspection of Malabu's company records as part of due diligence did not establish any connection between Dan Etete and Malabu".

**“Shell knew full well who it was dealing with**

But Shell did, in fact, know full well who it was dealing with. As far back as 2000, when Shell was first considering a deal over OPL 245, Shell executives

discussed the names on the shareholders' register for Malabu, saying in one of the leaked emails that "we will have to find out from Etete who is holding shares on his behalf".

But before the deal was sealed the new government revoked Malabu's licence.

"Etete and Abacha had abused their positions in the past, while in office, to award themselves the OPL 245 at a ridiculously low price," a presidential spokesperson said of the decision.

Shell secured OPL 245 for itself soon afterwards but its success was short-lived. In 2006 the government once again awarded the block to Malabu, on condition that it pay a \$210 million signature bonus within a year as a down payment. The allocations and revocations sparked court battles involving the two companies, embittered shareholders and the Nigerian government.

## LIGHT IS THE BEST ANTIDOTE

Global Witness has long called for laws requiring oil companies to disclose their payments to governments on a project level basis. This would help to prevent companies from scheming with greedy government officials to get rich at the expense of ordinary people.

Over 30 major economies including the US, Canada, Norway, UK, and all 27 members of the European Union now have such laws. A transparency body covering 51 countries - the Extractive Industries Transparency Initiative (EITI) - tightened up its rules last month, requiring oil, gas and mining companies to also report such payments for each project they operate.

Had the US law, section 1504 of the Dodd-Frank Act, been in force when this deal took place, it is highly unlikely that the OPL 245 scandal would have happened. It's questionable whether Shell, knowing that its payment would be made public, would have gone ahead with a deal as it would have come to light that their payment was for a stolen state asset and would be transferred to the man who stole it.

In spite of the global trend towards transparency,

oil companies like Shell are still fighting to keep secrets. Earlier this year their well-paid lobbyists won a big victory when the US Congress voted to overturn the implementation rule for Section 1504. This move sets the US in opposition to a broader global trend towards greater transparency and accountability in how oil, gas and mining revenues are managed. It will make it harder for the public to see what oil companies are paying for oil blocks —and easier for any dodgy deals to go undetected.

Shell and its oil industry peers can no longer masquerade as global leaders for sustainability, good practice and the protection of human rights, while entering into dodgy deals and lobbying to weaken transparency and accountability laws. Oil companies, their investors and governments should publicly support strong, project-by-project disclosure requirements through legally binding rules, including in the US, and during the forthcoming review of the EU Transparency and Accounting Directives, as well as through the EITI. These new developments in the OPL 245 scandal show clearly why robust payment transparency requirements must be established and maintained.

## SHELL'S FRENEMY

Despite years of fighting in courtrooms, in mid-2007 Shell and Malabu were still flirting with each other in private, trying to find a price for partnering on the block.

The potential for further corruption was evident. In 2007, Etete was convicted *in absentia* of laundering \$10 million obtained through bribery and eventually fined eight million euros. The judgment in the court case found that Etete used the money to buy a twin-engine speedboat, a chateau in northern France and to settle bills from The Ritz.

There were also specific warnings from Shell executives on the ground, which became more

**“Etete used the cash to buy a speedboat and a French chateau**

concrete as talks developed. In 2008, Simon Henry, Shell's chief financial officer for exploration and production at the time, and Malcolm Brinded, the head of exploration, were told by their most senior executive in Nigeria that the then oil minister “is involved (i.e. on the take)”.

Two Shell representatives, John Copleston and Guy Colegate, came to play a leading role in negotiations with Etete as the company inched towards a new deal. The Milan Public Prosecutor described them as having “previously worked for MI6” (in an email Copleston refers to his “two tours as UK Intelligence Rep in Nigeria”).

The pair negotiated with Etete and relayed to Shell intelligence they gathered on the ground — including indications that bribes would flow from any payment. The new emails shed light on what Shell knew and on the thinking of its senior executives.



-----Original Message-----

From: Copleston, John SEPA-EPG-CI

Sent: maandag 5 januari 2009 17:16

To: [REDACTED], Colegate, Guy

J SIEP-EPB-S

Subject: [REDACTED]

Saw my Delta man.

245. He spoke to Mrs E this morning. She says E claims he will only get 40m of the 300m we offering-rest goes in paying people off. Also says E

[REDACTED]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]

Sent From my Blackberry

From:	"Colegate, Guy J SIEP-UIB/O/P" <SHELL/SI/RECIPIENTS/NLGC01>
Sent:	7/16/2010 2:13:05 PM +0000
To:	"Robinson, Peter L SEPA-UIB/G" <Peter.L.Robinson@shell.com>; "Copleston, John DC SEPA-UIB/G/SI" <John.Copleston@shell.com>
Subject:	Block

No pki- apologies its died.

Long meeting yesterday in Paris- salient points:

- 1) Etete claims he has and has shown (though not copied) a letter from President reiterating malabu's 100pc equity/contract "award"
- 2) This letter clearly an attempt to deliver significant revenues to GLJ as part of any transaction
- 3) Our source says this letter "has really damaged deal" as etete now "uncontrollable"- he stated deal was almost there on a proposed 50/50 split with RDS. I made no comment.
- 4) Italians look like they might abandon whole thing as they realise there will be no RDS agreement on this basis and the letter has torpedoed reasonable discussion with chief.

Emails exchanged between senior Shell staff show they knew its massive payment would go to convicted money launderer and former oil minister Dan Etete.

In January 2009 Copleston wrote to two of Shell's most senior Africa executives, relaying a conversation with "my Delta man", whom he did not identify further: "He spoke to Mrs E this morning. She says E claims he will only get 300m we offering—rest goes in paying people off." "E" is understood to be Etete.

***“If he does turn his nose up at nearly \$1.2 bill he is completely certifiable***

In October 2009 Copleston and Shell's Vice President for Sub-Saharan Africa Peter Robinson met with Etete: "We are getting along very well personally – lunch and lots of iced champagne," Copleston wrote.

In March 2010 Peter Voser, Shell's CEO at the time, was told of Etete's involvement.

"Etete can smell the money," Colegate, Copleston's colleague on the ground, wrote in an email forwarded to Voser. "If at nearly 70 years old he does turn his nose up at nearly \$1.2 bill he is completely certifiable," Colegate wrote in the email, referring to Etete. "But I think he knows it's his for the taking."

Voser was also kept abreast of negotiations on the ground by Brinded, the exploration and production chief. Sending a briefing on a draft deal for OPL 245, Brinded told Voser in an email in March 2010 that "your formal endorsement is appropriate given the history and the political/business principles issues involved."



Former Nigerian oil minister and convicted money launderer Dan Etete received vast sums in the OPL 245 deal. Photo: Reuters/Alamy

## **POLITICS AND PERSONAL GAIN**

At the time of the negotiations Nigeria was suffering a political vacuum. In late 2009 President Umaru Yar'Adua spent several months virtually incommunicado in a Saudi Arabian hospital, suffering from an unclear illness. After his death power fell to his vice president, Goodluck Jonathan—who hailed from the Niger Delta, Nigeria's most oil-rich region, directly north of the offshore OPL 245 block.

To remain in power though he had to win presidential elections scheduled for early 2011.

## **ACCOUNTABILITY FOR WRONGDOING**

This case must be an important wake up call for an industry that has continued to treat corruption as a cost of doing business. The OPL 245 scandal is not an isolated case. The oil, gas and mining sector is the most corrupt on the planet, according to a study of hundreds of bribery cases by the Organisation for Economic Cooperation and Development (OECD). Half of these cases implicated senior management. The world can no longer stand back while multi-national oil companies rob countries of precious assets and fool their investors. We could save or improve

countless lives across the world, and dramatically reduce the need for overseas aid if ordinary people benefit from how their natural resources are managed.

Those responsible for Shell's participation in this vast bribery scheme now face justice as legal action will shortly start in both Italy and Nigeria. The UK, US, Dutch, Nigerian, Italian and Swiss authorities should continue to cooperate to address the case and investigate for potential breaches by Shell and its executives of anti-bribery legislation.



Shell executives were told that money from the deal was likely to flow to some of the most powerful people in Nigeria - including the then president Goodluck Jonathan. Credit: Alamy

For Etete, the change at the top was useful—Jonathan was an old friend. According to one of Copleston's notes Jonathan used to tutor Etete's children.

"In Abuja it is still a case of all politics and no government," Colegate wrote in a 29 March 2010 briefing to senior Shell employees. "Jockeying for ministerial position remains intense, with many aspirants offering substantial sums to purchase their way into office."

"With an election only 10 months away the need to build war chests for campaigning is strong," he concluded.

Etete's position was insecure too. His own rights to OPL 245 were in doubt, not only because of the Shell lawsuits but also because his \$210 million signature bonus was way overdue. His failure to pay meant his licence could be declared invalid.

Etete's friendship with President Jonathan came in handy. In July, according to another senior-level briefing from Colegate, Etete claimed the president wrote a letter confirming that Malabu still held the block. The letter risked weakening Shell's claim to the block in ongoing court battles—and strengthening Etete's hand in the parallel negotiations.

The letter was "clearly an attempt to deliver significant revenues to GLJ [Goodluck Jonathan] as part of any transaction", Colegate wrote to Robinson, the Shell vice president.

Neither Goodluck Jonathan nor the oil minister "understand our legal position", he added—"this is about personal gain and politics".

It was in 2010 that a new player entered the fray—Eni, the oil major 30 per cent owned by the Italian state. Shell and Eni soon started exploring how to work together, with talks taking place between exploration chief Brinded and his Eni counterpart.

Ahead of an August call between the two, Brinded was briefed by email from a colleague that "the President is motivated to see 245 closed quickly – driven by expectations about the proceeds that Malabu will receive and political contributions that will flow as a consequence".

## SLEIGHT OF HAND

The suggestion that Etete planned to use the OPL 245 money for a bribery scheme didn't deter Shell. In November 2010 the Attorney General of Nigeria – Mohammed Adoke – took over brokering the deal, hosting direct negotiations over the following months in his office with Shell, Eni, Malabu and Nigerian government officials sitting around the same table.

The parties soon came to an agreement over the \$1.1 billion Shell and Eni would pay to Malabu. "An absolute condition of this is that M [Malabu] are 100% out of the block!!" Brinded wrote. Shell would also pay the \$210 million signature bonus to the Nigerian Government, he said.

Shell and Eni had a problem though. Striking a direct deal with Malabu could land them in difficulties, both legal and reputational.

So the oil companies, Etete and the Nigerian government agreed on an ingenious solution: the Nigerian state would act as middleman in the deal. Shell and Eni would pay their \$1.1 billion into an account at JP Morgan in London set up by government officials, and the money would go straight out again to Etete.

## “The oil majors, Etete and the government agreed a solution: Nigeria would act as middleman

"Eni will pay on behalf of itself and SNEPCo [a Shell subsidiary], an amount of \$1.09 bln," Brinded informed Henry, Shell's CFO, and Peter Voser the company's CEO at the time. "This will be used by the FGN [Federal Government of Nigeria] to settle all claims from Malabu."

The sleight of hand served an important function: it allowed Shell and Eni to claim they did not pay Etete and that they bore no responsibility for what happened to the money after Nigeria received it. The deal also allowed Shell and Eni to side-step any legal disputes with Mohammed Abacha, the son of the former dictator, who was contesting the ownership of Malabu.

Shortly before midnight on April 14, 2011, after a hard day of negotiations, Shell vice president Robinson emailed a dozen colleagues. “Malabu initialed all agreements,” he wrote. “Compliments to our legal team who have done a brilliant job.”

**“Compliments to our legal team who have done a brilliant job.”**

## CAREFULLY CONSTRUCTED ANSWERS

When questioned about the deal by journalists and shareholders over the following years, Shell carefully constructed answers, designed to mislead.

In one of its first public comments on the matter, eight months after the deal was signed, Shell said that “any payments relating to the issuance of the licence in Nigeria were made only to the federal government of Nigeria.”

“No payments were made by either Agip [Eni’s subsidiary] or Shell to Malabu Oil and Gas.” Eni has given similar explanations.

As the emails seen by Global Witness and Finance Uncovered show, these explanations may have been true on a very technical level but did not reflect the real nature of the deal.

The \$1.1 billion deal was carried out despite a letter of protest sent by the most senior civil servant in the Ministry for Petroleum Resources to the Attorney General just days before the contracts were signed.

Granting OPL 245 to Shell and Eni as proposed “would be contrary to the prevalent practice in Nigeria”, the letter said. “Oil Prospecting Licences are now granted on the basis of open and competitive licensing rounds”. By agreeing to the proposal, the Nigerian government “would be throwing away an enormous amount of financial resources” and risked “opening itself up to scandal”, it said.

Scandal is what it has got. The transaction has caught the attention of law enforcement in six countries: Italy, the Netherlands, the United Kingdom, the United States, Switzerland and, of course, Nigeria.

## THE SHELL STARTS TO CRACK

The lurid details of the deal could have remained secret were it not for court cases brought by two middlemen who helped broker the transaction.

One of the middlemen was Ednan Agaev, a former Russian diplomat taken on by Etete to deal with Shell and other potential partners. The other was Emeka Obi, a wheeler-dealer with connections to the Eni senior management.

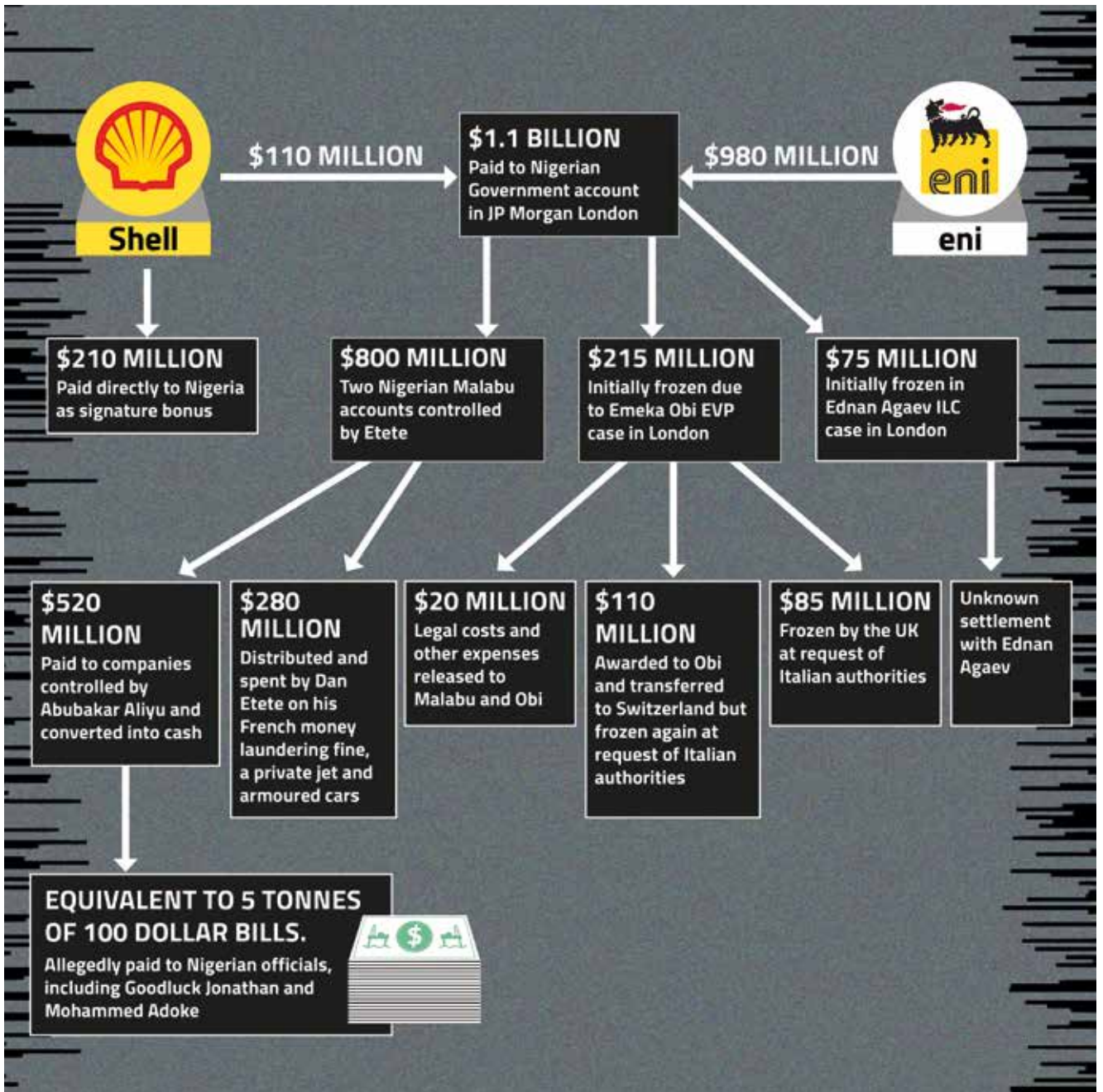
## MAJOR RISKS FOR INVESTORS

Shell’s deception and hypocrisy also duped its investors, who include millions of people across the UK whose pensions are invested in the company. They should be deeply concerned about these revelations. In February 2016, Shell’s headquarters were raided by 50 police in a joint Dutch–Italian investigation into the deal and corruption allegations over the deal have sparked law enforcement inquiries in six countries. The OPL 245 oil block holds an estimated 9.23 billion

barrels of crude oil according to the findings of the Nigerian House of Representatives. If the estimates turn out to be correct, OPL 245 could increase Shell’s proven global oil reserves by a third. The potential for Shell to lose this valuable block is therefore a huge risk to investors. Former executives could also face prosecution for corruption.



See our investor briefing online for further details



Shell paid \$1.1bn for rights to the OPL 245 block. Leaked emails show how money flowed to private hands when it should have benefited the Nigerian people.

Courts in Britain obliged the middlemen by freezing nearly \$300 million. Obi eventually won \$110 million in his case, while Agaev settled with Etete.

The judge presiding over Obi's case in 2012 at London's High Court clearly had issues with the deal. "The whole exercise is backed by murky instructions, I am not sure what I should do," said Justice Steel. "I have seen some odd cases in this Court over the years but even by those standards this is a striking one. I am troubled as to who I am involved with."

Obi's money was eventually transferred from London to Switzerland, where authorities froze the funds.

The details of Etete's direct negotiations with Shell and Eni, along with allegations of kickbacks and bribery, triggered the investigations that led to the joint Dutch-Italian police raid on Shell early last year. With investigators crawling all over its files, Shell risked the secrets behind its OPL 245 deal spilling out.

## 'REALLY UNHELPFUL EMAILS'

“Apparently there are some really unhelpful emails in there,” Shell’s Ben Van Beurden, the current CEO told Simon Henry, the CFO, in their phone call after the raid. Particularly from “the people we hired from MI6 who must have said things like ‘I wonder who gets a payoff here and whatever.’”

Van Beurden, who was not in his post at the time of the OPL 245 deal, said the emails from the two ex-intelligence officials—Copleston and Colegate—were “judged to be ‘pub talk’”. And that an immediate public statement on the raid was unnecessary, as “there is nothing to be said other than we are being asked to provide information”.

In 2015 Shell’s Van Beurden told Global Witness that the oil company’s payments were “morally OK” and “in accordance with the law of Nigeria and international practice”. There was nothing “unclear or untransparent about it”, he said.

Prosecutors in Italy and Nigeria beg to differ. They now allege the OPL 245 money was used for vast bribes, and have traced the money in granular detail.

## FOLLOWING THE MONEY

In May 2011 Shell and Eni paid their \$1.1 billion into the JP Morgan account in London, specially set up for the purpose.

The next hurdle was for the money to be moved into Malabu’s private bank accounts, and to satisfy the compliance officers in charge of oversight at the banks’ money-laundering risk units.

The first two attempts to send the money out of JP Morgan—first with a bank in Switzerland and then with a Lebanese bank – failed. Both banks refused the transfers: the Swiss because of Etete’s criminal record, the Lebanese for “compliance reasons”. Etete finally received the money in Malabu accounts at two Nigerian banks.

Within days \$801 million was transferred to five Nigerian companies. They were all fronts, used to distribute the money further and disguise the origin. Banking and court documents show the companies were controlled by Etete and a key middleman, Abubakar Aliyu, dubbed by the Nigerian press “Mr Corruption”.

The registered address for Imperial Union—one of the five beneficiaries—was the personal residence of



Money received by Etete from Shell and Eni’s deal funded lavish purchases including a \$56m private jet, armoured Cadillacs, and luxury shotguns. Photos: Shutterstock

Aliyu, a middleman whom the Milan public prosecutor has described as an “agent of Goodluck Jonathan,” the Nigerian president at the time of the OPL 245 deal. Scores of people would gather at Aliyu’s heavily guarded gates after prayers on Fridays, begging for alms.

To justify one of the huge transfers Malabu presented First Bank of Nigeria in Abuja, Nigeria’s capital, with an invoice—with scant detail and nice, round figures.

The \$180 million invoice was dated 23 August 2011, and included “Equipment - \$80 million” and “Construction and acquisition of site - \$50 million”. Malabu issued payment instructions to First Bank the same day. Etete later described these and other payments as “an investment on behalf of Malabu.”

Nigeria's anti-corruption agency, the Economic and Financial Crimes Commission (EFCC), together with Italian and American law enforcement, traced the money flows. Aliyu told the EFCC that he received \$400 million from Malabu: \$50 million for his work on OPL 245, while the remaining \$350 million was used to buy properties, including a "shopping mall in Dubai" for Etete.

## FIVE TONNES OF DOLLARS

The money trail uncovered by authorities did not look like a traditional investment pattern.

The Milan Public Prosecutor, in its December 2016 summary of findings, alleges that Aliyu in fact received \$520 million, which he turned into cash, mostly with local money changers. The cash— which would weigh five tonnes in \$100 bills—was "intended to be paid to President Jonathan, members of the government and other Nigerian government officials"; namely: former Attorney General Adoke; a former oil minister (one of Etete's successors); and an ex-National Security Advisor. All these officials were in office during key stages of the OPL 245 manoeuvring.

In January of this year Jonathan released a statement, saying he "was not accused, indicted or charged for corruptly collecting any monies as kickbacks or bribes" in the OPL 245 affair and did not send Aliyu "to seek favour or collect any gratification on his behalf".

The EFCC has charged Mohammed Adoke, the Attorney General who brokered the OPL 245 deal, with receiving \$2.2 million in cash, laundering it through a money changer who converted the cash into Nigerian naira. Adoke has claimed that the charges were part of "orchestrated plans to bring me to public disrepute" and that he acted only in an official capacity regarding OPL 245, seeking to bring an end to court action by Shell that could have cost Nigeria \$2 billion in damages.

The former Nigerian Attorney General who had returned OPL 245 to Etete back in 2006—Bayo Ojo—also received \$10 million, according to authorities.

Etete said in court that he received \$250 million out of the deal, a fee he justified by saying "I put my blood, I put my life into this oil block". Eight million dollars of Etete's ill-gotten gains paid off his overdue fine from his French money laundering conviction.

The money also funded luxury goods including a \$56 million Bombardier private jet, three armoured Cadillacs and luxury shotguns to fuel his passion for big game hunting.

On April 20 this year a court in Milan will begin hearings on whether Shell, Eni and Etete will face trial for international bribery, along with Eni's current and former CEOs. Separate proceedings are being brought against Nigeria's Mr Corruption Aliyu Abubakar and four senior Shell employees from the time of the deal: Malcolm Brinded, Peter Robinson, John Copleston and Guy Colegate.

The companies risk losing the licence, not to mention public trust.



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