

BIG STORY

April 22, 2012 . Page 6



DIEZANNI-ALLISON Maduekwe, Petroleum Minister

The big rip-off of a nation

...How Lloyds of London exposed massive fraud by NNPC, oil marketers

As expected, the probe into the controversial oil subsidy by the Hon Farouk Lawan - led ad-hoc committee of the House of Representatives threw up shocking details of fraud beyond the figures that made headlines. We penetrated the 210-page document to provide insight into how the massive fraud took place

By Theophilus Abbah

The task of the House of Representatives Ad Hoc committee on fuel subsidy probe would not have achieved a resounding success if the foremost British organisation in risk management, the Lloyds of London, had not cooperated with the committee. At the completion of

the Public Hearing, the Chairman of the Ad Hoc committee had confessed in an interview with *Sunday Trust* that because of the closed system in the oil sector, getting experts to help expose the intrigues that facilitated the big fraud would be difficult. His reason was that those experts benefitted from the rot in the system and would be shooting themselves in the leg if they assisted in exposing the government agencies from which they benefitted.

In the 210-page report submitted by the ad-hoc committee to the House of Representatives last week, a section on marine forensics, which details the illegal activities like round-tripping, non-delivery, short-delivery etc by oil marketers was based on a forensic investigation led by the intelligence unit of Lloyds of London. From the outcome of the investigation, it was apparent that the Nigerian National Petroleum Corporation (NNPC) and many

oil marketers actually received subsidy on undelivered fuel. The Lloyds of London provided 19 samples of such payments for undelivered fuel in the month of January 2011 alone.

One of the samples goes thus: "NNPC/NIGERMED imported 31,343.802MT PMS on board MT Sanmar Stanza to Offshore Lagos SPM (Single Point Mooring) platform. NNPC document submitted to the Ad Hoc

Cont'd on page 7



SANUSI Lamido Sanusi, CBN Governor: Commended for raising alarm over rise in subsidy payments

Cont'd from page 6

Committee did not explain where this cargo was discharged to between 07 January and 13 January, 2011, as stated. NPA document capture Sanmar Stanza as being offshore Lagos at the period and discharged for 6 days, but again did not say where the 31,343.80MT was discharged into. NNPC may be invited to account for the whereabouts of this cargo. Lloyd's Agency Nigeria 2011 captured the vessel between 16/1/11 to 23/1/11 and 24/1/11 and 28/1/11 but still failed to state where the cargo of 31,343.802MT of PMS was discharged into."

In the same month of January, another cargo carrying 31,444.764MT of PMS was supposed to have arrived Nigeria, but there was no trace of where the goods were discharged. The report said, "NNPC imported 31,444.764MT of PMS on board MT Freja Dania to Offshore Lagos SPM. The PMS cargo was discharged on 19 January 2011 (one day), according to NNPC submitted document. It did not state to where the cargo was discharged into. NPA document confirm MT Freja Dania arrived offshore Lagos and discharged for five days as against one day but failed to indicate where the cargo had been discharged to. MT Freja was also found on Lloyd's Agency Nigeria and matched, however, NNPC to be invited to account for the whereabouts of the 31,444.764MT of PMS cargo."

The outcome of the forensic investigation seems to re-echo the position of the Nigeria Customs Service (NCS) whose representatives told the Ad Hoc committee that even when vessels carrying petroleum products arrived the country's ports, they disappeared to where the agency could not tell. A Deputy Comptroller-General of Customs, Julius Ndubuisi Nwankwo, who represented Comptroller-General Abdullahi Dikko Inde, had alleged that: "as we speak, most of the importation of PMS has no documentation. NNPC does not make any documentation to the Customs. Several meetings were held where the NCS was directed not to ask for documents. The

Ministry of Finance wrote to NCS, warning them not to ask for documents because this will cause crisis. Vessels imported into this country are referred to as mother vessels. These mother vessels never get to the ports in Nigeria. The vessels are normally anchored offshore. If you see the manifest covering

MT Vera Cruz called at any Nigerian port within the period under review as there is no evidence in the NPA List for the period

these imports, what you will see is 'offshore Cotonou, offshore Lome. They never get to the ports. Rather, you have smaller vessels that pick these products from the mother vessels and they come to the ports to report to the Customs - in line with the provision of the enabling Act of Customs."

But it is not only the NNPC that was discovered to be involved in this short-changing of the country. The report produced samples of irregularities that point to the fact that other oil marketers engaged in inexplicable deployment of vessels offshore. Among the examples given include those involving A-Z Petroleum. The report said, "A-Z Petroleum imported 9,601,915 litres of PMS which was transhipped from MT Alpine Magnolia offshore Lagos into MT Okhotsk Sea, Ex MT Ermar, Ex MT Sea Progress between 14/12/10 and 15/1/11 for discharge into Ever Oil Depot through Integrated Oil Jetty, Apapa, Lagos. The Ever Oil Depot is in Calabar and not in Lagos as shown in the PPPRA list. MT Alpine



DR Ngozi Okonjo-Iweala, Finance Minister: Accused of outsourcing ministry tasks

Magnolia, the mother vessel was not listed in the Lloyd's AIS Nigeria 2010 List, Lloyd's Agency Nigeria 2010 List, so it may not have been offshore Lagos as noted in the PPPRA List. The mother vessel did not also call at Calabar as she was not listed in the NPA List for vessels that called at Calabar in December 2010 and January 2011."

Lloyds said further that MT Okhotsk Sea, Ex MT Ermar, Ex MT Sea Progress was listed in the Lloyd's AIS Nigeria 2011 List, Lloyd's Agency Nigeria 2011 List as calling at Apapa but was not in NPA List for Calabar. It added that "There is need to check the records at Ever Oil Depot in Calabar to ascertain if such parcel was discharged at the depot. Moreover, given the draft (9.9 metres) of the daughter vessel, it would have difficult calling at Calabar Port with a draft restriction of 8.5 metres and channel draft of between 6.3 metres and 6.4 metres."

The intelligence unit of Lloyds gave a similar sample involving African Petroleum, where imported 38,516,233 litres of PMS could not be traced. The agency remarked that "There is no evidence that the daughter vessel MT Vera Cruz called at any Nigerian port within the period under review as there is no evidence in the NPA List for the period."

FINANCIAL INFRACTIONS:

Apart from the marine forensic investigation, the ad hoc committee was involved in financial forensics investigation into the subsidy scheme, which revealed multiple payments, which shot the actual rate subsidy to N2.5 trillion. The report explained the strange payments thus: "In the course of analysing the total amount paid as subsidy in the period under review, 2009 - 2011, the committee came across two separate subsidy payments to NNPC for each of these years, one from NNPC records of deductions, while the second was payment by CBN for the same years. NNPC's direct deductions for 2009 were the sum of N408.255 billion, for 2010 was N407.801 and N847.942 for 2011. The CBN payments for

NNPC for these same years were the same of N81.648 for 2009, N402.423 for 2010, and N844.944 for 2011. NNPC appears to have been collecting subsidy simultaneously from two separate sources. If this 2011 subsidy payment figure is added, the total subsidy would amount to N2,587.087 trillion. The committee, however, recommends that the relevant anti-corruption agencies be invited to further investigate, verify and ascertain the direct deductions and actual payments to/by NNPC."

There were many other financial infractions discovered by the panel. They include the following:

1. Marketers obtained forex but not found to have utilised same for petroleum products importation.
2. Marketers did not obtain forex but were found to have supplied and collected subsidy on petroleum products
3. Marketers were not registered with PPPRA before they got their first allocation for product supplies
4. Marketers never applied to PPPRA for product supplies before they got their first allocation
5. Marketers that never applied to PPPRA at all but were given allocation to supply products.
6. Marketers with no tank-farms, no through-put agreement with any depot but claimed to have discharged products, and
7. Marketers with no tank-farm, had through-put agreements but not confirmed to have utilised same yet claimed to have supplied products.

GOVERNMENT AGENCIES FAILED TO PERFORM SUPERVISORY FUNCTIONS

Apart from round-tripping, several agencies of government were found to have abused their functions or ignored their roles, thereby creating the avenue for fraud. For instance, apart from making shady payments to itself, the Petroleum Products

Cont'd on page 9

Criticisms against our committee's work are baseless, says Farouk Lawan

By Ismail Adebayo

You are not a member of the committee on oil and gas. How were you able to handle the probe in such a manner that there was no rancor?

Yes, there is no doubt that in my 13 years as a member of the House of Representatives I was never a member of any fuel related committee. The closest I got was when I was Chairman of House Committee on Finance between 2003-2005 and when I was Chairman Appropriation Committee, between 2005-2007. Otherwise, I was never either chairman or member of any committee on oil and gas. You don't necessarily have to be a member of a committee on any of these sectors before you do what is expected of you. I think what is required is the commitment, the passion and the desire to do the right thing.

To do the right thing is not difficult, as long as you make up your mind that you will not be distracted and you will be guided by your conscience. When the committee was constituted, I sat down with other members of the committee, made up of people with no background in the oil and gas sector. Out of the eight of us, six of them are new members in the House of Representatives, and we all made up our minds that the responsibility before the ad hoc committee is bigger than the House of Representatives. It is bigger than the National Assembly, it belongs to Nigerian people. For that, it was necessary for us to do the best we could do.

We also recognized our short comings. We had no credible expertise, consultants with regards to investigating the oil sector. But we also realized that getting expert consultants to help in what we were doing was going to be difficult, because most of these people who do business with the oil and gas industry are people whose charges may not be affordable to the committee. Secondly, they may not want to come and do any serious work with us. It's their area of business. Once they help us to unmask what is happening there, it may as well affect them. They may not have the opportunities of doing business with them again. We realized all these short comings, but thank God we were able to get people who came to work with us with the needed commitment and passion to discharge the responsibility. Without the expertise, we were able to put our mind to it. That is why, in the course of the public hearing, most of the questions raised were based on presentations made by people and what those we invited said to us. From their presentation, we knew immediately that the numbers didn't add up. It was quite a challenge, but we were able to conduct ourselves and discharge the responsibility with commitment to the best of our abilities.

From your investigation, was there any pattern to show that someone was in control of the massive fraud or people are just committing the fraud it at various levels?

You know the oil industry we investigated is a very big and complex one. Our investigation was based on one aspect of the kind of things that are happening in that sector. There are windows we have seen through the rots even deeper than the one we have investigated. From Day One, we established the ground rule to

Hon Farouk Lawan, the House of Representatives ad-hoc committee chairman on the fuel subsidy probe, spoke to *Sunday Trust* on why the report of their investigation cannot be killed



Hon. Farouk Lawan, Chairman, House of Representatives Ad-Hoc Committee

keep our eyes on the subsidy issue not to get distracted. There were times when we veered off to investigate other areas, particularly the crude oil thing But we tried to limit ourselves to the main issue. That is the subsidy. But, at least, it has opened our eyes to things happening in the industry. However, we only limited ourselves to the responsibility given to us and that is the subsidy issue. You know, it is a big industry, you cannot say there is an individual or group that is controlling the fraud.

Everybody was just doing its own thing in the industry. If you read our report, we found that the PPRA system of granting license was how import license were given in the late 1970s and early 1980s. Anybody without any background in the oil and gas business could just walk in and walk out with license to import and at the end of the day get a lot of money. You get a company with share capital of N100,000 and within a couple of weeks or months you collect huge sums of money. The NNPC played a very key role authorizing the process, particularly in its supervising role. These helped to sustain the level of corruption that is going on there and it has been going for a long time.

Do you think this money running into trillions that has been misapplied can be paid back into the coffers of government?

Definitely. Why not? It will be paid back. The ad-hoc committee was charged with the responsibility of investigating the sector to bring out the facts and that we have done. What is left is for the House of Representatives to adopt the recommendations and after that it is left for the relevant authority to implement it and make sure the right thing is done.

Do you think when it gets to the House, will not bow to influence from oil marketers or even from government, to sabotage the report?

In the course of the investigation, we have been asked these question severally, but let me say that we have been asked to investigate and come out with a comprehensive report which we have done. The second question is that when the report is out, will the House have the courage to adopt it? But I must say the House of Representatives which I know, the Seventh Assembly, will not shy away from this responsibility. For instance, this is the same House which refused all forms pressures, temptations and arm twisting to elect its own leaders, who were not anointed by anybody outside the House of Representatives. So if they have the courage in the face of all the temptations to deliberate on matters that concern Nigerians, I cannot see that same House

rejecting or compromising on report from a committee it set up. The recommendations will go a long way to sanitize the sector. I'm inclined to say no amount of pressure to compromise on it will work. The ad-hoc committee will resist that.

What measures did you put in place to achieve the success on the subsidy probe?

From day one, we decided to be committed to the responsibility. We also decided to invite anybody that we thought will help our investigation. We invited heads of relevant agencies and individuals, anybody that has anything to do with the subsidy and we considered important to the probe. We requested them to supply us with relevant documents that helped us to arrive at our findings.

There are people who are not happy with your committee because you did not consult them before you came out with your report on the subsidy probe. Are you not afraid they might sabotage the report?

I don't know anybody we should consult before writing our report. We conducted an investigation, we invited virtually anybody who has anything to do with the subsidy, the records are there for anybody to see and fortunately, the whole thing was done live. Nigerians know that those who were supposed to be invited were invited. They appeared, made presentations, and individuals like Femi Falana, Olisa Agbakhoba, Engineer Tukur, Gaius Obaseiki and so many other people, were invited. They came and shared their opinions. So if any faceless group is saying we did not consult them before writing our report I think its baseless.

The sector we investigated is one where the powerful, most influential and rich people in the society have interest. If we did what we did the way we did it with commitment and determination and come out with our report, we have done what we are expected to do. We are not under any illusion that these people will fold their hands and allow us to do our job. They went to the media, they tried in other ways to distract us from discharging the responsibility given to us. They tried to create division in the House to ensure we didn't succeed in our investigation, but, of course, it didn't work. Now that the report is out and some people's interest are affected, some individuals tried to hide under some faceless group to do something that may affect our personal integrity in the House of Representatives. But people should not forget that we conducted a public hearing. It took almost three months to complete the exercise. Nobody in the country came out to say we did something contrary to anything that is proper, in terms of ensuring objectivity and credibility of the exercise.

BIG STORY

The big rip-off of a nation

Cont'd from page 7

Pricing Regulatory Authority (PPRA) was indicted in the report for its failure to monitor and verify product supplies. The report said that, "Pursuant to its statutory mandate as well as its responsibilities under the PSF Scheme, PPPRA deployed its staff to monitor and verify data on petroleum products reception and distribution at jetties and depots. However, we observed that there was massive collusion between PPPRA staff and some oil marketers as to defeat the envisaged purpose of the monitoring and verification... Failure of the agency to achieve the objective of verification resulted in certain marketers talking maximum advantage of the situation." There is a section on how marketers took advantage of the refusal of PPPRA to do its job.

Other areas in which the PPPRA was found to have created avenue for the rip off included the proliferation of marketers by raising the number of importers from 49 in 2009 to 140 in 2011. The agency was accused of refusing to reverse the devastating policy of marketer proliferation, poor record keeping, and the non-compliance with its own guidelines of operation.

The report found the Federal Ministry of Finance wanting in several areas. First is the ministry's acquiescence to direct deduction of subsidy by the NNPC. The report said, "The Ministry was fully aware of NNPC's practice of making subsidy payments as a first-line charge before revenue was shared among the three tiers of government. Successive Appropriation Acts have always made provisions specifically to defray the costs associated with cash calls on joint ventures as a first line charge. Thus, direct deductions by NNPC relating to joint venture cash calls are provided for in the budget. This is because Section 7(4)(b) of NNPC Act Cap N123 LFN2004 provides for defraying of expenses incurred in making money for the country."

The committee stated that "given the effect of direct deductions on all levels of government, none of the ministers of finance or petroleum resources or heads of parastatals under them sought authoritative interpretation from the Attorney-General of the Federation, who denied receiving any such request from any quarters. The direct deductions by the NNPC are a clear breach of Section 162 of the Constitution of the Federal Republic of Nigeria (as amended)."

The report blamed the Finance Ministry for what it called "troubled budget management," referring to the fact that what was spent on subsidy in 2011 (N2,587.087 trillion) was at variance with the budgetary provisions (N245.96 billion). It also alleged that the ministry outsourced its responsibilities. The report made reference to the fact that Akintola Williams Deloitte and Olusola Adekanola & Co Limited were given the consultancy to witness and confirm imported products. The report said this should be the statutory responsibility of the Ministry of Finance.

In its remark on this deviation, the committee said, "We observed that the firms contributed little value to the veracity of the exercise. Indeed during interaction with the committee, it became obvious that the firms had neither adequate knowledge of procedure of measuring products in a vessel before and after discharge, nor did they demonstrate professional care expected of their standing in auditing marketers' claims based on quantity, exchange rate and crude price. This care-free attitude could hardly be explained beyond an interest of participating in a bazaar and collecting N275,000.00 per



REGINALD Stanley, Executive Secretary, PPPRA: Can he reform PPPRA?



GOVERNOR Ibrahim Dankwambo: What roles in massive inexplicable payments?

vessel. Surprisingly, the loophole of non-availability of reliable data on quantity of imported products or any other relevant information could not be salvaged by these firms."

The committee commended the Central Bank of Nigeria (CBN) governor, Malam Sanusi Lamido Sanusi, for raising an alarm over the uncontrolled payments for subsidy. However, it complained that the CBN created, through its forex policy, "avenue for easy falsification of records of quantity of petroleum products discharged."

However, relating to the financial

agencies, the committee faulted the former Accountant-General of the Federation's office, saying: "The particular Accountant General that served during the period 2009 was found to have made payments of equal instalments of N999 million for the record of 128 times within 24 hours totaling N127.872 billion."

"The confirmed payments from CBN records were made to beneficiaries yet to be disclosed by the OAGF or identified by the committee. We however, discovered that only 36 marketers were participants under the PSF scheme during this period.

Even if there were 128 marketers, it was inconceivable that all would have imported the same quantity of products to warrant equal payments."

It added: "All those in the Federal Ministry of Finance, office of the Director General of the budget, Accountant General of the Federation involved in the extra budgetary expenditure under the Petroleum Support Scheme between 2009-2011 should be sanctioned in accordance with the civil service rules and code of conduct bureau. The payment of N999 million 128 times within 24 hours between 12th and 13th January 2009 by the office of the Accountant General should be further investigated by relevant anti-corruption agencies."

Alhaji Dankwambo, who is now the governor of Gombe State, reacted to the report last week, saying that he was never involved in the questionable payments. In this case, it will be vital to carry out an investigation into the payment, because if such a huge sum of money is paid out without the authorisation of the Accountant-General, it presupposes that there were shady deals in that department of government at a level below the authority of the AGF.

Perhaps, the agency that received the most devastating knock in the report is the NNPC, mainly because of its inapplicability of guidelines for operations in the oil industry. To add to this, the agency became a beneficiary from the subsidy funds because "NNPC acted as importer, marketer, claimant, payer and payee. Simply NNPC was not accountable to anybody or authority." Apart from the non-application of its rules, other charges against NNPC included the payment of subsidy on kerosene, contrary to presidential directive, making direct deductions for subsidy from source; making over-deductions, with an example that should a total deduction of N844.944 billion as against the sum of N540.419 billion for subsidy as recommended by the PPPRA in 2011. The amount in excess was N285.098 billion. The agency was accused of operating an inefficient demurrage system of importation of petroleum products, so that the demurrage payments piled up for months. The committee also discovered that petroleum products imported by NNPC were sold by a private concern - Capital Oil Limited because NNPC did not keep its part of an agreement with the company. The NNPC was accused of the lack of transparency in its operations in entirety, and "this created room for abuses, inefficiencies and manifest lack of accountability." There were also issues relation to the 445,000 barrels of crude allocated to NNPC for local consumption and the fact that the agency grants itself discount in the payments for this provision of crude for domestic use everyday. The report said, "contrary to NNPC's claim of taking the 445,000 barrels of crude daily at international market price, the committee established that NNPC was actually taking domestic crude at prices below the international market prices."

Furthermore, the Department of Petroleum Resources (DPR) was blamed for failure to certify the quantity of products imported, failure of cross-check the quantity of products; non-imposition of sanctions for selling kerosene above subsidy, failure to provide PPPRA with data relating to products supply and distribution for both imports and local productions; failure to monitor product supplies, leading to diversion of imported petroleum products, etc.

Other agencies of government found wanting include the Petroleum Equalisation Fund Management Board (PEFMB), Ministry of Petroleum Resources specifically, the Nigeria Customs Service (NCS), the Nigerian Ports Authority (NPA), The Nigerian Navy (NN) and several agencies related to these organisations.

This report has laid bare vital issues that affect the Nigerian economy, but will government act on it?