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# Les juges de l'affaire Falcone réclament des notes classées « secret-défense »

Chargés de l'enquête sur les ventes d'armes vers l'Angola, Philippe Courroye et Isabelle Prévost-Desprez ont demandé au gouvernement la communication de rapports de la DGSE découverts au Quai d'Orsay et d'archives du secrétariat général de la défense nationale

## The devastating story of oil and banking in Angola's privatised war.

Le milliardaire israélien refuse toujours de répondre à la justice

# "ALL THE PRESIDENTS' MEN"



On general release from *March 2002*

"ALL THE PRESIDENTS' MEN": DIRECTORS' CUT A Global Witness Report  
Starring JACQUES CHIRAC and JOSE EDUARDO DOS SANTOS

Co-starring BORIS YELTSIN as himself • Special guest appearances by GEORGE W BUSH and DICK CHENEY • Based on an original idea by CHARLES PASQUA and JEAN-CHARLES MARCHIANI • Lack of transparency by most of the INTERNATIONAL OIL AND BANKING INDUSTRIES • Introducing the notion of "PUBLISH WHAT YOU PAY" No rating: uncensored by the INTERNATIONAL COMMUNITY

## I Recommendations

### *Oil companies should:*

- Adopt a policy of full transparency. This involves:
  1. Rendering summary figures of taxes and other payments made to national governments publicly available for all countries of operation. In addition to information already available in the reports of subsidiaries, data should be listed as total net payments to national authorities for each country of operation and should be provided in the parent company's consolidated annual reports and in annual returns to investment authorities.
  2. Data should be provided locally in the national language of each country of operation as well as in the home language of the company.
  3. Parent companies should publish the names and locations of registration of all subsidiary companies operating in each country.
- Embrace a unified stand on full transparency of payments to national governments amongst all companies in the oil sector for all countries of operation.
- Facilitate the rapid publication of the IMF Oil Diagnostic study for Angola.
- Adopt a policy of independent, transparent auditing of social programmes both for the purpose of the project and for its value for money.

### *Commercial banks involved in existing loan arrangements to countries with severe corruption problems (such as Angola) should:*

- Publish full details of loans provided, including details of the amount lent, recipients, interest rate, expiry date and purpose of the loan.
- Ensure internal systems are in place to prevent loans breaching internationally-agreed lending limits, such as Angola's US\$269 million limit on new lending agreed with the IMF for 2001.
- Clarify measures taken to verify that actual expenditure corresponds with that stated on bank documentation and during negotiation and insist that such expenditure is verifiable as a condition of providing the loan.
- Diagnose and implement mechanisms to ensure fiscal transparency in international lending in conjunction with multilateral lending institutions. This includes conditionality in loan attribution: loans should be approved when expenditure of previous loans has been verified and approved by an accredited committee; expenditure should be monitored and irregularities punished by non-attribution of further loans.
- Ensure that any future loans to Angola are payable through one appropriately audited governmental channel, rather than the current situation with a multitude of parallel channels.

- Immediately subscribe to the Wolfsberg anti-money laundering guidelines. Wolfsberg signatories themselves – particularly ABN Amro, Citibank and Société General which already loan money to Angola - should not collaborate with or take part in any loans in which all parties are not fully transparent as to their disbursement and subsequent expenditure.
- Banks such as Lloyds Bank in London, which runs the Cabinda Trust, should publish regular updates detailing the resources held by the Angola oil-back offshore trusts funds and the demands being made upon them.

### *Bilateral Export-Credit Agencies should:*

- Impose full transparency on all participants as a condition for future export-credit agreements.

### *National governments should:*

- Ensure that their national oil companies adopt full transparency criteria on overseas operations. National governments should require them to adopt a forceful common position on this issue. In particular, the French and the American governments should promote transparency in their oil industry: as major oil extractors in the off-shore of Angola, TotalFinaElf, Chevron and Exxon's apathy on this issue is appalling.
- Insist that financial regulators of international stock exchanges should legally oblige companies filing reports with them to disclose payments to all national governments in consolidated and subsidiary accounts.
- Insist that their export financing agencies practice full transparency as a condition for setting up credit agreements, and that full transparency of funding partners and recipients becomes a prerequisite for funding.
- Fast-track the 'name and shame' process to isolate jurisdictions that are hiding and laundering dirty money and identify and seize assets of corrupt, non-transparent regimes.

### *The Angolan Government should:*

- Immediately implement a policy of transparency for government income and its expenditure. The Government should fully clarify all revenues that are controlled or disbursed extra-territorially, in parallel budgets and/or by the Presidency.
- Attend to civil society's demands for more accountability and increased social spending.
- Publish immediately the oil sector diagnostic results and allow the IMF to publish this data too.

### *The IMF should:*

- Render publicly and widely available the results of the Staff Monitored Programme, in particular the over-due KPMG report on the Oil Sector Diagnostic.

*The international community should:*

- Institute appropriate national enquiries into influence peddling around access to oil reserves and revenue misappropriation from the Angolan oil industry and facilitate the French investigation into 'Angolagate'. Who knew what and when did they know it?
- Insist that the oil industry and the financial world institute a policy of full transparency on all revenues and loans to Angola and other corrupt, neo-authoritarian regimes.
- Provide a mandate to require the IMF to provide a retrospective analysis of oil revenues from 1993 onwards as part of an international effort to identify and repatriate misappropriated state assets in the wake of the 'Angolagate' scandal and insist that the IMF renders public all information uncovered by the Staff Monitored Programme public.
- Ensure that current UN peace-building efforts, focused on UNITA's war effort, are extended to take into account the lack of transparency over Government oil revenues as part of the peace-building and demobilisation process. In addition, the UN must include civil society in any unfolding peace process.
- Recognise that the definition of acceptable corporate behaviour is bound up with the operation of transparent and accountable business practices and the provision of information on payments to national governments to the citizens of that country. Future regulatory programmes or voluntary codes-of-conduct should recognise that the 'stakeholder' concept includes the general population of a country in whose name the resources of a territory are being exploited. Civil society is entitled to be provided with adequate information to be able to call their governments to account over the management of 'their' resources. It is time to move from debating corporate social responsibility to corporate accountability.

*The G8, EU, OECD and the New Partnership for African Development (NEPAD) should:*

- End the practice of secret deals between governments and multinational companies by issuing clear contracting guidelines defining and legislating 'good practice' for multinational enterprises in structuring transparent financial arrangements with host governments. Such an initiative requires the G8 and others to make it a priority for national regulatory authorities to legally require full transparency for all companies over payments to national governments.

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## 2 All the presidents' men – an introduction

**A**LL THE PRESIDENTS' MEN is the product of two years of investigations, and provides an update on the campaign for full transparency in the oil and banking sector. It continues an exposé, which started with December 1999's *A Crude Awakening*, into the mechanisms of wholesale state robbery in Angola.

Central to the issue of state looting is a glaring discrepancy: the progressive impoverishment of a country during almost four decades of war and civil conflict has gone hand-in-hand with rising oil revenues. Despite earning around US\$3-5 billion from oil last year (an estimated 87% of state revenue), social and economic development in Angola has continued to deteriorate. Three-quarters of the population are forced to survive in absolute poverty on less than one dollar a day; one in three Angolan children die before the age of five and one child now dies of preventable diseases and malnutrition every three minutes (480 every day);<sup>1</sup> life expectancy is a mere 45 years; and about 3.1 million civilians have had to flee their homes since the war resumed in January 1998.<sup>2</sup>

Rising oil revenues have been diverted straight into parallel budgets of the shadow state. Information emerging from economists involved in analysis of Angola's oil sector suggests that up to US\$1.4 billion in revenues – comprising almost a third of state revenue – is unaccounted for the year 2001. Although the exact amount of missing revenue is debatable – information on loans and payments revealed in this report suggest that this amount may, in fact, be a substantial underestimate – such figures nevertheless stand in stark contrast to the US\$200m the UN barely managed to scrape together to feed the one million internally-displaced Angolans dependent on international food aid.

Global Witness' investigations into this missing revenue culminated in uncovering how top government officials now make money out of a highly over-priced military procurement process and benefit financially from almost every item consumed in the pursuit of the war against UNITA. A billion dollar bank account connected to this process in the British Virgin Islands is also exposed, whose signatories include two high-powered Angolans.

Whilst Global Witness does not deny that the majority of the Angolan Government would welcome genuine peace, it clear that the political and economic disorder brought about by the civil war has been deliberately exploited to enrich the ruling elite. Meanwhile, the failure of the Angolan state to provide for its citizens has been blamed on the conflict. The death of sociopathic UNITA leader Jonas Savimbi on 19th February 2002 may herald the end to that excuse; the international community must seize this opportunity to call the Angolan Government to account over its use of oil revenues.

**PART ONE – THE SCANDAL** follows on from the 'Angolagate' arms-to-Angola affair that broke in France at the end of 2000. It reveals how what started as a legitimate exercise in self-defence by an internationally-recognized Government threatened by rebel insurgents in the early 1990s, ended up with full-scale appropriation and laundering of state assets through parallel budgets, over-priced arms deals and deliberate indebtedness through mortgaging of future oil production. Culpability and complicity amongst political and economic actors in France and Angola has reached to



**The state on its knees. The devastating result of Angola's privatised war.**

the highest level; significant links can also be inferred to the US, Israel, Russia and across Europe, including a direct lobby in the EU Parliament.

The recent spectacular meltdown of Enron provides clear lessons on the dangers of 'influence peddling'. Enron's political donations clearly bought a substantial reformulation of national energy policy and diminished regulatory oversight. It is therefore impossible not to be concerned about the 'assistance' being sought through major donations (subsequently returned) to George W Bush's election campaign by a company never connected to a figure central to Angolagate. If the impact of influence peddling can be so severe for US company employees and investors – theoretically, a domestic audience – imagine what its effect might be on the far-removed people of Angola.

**PART TWO – THE COMPLICITY OF THE OIL COMPANIES** argues that international oil companies operating in Angola are complicit in the economic abuses of the ruling elite because they choose not to publish the revenues that they pay to the Angolan State. These companies claim that they do not get involved in the politics of the countries where they operate, yet the active decision to withhold information about payments to the State, when such information could clearly be provided (and is provided as routine in the developed world) is itself a political statement.

Under the Angolan Law, 'all deposits of liquids and gaseous hydrocarbons ... belongs to the Angolan people';<sup>3</sup> thus, it is outrageous that these owners are not allowed to know – and are actively deterred from finding out – what 'their' resources are worth. By not 'publishing what they pay', oil companies endorse a double standard of behaviour that would be unacceptable in the North and make it impossible for ordinary Angolan citizens to call their government to account over the management of revenues earned from resources that are meant to be held in trust for the general population. Instead, oil company revenues are diverted into non-transparent arms and other commodity deals.

Despite the resistance from companies and the Angolan Government in rendering public information on revenue disclosure, Global Witness is pleased to reveal this information for the first time for the year 2000.

**“[Question: Do you think there will be peace in Angola?] No. I have stopped**

ChevronTexaco and TotalFinaElf top the list of hidden contributions: these two companies are also notable for refusing to engage in discussions on transparency. Disturbingly, the data show that between the Ministry of Petroleum and the Ministry of Finance, some US\$770 million unaccountably disappeared, indicating that the missing money from year 2001 is only part of a prolonged sequence of economic abuse.

PART THREE – THE FINANCING looks at how the international banking sector has operated offshore havens for these assets and gleaned lucrative commissions on oil-guaranteed loans with minimal oversight. Oil-backed loans represent a vast additional source of unaccountable income to the State; investigations by Global Witness suggest that the Angolan Government borrowed over US\$3.55 billion by mortgaging future oil production at high interest from September 2000 to October 2001 alone. This was provided by various banks with almost no procedures to check that the money was actually spent on that for which it was requested and, if correct, these figures indicate that informal estimates of US\$1.4 billion of revenue and loans diverted may be a substantial underestimate. Certainly, international banks have given no regard to the fact that they have vastly exceeded the Government's agreement with the IMF to restrict new lending to US\$269 million during 2001. Northern Export Credit Agencies are guilty of a similar lack of care; taxpayers' money in Northern countries is being used to underwrite unaccountable export financing arrangements in highly corrupt countries with no transparency provisions attached.

Despite this pressing need for the natural resource sector to be open and transparent about payments to unaccountable regimes, there is a startling lack of pressure in this direction from the international community. Angola, for example, has seen the full-scale retreat of any objective and principled foreign policy towards the country: recognizing the importance of future oil production, diplomatic efforts have at best refrained from hindering, and, at worst, have actively colluded with, the operations of their industrial interests. Policy engagement with the Angolan Government has resolutely focussed on sanctioning UNITA with the aim of moving the group back into line with its obligations under the 1994 Lusaka Protocol. Whilst this has been an admirable effort – indeed Global Witness made an important contribution to this effort by exposing UNITA's funding through the diamond trade and continues to negotiate and promote the Kimberley Process to address the conflict diamond issue – the international community has failed to examine faults on the side of the Government, including its manifest failure to provide adequately for the population as a consequence of corruption.

Without support from a broad international coalition for change, oil companies operating in the country are in a difficult position – even if they want to do the right thing and publish what they pay to the Angolan Government, they face immediate reprisals from those with a vested interest in the *status quo*. Indeed, the announcement of a policy of transparency by BP brought a vicious response from the Angolan State oil company, Sonangol, in a confidential letter reproduced in this report, which shows their apparent contempt for the issue. It is clear that a single company cannot make such a move alone, so there is a pressing rationale for coordinated group action by the major oil companies in the country, all of whom, according to their fine-sounding corporate mission statements, are committed partners in equitable development and social justice.

The international community must also act conclusively to level the playing field amongst competitors and introduce mandatory disclosure of revenue payments to governments by transnational resource companies for all their countries of operation. This could be achieved overnight by requiring such summary disclosures in annual reports to major international securities exchanges.

The international community should also identify and freeze, pending repatriation, all overseas assets that have been looted from Angola. This report reveals how the machinery for state robbery and money laundering took on a global dimension. The events of the destruction of the World Trade Centre have created a new sense of urgency to confront money laundering, arms trafficking and internationalised crime. The same resolution to trace and impound the assets of terrorist groups should also be directed against the mechanisms used for state looting in corrupt, neo-authoritarian regimes.

As World Bank President James Wolfensohn wrote after the 11th September 2001 'central to conflict prevention and peace-building must be strategies for promoting social cohesion and inclusion, ensuring that all have opportunities for gainful employment, that societies avoid wide income inequalities that can threaten social stability and that poor people have access to education, health care, and basic services such as clean water, sanitation and power'.<sup>4</sup>

Full disclosure of payments and royalties to all national governments by natural resource companies is a necessary precondition to deliver just and equitable development and is central to preventing the blatant exploitation of political disorder for private economic gain. This report is a challenge to all involved to move forward creatively to address the real forces underpinning the Angolan civil war and deliver fiscal accountability of Angola's oil wealth such that it might, for once, deliver some benefit to its real owners.

### Angolan Social Indicators

Population	12.4 million
Life expectancy	48.9 years
National Budget	US\$5.1 billion
GNP per capita (Constant 1995 US \$)	US\$233

#### Children

Population under 15	48%
Infant mortality rate for children under 1	12.4%
Infant mortality rate for children under 5	male 20.9%
	female 19.2%
School enrollment rate, Primary	37.5%
Children under 5 years suffering malnutrition	35%
Underweight children	42%
	(14% severe)

#### Poverty Statistics

Population living in absolute and relative poverty	82.5%
Maternal mortality rate during 1996	1.9%
Population without access to drinking water	62%
Population without access to adequate sanitation	56%
Population without access to healthcare	76%
People requiring food aid	3.2 million
Estimated rate of severe malnutrition	13%
Internally displaced persons (an estimate)	3.5 million
Unemployment rate	80%
Adult literacy rate	42%

#### Land Mines

Disabled land mine victims	86,000
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**believing in this. You see, the war here in Angola, is like a job ... The**

## PART ONE: THE SCANDAL

### 3 A story of state looting and a privatised war – a summary

**F**OLLOWING THE DECEMBER 1999 report *A Crude Awakening*, Global Witness continued its investigations into the financing of Angola's war machine. The result is a story of how a legitimate exercise of self defence against UNITA turned into a conspiracy involving highest level politicians and individuals in Angola and beyond to rob the country of its wealth through kick-backs related to over-priced arms deals, financed by oil-backed loans.

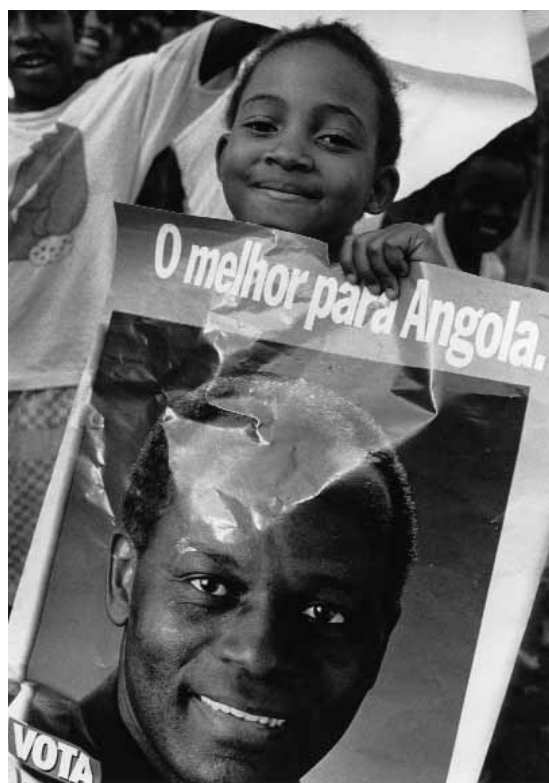
Investigations indicated that certain key individuals benefit financially from the military procurement process, from almost every item consumed in the pursuit of the war against the UNITA. This leads to a disturbing conclusion: political and economic disorder and a total absence of financial transparency of the Government's oil revenues are the necessary conditions for this machinery of cash diversion and kickbacks to operate. Recent indications of a will to make peace appear to have received a major boost following the death of UNITA leader Jonas Savimbi, providing an opportunity which should be grasped with both hands by all sides to the conflict. The recent suggestion of a ceasefire is the first indication that peace negotiations are a possibility. However it is still far from clear how a genuine peace will be achieved, and as conflict and instability continues, Angola's wealth will continue to be siphoned off through a myriad of corporate and offshore centres, courtesy of the global banking system, whilst a major proportion of Angola's dispossessed are left to the mercy of donor assistance.

*All the Presidents' Men* reveals an international scandal that encompasses a global process of control over oil and the predatory nature of the international financial and banking systems. The miasma of dirty dealing discussed in this section demonstrates how members of the international community have sought mutual advantage with Angola's shadow state to ensure future oil supplies. From the perspective of oil interests, this has been largely successful, but it has been a disaster for the ordinary citizens of Angola, who have paid a devastating price for access to resources that are being exploited in their name.

#### An insight into state looting in Angola?

Angolagate is the name given by French and international media to a scandal that saw, amongst others, the December 2000 arrest of Jean-Christophe Mitterrand, son of former French President François Mitterrand. *Fortune Magazine* wryly commented that, 'it is *de rigueur* for French corruption scandals to be very complicated' and, so far, the scandal discussed in the press only concerns allegations of influence peddling, illegal weapons trading and abuses of public trust by a complex web of individuals in the supply of arms to Angola during 1993 and 1994.

Global Witness' investigations have uncovered



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**Broken promises.** Has dos Santos done his 'best for Angola', given the web of corruption surrounding oil revenues and oil-backed loans?

**Africa is seen from France as a 'judicial no-man's land which, in the name of mutual political interests, was to stay for eternity a land of unpunished crimes.'**

– Reuters, quoting from *Le Monde* editorial, December 2000<sup>92</sup>

additional information which, taken together with published material, leaves little doubt that Angolagate and associated events of 1993/4 are but a small proportion of a much wider international scandal involving key international political and business players. In fact, the true story is about the privatisation of Angola's war and the architecture of state looting on a scale to rival Mobutu and Abacha. Just how far this scandal reaches, and which other international political leaders are tainted, is difficult to determine. But as Philippe de Villiers, previously vice-President of former French Interior Minister Charles Pasqua's Rassemblement pour la France (RPF) party explained, 'I can confirm in a very explicit manner that the Mitterrand-Pasqua affair [Angolagate] is a very serious state affair, with inter-continental ramifications...'

This introductory section provides a summary of, and a background to, the whole affair and explores its wider international implications. The full account begins with the section entitled 'Angolagate – the full story'. Global Witness points out that we are not implying guilt on behalf of any party, and those individuals that are named have yet to be tried or convicted in a court of law. Nevertheless, we invite those named to clarify their actions.

**Government does nothing for the people of Angola. They just take the money**

## The start of French influence peddling in Angola

By 1993, despite having won the 1992 Angolan elections, President dos Santos' Government was losing the war against UNITA. The latter had reverted to armed conflict following electoral defeat, and at the time controlled around 80% of the country. The Government had neither the arms, nor the financing, to fight back.

The resultant call-for-help from dos Santos was aimed at sympathies within Mitterrand's Presidency in Paris. It also provided a potential solution to France's increasing paranoia about likely United States domination of Angola's oil sector following the Clinton Administration's formal ending of US support for UNITA. However, there was a major barrier to official French help for the Angolan Government due to the fact that President Mitterrand was going through his second period of co-habitation, sharing power with the centre-right Government of Prime Minister Edouard Balladur. Any official military assistance from the French Government to Angola would require the support of the French Minister of Defence, who at that time was one of the strongest supporters of UNITA in Paris. Official channels of support were thus closed.

Jean-Christophe Mitterrand allegedly then introduced businessman Pierre Falcone to engineer a solution. Falcone headed a group of companies under the umbrella, 'Brenco International', whilst simultaneously working as 'key advisor' for Sofremi, a security export company that was controlled by the French Interior Ministry, then headed by Minister Charles Pasqua.

Pasqua's team immediately saw this as an opportunity to head off US oil dominance in Angola. According to the press, though Falcone had been brought into the discussion courtesy of the French Political left, he now received endorsement from Pasqua's team on the right, and was thus tasked to provide a solution to Angola's weapons and finance requirements, on the proviso that supplies did not come directly from France.

According to numerous French press articles, Falcone then formed a partnership with Russian émigré and businessman Arkadi Gaidamak (also spelt 'Gaydamac'). In a telephone conversation with Global Witness, Gaidamak claimed that at that time, both he and Falcone travelled to Angola where they were provided with Angolan diplomatic passports, after which they operated as *de facto* Angolan officials. During this conversation and in earlier press reports, Gaidamak claimed that the purpose of their cooperation related to the provision of oil-backed loans for Angola, and he denied that they had been involved in the supply of weapons. In a later conversation with Global Witness, Gaidamak subsequently admitted that arms had been supplied, though he denied direct involvement. His justification was that these deals had been arranged with a legitimate government.

The French press describe a series of contracts that both Falcone and Gaidamak reportedly put together to supply arms to Angola during 1993 and 1994, totalling some US\$633 million. Documents detailing some aspects of these contracts have been published and although they appear to contain Falcone's signature, Gaidamak is conspicuous by his absence.

*L'Express* reports that Falcone and Gaidamak were the 'tandem who would deliver arms to the Angolan regime' and to do so, they took 'defacto control of a company, ZTS-Osos, based in the Slovak Republic.'<sup>5</sup> The paper refers to arms including 'tanks, rockets, helicopters,

**The scene unfolding before our eyes is overwhelming. At the heart of the State [France], Socialist and neo-Gaullist networks joined hands to enrich themselves by facilitating sales of heavy Russian arms to a country ravaged by war and misery. It is a disgrace for France and Africa.**

– Reuters, quoting from *Le Monde* editorial, December 2000<sup>92</sup>

combat vehicles and troop transporters, all of which were of Russian manufacture', being delivered in reference to contracts from 1993 and 1994, and that negotiations were 'conducted in Paris and the money transited through a Banque Paribas account in the capital.'<sup>5</sup>

Banque Paribas, now taken over and subsumed into the group BNP-Paribas, was also one of the key banks involved in the provision of oil-backed loans to Angola. According to Gaidamak, both he and Falcone were effectively given control over the disbursements of funds from such loans exercising, as he put it, their duties as effective representatives of the Angolan Government.<sup>21</sup> Were any of the loans provided by Paribas used to fund arms supplies through the arrangements discussed above? Regardless of whether or not this has happened, another major question arises: given the high exposure of banks to risks associated with bad loans, why was Paribas willing to be involved in the provision of substantial loans to a government that was, at that time, by no means sure of its own survival?

## Did Angola get value-for-money?

It is not clear if arms supplied from these contracts represented value-for-money for Angola. Weapons clearly were supplied during this period that were of sufficient quality to change the fortunes of the Government, allowing it to fight back to a position of stalemate with UNITA, which in turn led to the Lusaka protocol agreement in 1994. However, the issue of arms supplies to Angola in general throughout the 1990's, together with the supply of other commodities, have been dogged by claims low quality. These claims have ranged from shipments of rotting meat being imported, solely for the commission involved, to the delivery of tanks and other heavy equipment, of such low quality that they had to be removed from their delivery vessels by chains, whereupon they were transported to 'tank graveyards', outside Luanda.

## The situation across Africa

This is a pattern that does not affect Angola alone. Investigations conducted by Global Witness into a number of different African conflict hotspots suggest that in many cases, arms deals are often extremely bad value for money. For example, in a number of deals, arms have been supplied worth a fraction of the money ultimately used to pay for them. On one occasion, the government concerned paid their suppliers approximately 35% of contract face value, whereupon the latter delivered weapons worth around 25% of contract face value, generating an immediate 10% profit on the deal. As if this was not bad enough, the suppliers then arranged additional financing from a number of banks, secured by revenue from natural resource



extraction, up to the value of the contracts. These additional funds, essentially worth 65% of contract face value, were then added to the 10% profit already generated from the up-front payments. The result – the country concerned obtained weapons worth a quarter of what they paid, generating enormous profits along the way for those involved in the deals.

### Beyond Angolagate – arms trafficking following 1993/4

Global Witness' investigations revealed that at least one further arms supply contract was put together by ZTS-Osos in 1995 or 1996. Though the date of the contract is not clear, it is possible that this contract, worth approximately US\$44 million, was agreed at roughly the same time that Paribas provided its 19th September 1996 oil-backed loan of US\$135 million.

Interestingly, Gaydamac's (sic) signature appears to have been included alongside Falcone's on this 1995/6 ZTS-Osos contract, reproduced on page 16. Well-placed sources have suggested that it was very rare for Gaidamak to sign documents. However, based on available documentary evidence, Falcone's signature appears to be genuine; if it is, then Gaidamak, at the very least, should explain how his name appears on this document.

Investigations also revealed that in addition to arms, a similar method of financing and supply has been used to provide food, medicines and other commodities required by the Angolan Government in its war effort. One of the key vehicles used to supply food and medicines for the Angolan armed forces is a subsidiary of Falcone's company Brenco International, called Companhia Angolana de Distribuição Alimentar (CADA), that reports have suggested gained a monopoly of supply to the Government *Forças Armadas de Angola* (FAA) for a period of five years.

**Angolagate continues ...The 'Anastasia', apprehended in Gran Canaria in February 2001 with false documentation and for failing to declare 636 tons of arms and explosives bound for Angola.**



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## A lesson in transparency – do you keep accounts like this?

Global Witness' investigations have also identified the existence of a bank account – number 15468991 – held at the so-called 'First Virgin Bank' in the British Virgin Islands (BVI). This account held approximately US\$1-1.1 billion during 2001, with two high-powered Angolans acting as signatories. The true identity of the 'First Virgin Bank' remains a mystery. (For further information, see *Whose billions are in this bank account?* – page 22.)

### Angolagate and legal action

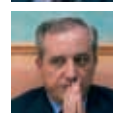
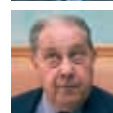
Following a complex series of judicial investigations, described later in this report, Pierre Falcone was arrested on 1st December 2000. His arrest, together with interviews and searches at the offices and residences of other individuals allegedly connected to this scandal, precipitated press reports and speculation about Angolagate. Prominent individuals, including Jean-Christophe Mitterrand, Jacques Attali, former advisor to President Mitterrand and first Director of the European Bank for Reconstruction and Development, and some lesser-known individuals were subsequently arrested and charged for a variety of alleged offences. During 2001, both former French Interior Minister Charles Pasqua and his right hand man, Jean-Charles Marchiani, were also formally cautioned and questioned in relation to this issue; the latter two appear not to have not been formally arrested because they enjoy immunity of prosecution as Members of the European Parliament.

An international arrest warrant, number 0019292016, was issued for Arkadi Gaidamak on 11th January 2001. Nevertheless, it appears that Gaidamak currently enjoys the protection of Israel. Well-placed sources have suggested that he continues to travel freely between Israel and Angola, to South America and into the UK.

After numerous legal challenges, Falcone was finally released on 1st December 2001, after spending precisely one year in prison. His release was accepted on a bail posting of 105 million French Francs (US\$14,351,000),<sup>6</sup> more than ten times France's previous highest bail demand. *Nouvelle Observateur* reports that the Court of Appeal reduced Falcone's bail demand to €5 million (US\$4,309,000)<sup>7</sup>, which it says is to be paid by Angola's State oil company Sonangol, as a mark of Angola's solidarity with Falcone.<sup>8</sup>

### The Brenco group and links to the United States

Reports in both *Arizona Republic* and in *Newsweek Magazine* suggested that Falcone is well established in the United States and that he has strong connections with the US political elite. In late 2000, Falcone purchased an immense mansion in Paradise Valley, Arizona, for a reputed US\$10.6 million, the highest value personal property purchase in Arizonan history. Interviews in *Arizona Republic* with individuals claiming familiarity with Falcone and his Bolivian beauty queen wife Sonia, suggested that they led a dream life, circulating within the party circuit of Arizona's elite, and spending significant funds on a variety of philanthropic ventures.<sup>9</sup>



**them, because if their child is sick they just send them to Namibia or South**





Brenco boss Pierre Falcone. A figure at the centre of 'Angolagate'.

Sonia de Falcone runs Essanté, a Utah-registered company specialising in health and beauty products, and of late, a range of products aimed at enhanced sexual pleasure. The company was incorporated in Delaware on 6th April 1994, with Sonia and Pierre Falcone listed as directors.<sup>10</sup> Essanté is also connected to the Brenco group in terms of shareholdings and common addresses, both in the UK, and for holding companies in the British Virgin Islands. According to both *Newsweek Magazine* and *Arizona Republic*, and supported by US Federal election funding records, Essanté donated US\$100,000 to George W. Bush's election campaign. This money was returned in January 2001, with the *Arizona Republic* quoting *Newsweek*: 'the money was returned to avoid questions about whether an international weapons merchant was trying to buy influence with the new Bush Administration.' The *Arizona Republic* reported that Falcone family spokesman, Jason Rose, 'scoffed at that insinuation.' *Newsweek's* January 2001 article referred to both the donation and to Falcone's December 2000 arrest in France.<sup>9</sup>

The US publication *In These Times* furthered the discussion about Essanté's donation to Bush's campaign. In an article entitled 'The arms dealer next door', *In These Times* reports claims by Sonia Falcone that '...her husband had no connections to Essanté and that the company's political contributions came out of corporate profits.'<sup>10</sup> The article went on 'more significantly, Essanté, which has been losing money for the past seven years, has no profits from which to make political contributions.' The article then provides comments attributed to the legendary Hollywood PR agent, Lee Solters, which reportedly claimed that 'Essanté spent its first six years, and US\$6 million, developing its product line. Sales only began in earnest last September, after Essanté threw a three-day launch party at the Paris Hotel in Las Vegas.'<sup>10</sup> *In These Times* concludes by quoting a source which it described as 'familiar with the family' 'the company [Essanté] has come a long way with Pierre's generosity, but after a few years he'd like to see some profit. It rubs him the wrong way, but out of love for his wife he's done it with a smile on his face.'<sup>10</sup>

Had *Newsweek* not raised the issue of Falcone's arrest, together with Essanté's donation, would the money have been returned by the Bush campaign? According to *In These Times*, 'The GOP [Republican Party] returned the contributions following Pierre's detention – "to avoid the appearance of impropriety," in the words of a statement issued by the Republican National Committee.'<sup>10</sup>

According to Swissinfo, a Swiss-based web site covering Swiss affairs, on the 16th March 2001, 'Justice authorities in the Canton Geneva [...] launched another money laundering investigation involving alleged arms trafficking to Angola.' The article described how this initiative 'follows an earlier money laundering investigation, also involving alleged arms trafficking to Angola, which was launched by Geneva's top prosecutor, Bernard Bertossa, in January [2001].'<sup>11</sup> According to Swissinfo, as part of this investigation, '...several Geneva banks have been ordered to reveal whether any of the people or businesses on the list [a list of individuals and companies forwarded to the Geneva prosecutor by the French investigating judges] have ever held accounts with them.' It continued, 'if so, officials are expected to request account statements dating back to 1990, when Swiss money laundering laws came into effect.' According to Swissinfo, 'one of the most prominent names on the list is that of the former French Interior Minister, Charles Pasqua, and his son, Pierre Pasqua. European Deputy Jean-Charles Marchiani, and Sonia Falcone, wife of the alleged arms dealer Pierre Falcone, are also on the list.'<sup>11</sup> There are no suggestions of any charges against or wrongdoing by Sonia Falcone – it appears this request relates to the investigation into her husband.

### Further US connections – a smoking gun?

Shortly prior to Falcone's arrest in December 2000, judicial investigations in France led to a raid on the apartment of Falcone's secretary. According to French press articles, investigators located some 26 diskettes, containing significant quantities of documents detailing activities, contracts and letters relating to Falcone's activities in Angola. Given that these diskettes provided sufficiently good quality primary information that led to the subsequent questioning, and in some cases arrests of, amongst others, Jean-Christophe Mitterrand, Jacques Attali, Charles Pasqua and Jean-Charles Marchiani, it is logical to assume that the information they contain is considered reliable by the investigating Judges.

Allegedly, amongst these documents, investigators discovered a letter inviting then US Presidential candidate, George W Bush for a meeting with Angolan President dos Santos at Falcone's Arizona ranch. Global Witness understands that this meeting did not actually take place, though the reason why is not clear. However, given the Bush Campaign's acceptance of Essanté's money until it was publicly embarrassed, one might conclude that the meeting may not have taken place due to scheduling reasons, rather than for any specific distrust of Falcone, or his overtures.

In a late December 2000 article, the French publication, *La Nouvelle Observateur*, implied yet another close link between the Falcone and Bush families. The magazine suggested that, in addition to campaign financing, Laura Bush and Sonia Falcone are friends. Meanwhile the publication, *In These Times*, suggests any such relationship is due more to connections generated by Arizona State Senator Bundgaard, and because of funds provided to Bush's election campaign, than out of any real friendship. Regardless of the reality of any such relationship between the two families, it is not difficult to imagine that Falcone might have been in a position to arrange meetings with the future President of the United States.

It seems likely, however, that Falcone's potential

influence did not end with political donations to the Bush campaign alone. *In These Times* reports that a meeting took place between Falcone and three unnamed high-level Phillips Petroleum Corporation executives in June 2000, some five months prior to Falcone's arrest in Paris.<sup>10</sup> Phillips Petroleum Corporation holds a 20% stake in Angola's Block 34, allocated in 2001, but for which negotiations were already well-underway at the time of the company's alleged meeting with Falcone. The article states that Phillips refused to comment on the meeting.

Global Witness sought clarification about what role, if any, Falcone might have played regarding the acquisition of Phillip's stake in Block 34. Bryan Whitworth, Executive Vice President and General Council for Phillips, responded in January 2002, stating that he was unable to identify a meeting in Scottsdale in June 2000, but that there was a meeting in September and a follow-up in Washington in October 2000, '...to determine whether or not Phillips wanted to utilize Mr. Falcone as a consultant [...] it was concluded that Mr. Falcone should not represent Phillips.' Further, the letter stated that 'Mr. Falcone has never been employed by Phillips Petroleum Company nor represented Phillips in any respect on any matters.' This response, of course, raises the question as to why Pierre Falcone should have been considered as a possible consultant in the first place, and on what basis did Phillips come to the conclusion that he was inappropriate for such a job afterwards?

Michael Austin, an Arizona-based friend of the Falcone family and domain name holder of a website in support of Falcone wrote to Global Witness in an e-mail, '...Pierre derives a great deal of income from Exxon Block 33 located within the boundaries of Angola.' Given the apparent meetings between Falcone and Phillips, and given ExxonMobil's operatorship of Angola's Block 33, ExxonMobil should clarify what, if any role is, or has been played by Falcone in Block 33. In particular, ExxonMobil should clarify if it has also held meetings with Falcone, and if the latter played any role in advising, or facilitating the company's acquisition of its operatorship of Block 33. Global Witness sought clarification from ExxonMobil on 23rd January 2002, and has yet to receive a response.

Following Falcone's arrest in December 2000, the *Sunday Times* hinted at possible links between Vice-President Dick Cheney, in his role as CEO of the oil services company Halliburton, and Angolagate. The paper commented that '...as Defence Secretary, Cheney had been an outspoken supporter of UNITA ... he now finds himself in the intriguing position of having recently headed a company that pursued contracts aggressively with UNITA's sworn "enemy."' According to the *Sunday Times*, during the American election campaign, Cheney was reportedly 'accused of using his connections as a former Defence Secretary to secure the company [Haliburton] contracts.'<sup>80</sup> Given the suggestion from the *Sunday Times* that 'French authorities [connected to the Angolagate investigation] are scrutinising the activities of several oil companies that provide Angola with most of its foreign revenues – including Haliburton Co.,...', a key question arises: Did Pierre Falcone play any role in securing contracts for Haliburton? Vice-President Cheney should immediately clarify Haliburton's success in Angola.

It is obvious from the Enron scandal that influence peddling is a major problem in the United States.

Interestingly, Enron CEO Kenneth Lay's US\$100,000 donation to the Bush campaign is strikingly similar to the Falcone's US\$100,000. We have seen what Enron managed to achieve through its 'donations' – what was Falcone hoping to achieve, and perhaps more to the point, what would he have achieved, had the embarrassment of his arrest not facilitated the belated return of his money? It is a matter of urgency that a full and thorough investigation into the reaches of Angolagate is conducted in the United States. It is clearly good, for legitimate US domestic concerns, that the current spate of Enron investigations might lead to a clean up and end to efforts by companies to buy influence in Washington. However, given the plight of Angola's population, suffering from nearly 40 years of fighting, and given the strategic value and benefit accrued to the US from the exploitation of Angolans' resources, nothing less than a full investigation will do. What did the key players know, and when did they know it?

### Russian debt and guns

Sources suggest a strong Russian involvement in ZTS-Osos, the Slovak-based supplier of arms involved in Angolagate; including significant shareholding in the company by a number of Russian State arms production companies (*See Russian State interests in ZTS-Osos – page 17*).

According to a number of press reports, both Falcone and Gaidamak were involved in a deal to renegotiate Angola's US\$5.5 billion debt to Russia. According to a February 2002 article in the Geneva publication *Le Temps*, 'in 1996, the pair [Gaidamak and Falcone] negotiated the re-purchase of Angola's debt to Russia: the latter was intended to receive US\$1.5 billion instead of the US\$5 billion owed by Luanda's Government.' The paper continued, 'the Angolans agreed to reimburse this amount, thanks to the country's oil revenues.' Commenting on those involved in the deal, the paper reported 'swiss-based companies took part in the operation: Glencore, in Zug, traded the oil; Paribas (Switzerland), together with other banks, advanced the money promised by Angola.'<sup>12</sup>

The role of Falcone and Gaidamak in this operation is not clear. However *Le Temps* commented that 'Pierre Falcone was in charge of the distribution of revenue from the debt repurchase amongst Angolan dignitaries, while Arkadi Gaidamak did the same thing for the Russian side.'<sup>12</sup> Both Falcone and Gaidamak have commented on this deal, with Falcone suggesting he made a modest, 'less than US\$15 million,'<sup>13</sup> for his services – ironically, roughly the amount required to post his bail demand on the 1st December 2001. Gaidamak has boasted, 'as a matter of fact, I even supervised the relations between Russia and Angola, looking after the interests of both parties.'<sup>14</sup>

Whatever the truth of this arrangement, it is clear that the IMF is concerned about what really went on. By December 2001, the IMF had been unable to obtain any clarification about these arrangements, either in Luanda, or Moscow. It is time, not only for the Russian and Angolan Governments to be transparent about this arrangement, but also for all the banks that have participated in oil-backed loans to Angola since 1996, to provide details of what they know of this situation.

## The French connection

Numerous detailed French press articles leave the reader little alternative but to conclude that at the start of the 1993/4 finance and weapons supply programme described earlier, a number of top level officials, both closely connected to then President Mitterrand and within Prime Minister Balladur's party, were intimately aware of what was going on.

A number of questions have yet to be asked. What happened after the end of the Mitterrand Presidency? What did President Jacques Chirac, Mitterrand's successor, know of these events and when? These questions are especially poignant given that loans continued to be provided, together with the provision of arms and other commodities to Angola, well into the period of Chirac's Presidency.

Falcone wrote personally to President Chirac both in 1997 and in 1998, and these letters provided considerable detail about projects underway. Further, sources suggest that during President Chirac's state visit to Angola in 1998, at least one meeting was held in Luanda between Chirac and dos Santos in which Falcone was present.

Another area of concern relates to the 1995 release of three French pilots, who had been shot down over Bosnia. According to press reports General Gallois, who was the main negotiator, had successfully secured their release but he was formally instructed to terminate discussions prior to bringing them to their conclusion. A few weeks later, Gaidamak reportedly stepped in to secure the hostages' freedom, which resulted in their arrival in Paris, shortly prior to a post-Dayton peace conference on Bosnia, hosted by newly elected President Chirac.

According to *Le Monde*, the former Prefect of the Var Region, Jean-Charles Marchiani, presented Gaidamak with the 'Order of Merit', in recognition of his services in the release of the hostages. However, a January 2002 article in *Le Monde* stressed that General Gallois deplored the existence of 'parallel negotiations', and stressed that he did 'not understand why Gaidamak and Marchiani intervened after [him], it did nothing. It only had the effect of slowing down the release of the hostages.'<sup>15</sup>

In an article about the 22nd May 2001 indictment of Jean-Charles Marchiani, *Le Monde* reported that, 'the former Prefect of the Var is also suspected of having received a financial compensation for the attribution, in 1996, of the Ordre National du Mérite to Mr Gaidamak, which was agreed by the President of the Republic, Jacques Chirac.'<sup>16</sup> *Le Monde* stressed that Marchiani vigorously denied all allegations that have been laid against him.<sup>16</sup>

Given recent articles about corruption and the 'Travelgate' affair during Chirac's tenure as Mayor of Paris, any potential involvement of Chirac, or his knowledge about arms trafficking and state looting in Angola, is of major concern. To date, President Chirac



© AFP

**Chirac and dos Santos. When will the Presidents and their men come clean?**

has simply side-stepped all questions relating to his tenure as Mayor citing Presidential immunity. This has led, for example, to the bizarre situation with 'travelgate', where other members of Chirac's family have been required to respond to questions from investigating Judges, whilst the President himself is able to maintain his silence.

## It is time for all to come clean

The essence of corruption in Angola, is that instead of relatively small sums, or petty personal advantage as epitomised by 'Travelgate', here we are talking about Mobutu- and Abacha-scale state looting. This is a process which has been intimately tied to the

conduct of war in Angola and perpetuated by the highest-level elites for personal and political gain. It is the general population of Angola that has had to pay a terrible price – that includes more than 500,000 killed from 1992-1998 alone, approximately 480 children dieing every day of preventable causes, a quarter of the population displaced, and more than a million citizens entirely dependent on emergency food aid; conditions, which despite suggestions of a ceasefire, appear set to get worse before they improve.

It is imperative that decisions should be made on an international basis to ensure that the events and actions discussed in this document can never again be repeated. Part of this process of change could so easily be instituted through the suggested actions and recommendations in this report with little or no pain for any corporate or national interests, excepting those that currently profit from the Angolan shadow state.

In this regard, it is imperative that responsible leaders must come clean about what they know of events relating to the arming and financing of Angola's war machine. For example, President Chirac is facing the electorate during 2002, and the conduct of the democratic process in France cannot tolerate the continued concealment of vital information central to unravelling these events, especially when a lack of information undermines the capacity of Angolans to hold their Government to account for its actions. The cost to Angolans of international oil and political interests in Angola is too high.

**...that gentleman [Falcone] dealt with sensitive matters which had the consent of the French authorities and were very useful to Angola. We interpreted his action as a gesture of confidence and friendship by the French State and, for this reason, my Government took decisions that permitted spectacular growth of cooperation with France in the area of oil and economically and financially.**

*President dos Santos, confirming the vested interest of France, behind the activities of Falcone et al.*

**don't expect these things from the government because they don't know life**

## 4 Angolagate – the full story

**A**NGOLAGATE BROKE to the world's media with the arrest of Jean-Christophe Mitterrand, the son of the former French President François Mitterrand, on 21st December 2000.

Jean-Christophe Mitterrand's incarceration followed the earlier arrest on 1st December 2000 of the lesser-known Pierre Falcone, named in Global Witness' December 1999 report *A Crude Awakening* as a member of Angola's 'oiligarchy'.

The story began in 1992 when Jonas Sambivi and UNITA reneged on their commitments under May 1991's Bicesse Accords after failing to win victory in Angola's first national elections. UNITA's renewed insurgency proved relatively successful because most of the group's elite units had remained fully armed and operative. In contrast, Government's troops (the FAA) had disproportionately demobilised their forces and so were comparatively weaker. For the first time, UNITA was able to besiege and hold large cities, capturing five of the eighteen provincial capitals in one the most brutal stages of the country's (then) thirty-year civil war. The UN estimated that some 300,000 civilians were killed between 1992 and 1994 by direct shelling of cities or indirectly through landmines and starvation.<sup>17</sup>

At the time, with the collapse of its major supporters in the Soviet Union, the Government lacked the weapons and the finances to turn the situation around. By the spring of 1993, the war was going badly for President dos Santos' Government, with UNITA controlling large swathes of Angolan territory and looking like a potential victor. According to *Le Monde*, in an effort to turn the war back in the MPLA's favour, dos Santos decided to appeal for aid to French Socialist sympathies under the Presidency of François Mitterrand.<sup>18</sup> A call was made to Paris to the former French Socialist Party Southern Africa expert, Jean-Bernard Curial, who was asked to come to Luanda immediately.<sup>18</sup>

Curial's visit witnessed a dire military situation; however, generating assistance for Luanda at this time of need was not, according to *Le Monde*, to be a simple task.<sup>18</sup> Mitterrand's centre-left Presidency was going through its second period of cohabitation, which involved power sharing with the centre-right Government of Edouard Balladur. How would it be possible to obtain official French Government assistance, when the key to such assistance would require agreement from the then French Defence Minister François Leotard, who was well-known at the time as one of the strongest supporters of UNITA in Paris?<sup>18</sup>

Following his return, Curial met the President's son, Jean-Christophe Mitterrand, in Paris.<sup>16</sup> By this time, Jean-Christophe had already left his post as 'African Advisor' to his father's Elysée Palace. Though he could no-longer directly help, Mitterrand suggested that Curial should contact Pierre Falcone, the head of a group of companies under the umbrella 'Brenco International', based in Paris. Falcone was also a key advisor to 'Sofremi' (the 'French Company for the Export of Goods, Systems & Services'),<sup>18</sup> which was a part-private, part-state run organisation operating under

### *Pierre Falcone and Sofremi*

Sofremi is the French acronym for the 'French Company for the Export of Goods, Systems, and Services'. It was set up in 1986, under the jurisdiction of the French Interior Ministry, at that time headed by Charles Pasqua, who had been appointed by then French Prime Minister, Jacques Chirac.<sup>125</sup>

Sofremi was established to promote the expertise of the French Interior Ministry in the field of security, and to negotiate contracts to sell communication and security equipment to overseas police forces.<sup>126</sup> Such deals could only be put together between Sofremi and the government, or state institutions of the target countries, and any resultant contracts required the final approval of CIEEMG, i.e. the Inter-Ministerial Commission for the Study of the Trade of War Material.<sup>126</sup> This oversight approach was established to ensure that Sofremi could not become involved in arms trafficking. Since its establishment, its activities have varied considerably, with a main focus on Latin America and the Middle East.

According to *Le Monde*, Pierre Falcone became one of the most significant advisors to Sofremi, between 1989 and 1997, with his introduction to the company coming through an intermediary of then director Philippe Melchior.<sup>127</sup> After the March 1993 elections, newly installed Interior Minister Pasqua replaced Melchior with Bernard Poussier. Poussier then served as director of Sofremi until 1997.<sup>127</sup>

On 14th December 2000, Poussier was interviewed under caution by the Judges investigating the Angolagate case. *Le Monde* reported he was then 'placed in custody [at la Santé Jail in Paris] for 'misuse of social benefits, abuse of trust, influence peddling and aggravated influence peddling.'<sup>181,128</sup> Poussier was then released on 12th January 2001.

The allegations against Poussier appear to centre around a 1998 payment of approximately one million French Francs (US\$167,000)<sup>129</sup> in cash to Poussier by Pierre Falcone.<sup>81</sup> In a 17th January 2001 interview with *Le Monde*, Poussier clarified 'It [the money] was a loan of "honour" from a friend to whom I confide my problems. Therefore, as soon as my bank was telling me that I was overdrawn, I was talking to him. He then gave me money that I put into my account.'<sup>130</sup>

Poussier also insisted that Sofremi did not mix its business interests with those of Pierre Falcone. He said, 'It [Sofremi] was never involved in any manner with the sale of Russian arms. In any case at that time M. Falcone was mostly dealing with financial engineering in the petrol industry.'<sup>130</sup>

On 28th October 1997, following the elections, Henry Hurand was appointed the new head of Sofremi. Brought in by Lionel Jospin to clean up the company, he promptly sacked Poussier. According to *Le Monde*, he was surprised to discover that Falcone's name 'features on every single contract.'<sup>127</sup> *Le Monde* implies that the new director came to the conclusion that commissions paid to Falcone were 'excessive', and that this might have been one of the reasons for the fact that Sofremi had been running at a deficit during 1996 and 1997.<sup>127</sup>

On 9th January 2001, *Le Figaro* carried an interview with Henry Hurand. One of his first acts as head of Sofremi had been to conduct an independent audit. 'The most significant point was the omnipresence of Pierre Falcone,<sup>131</sup> adding, 'the general rule was that for each market there was to be a different representative, but from 1992, Falcone became the only representative of the Sofremi. It is totally abnormal. He received outrageous fees for every operation.'<sup>131</sup> When asked about the termination of Sofremi's relationship with Falcone in 1997, he said, 'Once I took my decision we had a long discussion. I do not think that he understood my determination. In fact I think that he was convinced that nothing will ever change, that his friends will always protect him and that he was above the law.'<sup>131</sup> When asked what was meant by the comment 'his friends', Hurand replied, 'I have the conviction that during all these years, Falcone greased the palm of everyone.'<sup>131</sup>

As of February 2001, Sofremi ceased to exist and has been replaced by a new structure within the Interior Ministry called Civipol, which will no longer be involved in the sale of arms.<sup>127</sup>

the auspices of the French Interior Ministry that, at the time, was headed by Interior Minister Charles Pasqua.

The timing of the request for help could not have come at a better time given Pasqua's policy of promulgation of French interests across Africa. From the early 1990s, the United States' policy towards Angola had gradually shifted away from support for UNITA, to a policy overture to the Angolan Government. It was clear to Pasqua and his team that it was US oil interests that were responsible for this change. Although the US company Chevron already dominated Angolan oil production, it was felt that this policy swing would deliver further advantage to US companies, posing a serious threat to France's own oil ambitions in the region. In short, it was time for a change in France's own position to engage with the MPLA. Following the arrest of Jean-Christophe Mitterrand in December 2000, Africa expert and former head of military police, Paul Barril, confirmed the selling of arms to Angola was part of a strategy to ensure access to a significant part of Angola's oil production.<sup>19</sup>

There are differing accounts regarding the first meeting of Jean-Christophe Mitterrand and Pierre Falcone. According to his lawyer, Mitterrand first met Pierre Falcone following his departure from the Elysée, but according to *Le Monde*, a former employee of Falcone places Mitterrand's first visit to Brenco International's offices, then at 56 Avenue Montaigne in Paris, prior to July 1992;<sup>18</sup> in other words, when Jean-Christophe Mitterrand was still his father's African Advisor. Sources report that it was a Mr Jallabert, at the time in charge of international affairs at the French arms and electronics company Thomson CSE, who introduced the pair whilst Jean-Christophe still worked at the Elysée.<sup>20</sup>

According to *Le Monde*, about a week after their first meeting Pierre Falcone contacted Curial to let him know that he was able to help.<sup>18</sup> Things moved quickly. By 7th November 1993, the first deal with the Angolan Government had apparently been concluded, according to *Le Monde*.<sup>18</sup> This first deal, worth approximately



Angola's monumental embassy on Avenue Foch – one of the most exclusive avenues in Paris.

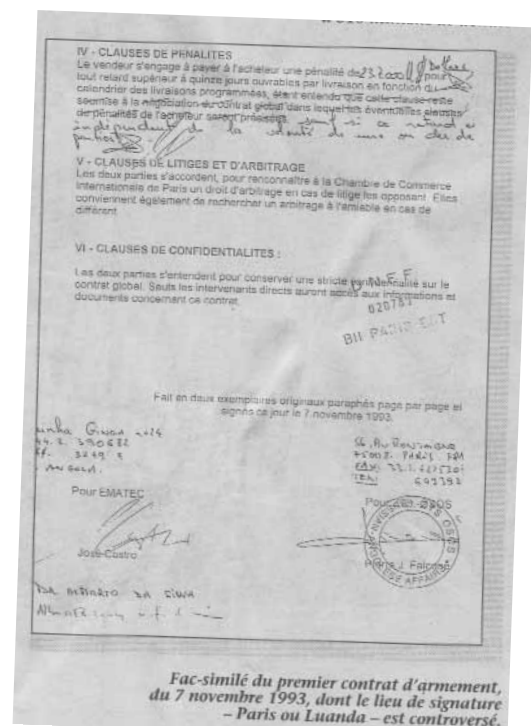
US\$47 million, delivered ammunition, mortar rounds and various artillery pieces by mid December 1993.<sup>18</sup> More was to come. *Le Monde* reports that on the 22nd April 1994, the scale of Falcone's arrangement with Luanda was massively expanded by an 'amendment,' or further deal worth some US\$463 million.<sup>18</sup> On this occasion, the deal was to include fighter aircraft and tanks. By late 1994, according to *Le Monde*, Pierre Falcone had been involved in the selling of weapons to Angola worth some US\$633 million.<sup>18</sup> Sources indicate that although the face value of these contracts may have been as high as US\$633 million, a significant proportion of the weapons listed in contracts were delivered much later than this date.

According to *Le Monde*, Falcone's Angolan contact in Paris was Elísio de Figueiredo who had become the 'third Angolan Ambassador' in Paris through a formal request by dos Santos, in addition to Angola's formal Ambassador and the UNESCO representative.<sup>18</sup> This unorthodox arrangement provided for de Figueiredo,<sup>20</sup> who had previously been Ambassador in Paris, to take on the role of roving Ambassador, without portfolio and act as dos Santos' go-between.



Left: Copy of letter, published in *Le Monde*, to Elísio de Figueiredo, indicating his role as go-between. Following accusations that he received US\$18 million from Brenco, Figueiredo left France. He has since returned and retains his position as 'Ambassador'.

Right: ZTS-Osos' November 1993 arms deal for US\$47 million, published in *Le Monde*, suggesting that the deal was signed in Paris. (Note the address, 56 Avenue Montaigne, the then address of Brenco, written above Falcone's signature on behalf of ZTS-Osos.)<sup>18</sup>



about these things will be punished or killed. So the people just continue to

### Introducing Acardi Gaidamak – is he part of Brencó?

Reports suggest that Pierre Falcone did not manage this process alone. Falcone appears to have formed a partnership with Arkadi Gaidamak, a Russian émigré who had spent sufficient time in Israel to pick up an Israeli passport before moving to reside in France. *Le Monde* suggests that Gaidamak had joined Falcone's company Brencó, and together they had become representatives of a Slovak arms production factory, ZTS-Osos, which was to supply the bulk of the arms to Angola.<sup>18</sup>

An interesting aspect of this stage of the operation is the absence of Gaidamak's signature on the documentation published by *Le Monde*, which would suggest that Gaidamak was not involved in these shipments. Gaidamak confirmed to Global Witness in a telephone conversation that he had been involved with Pierre Falcone at this time, but that their operation only concerned the provision of pre-financing arrangements against future oil production through the French bank, Banque Paribas<sup>21</sup>. He strenuously denied that this operation had anything to do with the sourcing of weapons for Angola.<sup>21</sup> However, in a later conversion, Gaidamak admitted that weapons had, in fact, been supplied, though he denied direct involvement. His justification was that these deals had been arranged with a legitimate government.<sup>35</sup>

### But all is not roses!

Although it would seem that these deals provided a firm footing for Pierre Falcone and Arkadi Gaidamak in Luanda, their operation was not without problems. On 29th November 1994, Charles Pasqua's loyal lieutenant, Jean-Charles Marchiani, allegedly visited Luanda to conclude what *Le Monde* referred to as a 'global agreement' – an all-encompassing agreement with President dos Santos<sup>18</sup> that not only provided the basis for further weapons procurement and oil-backed financing to the Angolan Government, but also benefited French business interests.

The timing of Marchiani's visit seems to have upset the apple cart. Because of the impending French Presidential elections, due in May 1995, tensions had been growing for some time between Jacques Chirac, who saw himself as the next French President, and Charles Pasqua. According to *Le Monde*, Chirac had long been convinced that Pasqua would officially support his opponent, Edouard Balladur.<sup>18</sup> The paper continued, 'if this were to happen, a grip on Angola would be a major asset,' and then taking the argument further stated 'as a result, and because Pasqua did offer his support to Balladur, Chirac's supporters provided information about Gaidamak and Falcone to the French Inland Revenue.'<sup>18</sup> Subsequent investigations by the Inland Revenue remain a bitter controversy to this day. According to *Le Monde*, 'even though the arms did not transit through France, the Inland Revenue is using this particular point to recover unpaid taxes, because they claim the deal was signed in Paris.' However Allain Guilloux, Brencó's lawyer in Paris, has reportedly claimed the deal was signed in Luanda.<sup>18</sup>



Arkadi Gaidamak (left) and friends. His rapid accumulation of wealth continues to attract attention.

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### The freezing of bank accounts

Sources suggest that the French Financial Brigade removed some 50,000 documents from a variety of offices and other premises connected to both Gaidamak and Falcone during raids in early 1996.<sup>20</sup> According to *Le Monde*, the first raid by the Financial Brigade took place at the offices of Brencó on 11th December 1996, which reportedly led to the French Inland Revenue freezing Brencó account number 0042856 Q, held at a rue d'Antin, Paris, branch of Paribas in late 1998.<sup>20</sup> An earlier report in *Le Monde* stated that an account belonging to ZTS-Osos held at a branch of Paribas was frozen in December 1996.<sup>22</sup> It has not been possible to determine whether the two accounts referred to are in fact the same.

In a separate article, *Le Monde* reported that a 'fiscal enquiry' into a ZTS-Osos account, held at Paribas, resulted in the account being 'closed down ... in December 1996.'<sup>22</sup> *Le Monde* explained that the fiscal enquiry had shone light on 'transactions with Angola, through an intermediary of the State company, Sonangol, which remunerated ZTS-Osos through a bank account opened in Paris, at a Paribas branch, in 1994.' According to the article, 'Falcone and Gaidamak, who retained a procurator on the account, did not declare the revenue.' Sources indicate, however, that this might represent an oversimplification of French Financial Brigade's interest in the activities of Falcone and Gaidamak. Reportedly, control visits were made by the Financial Brigade in 1992 and then during those that took place in 1996, some 80 different accounts were identified.<sup>20</sup>

In late 1998, the French Inland Revenue Service demanded Brencó should pay back-taxes totalling 1,256,766,403 French Francs (approximately US\$222 million),<sup>23</sup> which if successful, would make this the biggest payment of back-taxes ever to have taken place in France.<sup>18</sup> A tax bill of US\$222 million on trades worth some US\$633 million seems extraordinarily high: could the size of this tax demand indicate either that trade with Luanda was substantially higher than previously documented during this period or that substantial shipments of materiel continued beyond the end of 1994?

**suffer because there is nothing they can do** – Displaced man, early 2001<sup>a</sup>

**"We left**



## The house of cards starts to fall

Though the arrest of Pierre Falcone was widely reported in the French media, it took the arrest of Jean-Christophe Mitterrand on 21st December 2000 to make the story of Angolagate international news. What went wrong with Falcone and Gaidamak's operation and led to the arrest and, in some cases, incarceration of numerous prestigious individuals at La Santé jail in Paris?

Although both Gaidamak and Falcone had previously been investigated, enquiries did not result in any charges. It is clear from numerous articles that both had strong political allies.<sup>24</sup> Despite the fact that sources and articles indicate that the Financial Brigade demonstrated a persistence in their investigations,<sup>20</sup> they were ground down by political opposition. Indeed, it was not until additional evidence of alleged impropriety was uncovered through a series of unrelated investigations that political resistance seems to have finally given way.

So far, the reader will have the impression that the Angolagate story is one of finance, arms supply and tax evasion during 1993 and 1994 – this is certainly how it has been portrayed in the French media. However, Global Witness believes that the real story of the financing of Angola's war effort goes far beyond 1993 and 1994, and for that matter, beyond simply French and Angolan national interests; perhaps even to the heart of international policy of oil interests. The following sections provide some insight into these events.

## The story of the 'big French ears for Angola'

According to *L'Express*, an un-named informer provided detailed testimony to Judge Marc Brisset-Foucault, relating to a secret deal involving efforts by the French company 'Communication et Systèmes' (CS) to export communication intercept equipment (the 'big French ears') to Angola, *L'Express* did not suggest that charges have been levied in this matter.<sup>25</sup> It seems likely the 9th May 2000 raid on the offices of both Falcone and the Vice-Chair of CS, former General Claude Mouton, in response to the informer's evidence, provided significant information of use to more recent investigations into the wider operations of Falcone.<sup>25</sup> Interestingly, in July 2000, Mouton became a Director of Brenco France.<sup>26</sup>

The raid on the CS offices reportedly involved an argument between the police and Raymond Nart (who is not under investigation), former deputy director of France's DST internal intelligence agency, and at that time, head of international relations at CS.<sup>25</sup> It was Nart who later provided a letter of testimony (i.e. a character reference) for Arkadi Gaidamak during the latter's September 2000 libel action against the French publication, *La Lettre du Continent*.<sup>20</sup>

Allegedly, this deal involved two different kinds of communication monitoring equipment: the Murene system used for monitoring GSM-type mobile phones and the more sophisticated Menta system, which is used to monitor satellite phones.<sup>25</sup> Another report adds further details about this equipment;<sup>27</sup> in addition to its capacity to tap satellite phones, the Menta system is also able to provide triangulation points, enabling the location of specific satellite phone users – a surely useful attribute for the

Angolan Government in their efforts to locate Jonas Savimbi in the bush.<sup>27</sup>

*L'Express* reported that the second deal, though approved by the French Ministry of Defence, had been put together without being approved by the Inter-Ministerial Commission for the Study of the Trade of War Material (CIEEMG),<sup>25</sup> whose approval is required prior to the export of sensitive military equipment. *L'Express* also reported that a sum of US\$7 million disappeared, and that 'without reservation, the structure of the deal did not allow the payment of hidden commissions.'<sup>25</sup> Claude Mouton denied any illegality had taken place<sup>25</sup> and to date, Global Witness is not aware of any published comments from Falcone about this issue.

## An unrelated case leads to Angolagate

In November 1999, investigating Judges Philippe Courroye and Isabelle Prévost-Desprez inherited an investigation into a case of suspected money laundering in Morocco.<sup>22,28</sup> This investigation soon pointed them towards Allain Guilloux, a well-known tax lawyer.<sup>22,29</sup>

Guilloux had included several well-known personalities in his client list. These included Jean-Claude Mery who, prior to his death, recorded the now famous video-cassette of corruption allegations concerning Jacques Chirac's tenure as Mayor of Paris.<sup>28</sup> *Le Monde* reported that Guilloux was also acting on behalf of Gaidamak and Falcone,<sup>22</sup> it seems after 1996, in order to deal with the issue of the frozen bank accounts at Banque Paribas<sup>18,22</sup> (See *The freezing of bank accounts – page 13*). According to *Le Monde*, following the investigators' discovery of files at Guilloux's office that related to the Brenco/Paribas case, the Financial Brigade police, once again, raided Brenco's premises.

## The 26 diskettes and the fall of the mighty

According to *Le Monde*, one such raid took place in September 2000 at the apartment of Pierre Falcone's secretary, Isabelle Delubac<sup>22,30</sup> who investigators discovered had hidden some 26 computer-diskettes on Falcone's orders. The diskettes provided a detailed case-by-case history of Brenco's deals involving Angola from 1997-1999, and named numerous individuals and companies as well as providing details of specific payments.<sup>22</sup>

These diskettes, together with other sources of information, provided the Judges with food for further investigation, and this in turn led to searches of various premises and the interrogation of a number of individuals named on the diskettes. In some cases, these procedures led to individuals being charged with a variety of offences. Prior to discussing the arrests and charges that have been brought by the investigating Judges, the next section provides further details about deals with Angola.

**because of death and famine ... we were farming but everything was always**

## The Brenco network and deals with Angola

**S**O WHAT were Falcone and Gaidamak up to? The Brenco group of companies, Pierre Falcone and his relationship with Arkadi Gaidamak and the Slovak based company ZTS-Osos have been the subject of significant press speculation since the breaking of the Angolagate scandal in late 2000. This section draws these sources together and provides supplemental information.

The main parent company of the Brenco group appears to have been Brenco International, which was based, together with Brenco-France, at a number of different addresses in Paris. In December 2000, *Liberation* provided an insight into the possible number of Brenco subsidiaries and their location worldwide. This is likely not to be an exhaustive list but it included:<sup>31</sup>

Brenco Trading Ltd in the Isle of Man, UK; Brenco Investment in Montreal, Canada; Brenco Ltd in London, UK; Brenco Coren SA in Bogota, Colombia; and unnamed subsidiaries in Burma and Argentina. The article refers to Brenco operations in Colombia, Guinea, Madagascar, Russia and Khazakstan.<sup>31</sup>

Some reports have suggested that Brenco is a subsidiary of ZTS-Osos, whilst others have suggested the opposite. Despite the reported connection between the two companies, Global Witness' investigations have not been able to uncover any on-paper formal link between them.<sup>20</sup> Nevertheless, according to *Le Monde*, during 1996, both Gaidamak and Falcone were signatories on a Brenco account number 0042856Q at the Paribas branch on the rue d'Antin.<sup>20</sup>

During the first few arms contracts between ZTS-Osos and Angola in 1993 and 1994, Brenco France was located at 56 Avenue Montaigne in Paris. It is interesting to note that this address and Brenco's telephone and fax numbers, are included on the initial US\$47 million ZTS-Osos contract, together with Pierre Falcone's signature, suggesting a close link between Brenco and ZTS-Osos. The ZTS-Osos stamp, adjacent to Falcone's signature, is annotated with the legend 'Russian-Angolese Affairs'.<sup>18</sup>

In December 1996, *L'evenement du Jeudi* published a copy of this first ZTS-Osos contract with Angola<sup>32</sup> and included a breakdown of the material provided:

- 30 tanks T-62, manufactured between 1961 and 1972, 115mm gun, range 500 km.
- 40 armoured vehicles BMP-2 with 4 anti-tank missiles, a 75mm gun and a 7.62 mm machine gun.
- 24 howitzers, 251 Gvozdika, fixed on tank chassis, manufactured in 1970.
- artillery guns M-46 (130mm).
- 18 artillery guns DCA ZU-23/2 (23mm).
- 12 multiple rocket launchers Grad P.
- 50 automatic antipersonnel grenade launchers AGS-17 Plamya (30mm)
- 250 light machine guns RPK.
- 500 mortars PKM.
- 150 bazookas Schmel.
- 5,500 kalashnikovs: 7.62 mm AKM and 5.45 mm AK-74,



What went on behind the closed doors of Brenco's headquarters in the very prestigious Avenue Kléber in Paris?

with the Kastor grenade launcher fixed under the gun.

- 13 million rounds of ammunition (7.62mm).
- 750,000 rounds of ammunition (5.45mm).
- 10,000 offensive and defensive grenades.
- 21,000 grenades (30 and 40mm).
- 5,000 mortar shells (82mm).
- 50,000 30 mm armour piercing shells.
- 10,700 projectiles (115, 122 and 130mm).
- 1,500 MPB detonators, B429 and B90.

According to *L'evenement du Jeudi*, military specialists suggested that such a list could supply a motorised division of 8,000 men. However, the paper suggested that the ammunition content was not sufficient to supply an offensive action for a significant period, hinting at the likelihood of further contracts and by the end of 1994, as already described, the total value of contracts with Angola allegedly stood at US\$633 million.<sup>18, 32</sup>

*L'evenement du Jeudi*'s article referred to a previous article that it had published two months earlier about a shipment of Russian trucks to Angola, stating, '*L'evenement du Jeudi* explained the circumstances in which Falcone and Gaydamac sold... Russian trucks to Angola, the same ones that the Russian army uses.'<sup>32</sup> The paper continued, 'already at the time, we mentioned the contract [arms contract for US\$47 million – the subject of this later article] between Russia and Angola.'<sup>32</sup> The paper reports that at the time of the original article 'Falcone and Gaydamac' vigorously denied being involved, insisting that they were both 'disgusted by the arms trade.'<sup>32</sup>

**either taken by the government or by Unita. If it wasn't the FAA that came**





Later in the article, having published details of the US\$47 million contract for arms, which the paper claimed demonstrated that Falcone must be an arms dealer, Falcone is quoted 'one has to read between the lines of this contract,' and 'we came to the rescue of a legal government, the one of President dos Santos. The moral is on our side'.<sup>32</sup> Though the article suggests that Gaidamak continued to deny knowledge of the contract, he was reported as saying, 'if this contract exists, you will notice that it helped bringing back the peace. It is the only thing that matters.'<sup>32</sup>

Following the 1993 and 1994 deals, Brenco's headquarters moved to the very prestigious address of 64 Avenue Kléber in Paris, adjacent to the Argentinian Embassy, and within short walking distance of the Angolan Embassy on Avenue Foch.

**Paris as a location for deal signing?**

To date, the press has discussed arms trafficking with Angola that took place in 1993 and 1994. The press has also raised the fact that Brenco, Falcone and Gaidamak have all been pursued for alleged non-payment of taxes related to these deals.

The distinctly French character of the original US\$47 million contract should be noted, undermining claims that the deals were conducted in Angola. Not only was the document written in French, but it was allegedly also sent to Elisio de Figueiredo who was based in Paris.<sup>18</sup> The then Paris address for Brenco appears on the contract, together with Pierre Falcone's name, signed under the inscription 'Pour ZTS-Osos.'<sup>18,32</sup> It is these collective aspects of the document, together with information from sources, that suggested it is likely this contract was signed in France.<sup>20</sup> Presumably, it is these factors that explain the efforts of the Financial Brigade to bring charges of non-payment of taxes.

**Another ZTS-Osos contract with Angola – Gaidamak comes on board?**

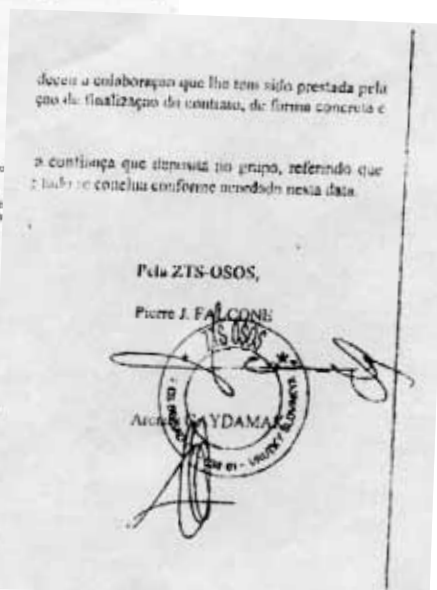
Global Witness can reveal the existence of a further weapons contract worth US\$44,925,000 that dates from 1995/6.<sup>33</sup> It is possible that this contract was put together at approximately the same time as a 19th September 1996 agreement between Banque Paribas and the Angolan State oil company Sonangol for a loan of US\$135 million which saw oil trading company Glencore International AG tied in to lift a specified volume of future oil production to repay the loan.<sup>34</sup>

In a telephone conversation with Global Witness, Gaidamak stressed that both he and Pierre Falcone had been made Angolan citizens and that they had been given diplomatic passports, after which they were both 'made signatories on the accounts' that they had set up with Banque Paribas for the process of generating oil-backed loans.<sup>21</sup> Gaidamak was saying that he and Falcone had been given control over funds obtained from the loans, which were, in effect, a significant part of the Angolan State budget, located and disbursed entirely offshore from Angola itself. During this first conversation, Gaidamak was keen to point out the finance side of their relationship to the Angolan Government, denying that arms were involved.<sup>21</sup>

The 1995/6 arms deal shows some important stylistic differences from the earlier contract. Most obvious is the change of language to Portuguese. This time the contract is concluded 'Pela ZTS-Osos' and both the names Pierre J. Falcone and Arcady Gaydamac (sic) appear on the document. Against each of these names, a signature is provided. Some sources have suggested that Gaidamak rarely, if ever, signed anything. However, the signature provided against the name Pierre J Falcone appears genuine when compared to original signatures provided in the



**ZTS-Osos' 1995/1996 arms deal for US\$44 million. Falcone's signature (below) appears to match that in his report to UK Companies House (left).**



**Above: Banque Paribas' September 1996 US\$135 million oil-backed loan agreement with Sonangol.**

**during the day for the batidas, it was Unita that came at night. At some point,**

official year-end filings of Falcone's UK-based companies.

The logo on the company stamp for this new document no longer states 'Russian-Angolese Affairs,' but now has the legend 'Vrutky Slovakia.'<sup>33</sup> This time, the shopping list included combat vehicles and troop transporters, annotated in Portuguese [Global Witness headings added] and including:<sup>33</sup>

Item	Quantity	Unit cost (US\$)	Total cost (US\$)
<b>Carros De Combate</b>			
BMP-2	35	350.000,00	12.250.000,00
BMD	30	153.000,00	4.590.000,00
<b>Transporte De Tropas &amp; Cargas</b>			
?RAL 4320	100	65.000,00	6.500.000,00
?RAZ 260 ND	200	59.125,00	11.825.000,00
?AZ Cavalo mecanico	10	80.000,00	800.000,00

All question marks indicate where the text was unreadable (see below).

The document refers to additional equipment listed below the text described above. Although some of this text is unclear, items such as 'T54/55 E T62', a reference to tanks, could be distinguished. Against these items, a zero was included, and no price was given, which may suggest that although these items could be supplied, none were ordered on this occasion.

The total value of items listed was US\$35,965,000, whereas the total amount charged was US\$44,925,000. Another figure of US\$8,960,000 was added in between the two totals. It is not clear what this additional sum represents, though it could be a commission charge of almost a quarter of the value of the items ordered.<sup>33</sup>

It is not clear if Banque Paribas' US\$135 million loan was used to finance this contract. However, given that funds raised from oil-backed loans in which Paribas participated, were then subsequently used by the Government for the purpose of financing arms supplies in 1993 and 1994, and given that Gaidamak and Falcone, according to Gaidamak, had become the authorised signatories on Paribas accounts relating to loans provided,<sup>21</sup> the possibility that at least some of the US\$135 million loan could have been used to finance this arms contract can not be ruled out. Banque Paribas should provide information to the investigating Judges concerning what, if anything, it knows about these loan arrangements and what other contracts may have been put together. They should also provide information about the exact roles of Gaidamak and Falcone in both the negotiation of loans and their control over subsequent account structures.

## Has Angola obtained value for money in its arms supply programme?

To produce a definitive answer to such a question clearly requires more than a simple comparison of shopping lists from contracts relating to arms supplied by from either ZTS-Osos, or any other key suppliers to Angola. Clearly, the age of the items supplied, together with their condition are also key factors in determining a product's true value. For example, some supplies to Angola have included forty-year-old tanks [here we are not referring to arms supplied by ZTS-Osos], which not only clearly do not offer a decisive tactical advantage, but may even prove to be a dangerous liability in any modern mobile warfare situation.<sup>36</sup>

In the past, sources in Angola have talked of the existence of equipment graveyards, full of tanks and other military hardware located just outside Luanda.<sup>36</sup> Far from being the victims of war, it seems these items had been brought straight to their final resting place by truck, because they were in such poor condition that it

had not been possible to remove them from importing ships under their own power. Thus, effectively useless imports were brought to Angola by a variety of arms dealers, primarily because of the commission available to those involved in the deals.

From additional research in other African conflict hot-spots, Global Witness has become aware of arms being supplied through over-priced invoices, that in some case indicates that the country concerned was obtaining supplies worth perhaps only one fifth to one quarter of their real value. In this example, the vast profit margin, enabling kick-backs to be generated for all involved in the deals, was the primary motive for the deals to take place at all.<sup>36</sup>

## Russian State interests in ZTS-Osos

In an article published on the 22nd January 2001, the Czech Republic based *CTK Publications* reported significant Russian State interests behind ZTS-Osos.<sup>37</sup> If true, these connections add

further light to the nexus of interests in Angola and its oil wealth, and would be consistent with Russia's apparent willingness to renegotiate US\$5.5 billion of debt owed by Angola. In addition, such connections would suggest that President Putin's deplorable policy of peddling arms to Africa may, in fact, have begun during the Yeltsin regime.

According to a journalist at *CTK Publications*,<sup>38</sup> the Slovak state registry of companies records a name change for 'ZTS-Osos Martin' to 'Osos Vrutky', in December 1994. This would explain the change in the company stamp for the later deal (reproduced above left and on page 16), and supports the notion that this document falls outside of the 1993/94 period, which the French press have dubbed Angolagate. *CTK* reported that this new structure is 46% owned by Slovak companies (which are not named) and employees of Osos Vrutky, with 10% being held by the Czech firm Marden. The article also includes comments that were attributed to Osos-Vrutky General Director, Jan Valenta, who is reported to have stated that 'about 44 percent of shares of the Osos Vrutky ... company ... is (sic) owned by the Russian Kurganmash and Rosoboronexport arms companies.' Valenta reportedly stated that 'the Russian State weapons export company Rosoboronexport has about 16% of the shares of ZTS-Osos Vrutky,' with 28%

Item	Quantity	Unit cost (US\$)	Total cost (US\$)
<b>CARROS DE COMBATE</b>			
BMP-2	35	350.000,00	12.250.000,00
BMD	30	153.000,00	4.590.000,00
<b>TRANSPORTE DE TROPAS &amp; CARGAS</b>			
?RAL 4320	100	65.000,00	6.500.000,00
?RAZ 260 ND	200	59.125,00	11.825.000,00
?AZ Cavalo mecanico	10	80.000,00	800.000,00
<b>MATERIAL</b>			
T54/55 E T62	0	0	0
T54/55 E T62	0	0	0
T54/55 E T62	0	0	0
T54/55 E T62	0	0	0
			44.925.000,00

## Gaidamak's business empire

The French press has described how Gaidamak started his business life in Paris through the establishment of a translation service company. Much has since been made of his extensive wealth, and the speed by which it was generated.

Gaidamak is listed as the Chief Executive of a Luxembourg holding company called Finegos International SA<sup>56</sup> and as Director, together with his son, Alexandre Gaidamak, of another Luxembourg holding company, Pivoine SA.<sup>56</sup> The Gaidamak family also appear to be connected to a number of London-based companies. These include: Monarch Fiduciary Ltd, Mondiale Property Ltd and Mondiale Management Ltd.<sup>39</sup> Until recently, all these London-based companies were located at 8 Carlos Place. Mondiale Management Ltd is ultimately owned by a Jersey-registered holding company, Tudorose.<sup>39</sup> The function and ownership of Tudorose is not clear.

A further two companies in London, Sonus Ltd and Europitex Ltd, also appear to be connected through shared directorships and shareholding to the companies mentioned above.<sup>40</sup> In 'Notes to the Financial Statements' of Europitex in 1998, a 'Mr. A. Gaidamak' is specifically referred to as the 'ultimate controlling party of the company'. Both Sonus Ltd and Europitex Ltd were dissolved in March and July 2001 respectively, and Alexandre Gaidamak ceased to be a Director of Mondiale Property Ltd on 24th April 2001.<sup>40</sup> Arkadi Gaidamak became a fugitive from an international arrest warrant, issued on 11th January 2001.

Although the status and function of some of the companies that appear to be connected to Gaidamak either directly, or through his son Alexandre, are not clear,

**Below left: 8 Carlos Place – once the centre of Alexandre Gaidamak's web of business interests.**



**Flying high with Arkadi Gaidamak.**

some do appear to be involved in property investments. Amongst the property portfolio, was one large apartment block in London's exclusive Mayfair, sold at the end of 2000. Sources have also suggested that Gaidamak has substantial property interests in the exclusive Kensington area of London.<sup>56</sup> Indeed, in court documents pertaining to Gaidamak's law-suit against the French NGO Survie, his UK address is listed as '3 A Kensington Garden No 8'.<sup>41</sup>

### Gaidamak in Israel

In 1998, Gaidamak legally changed his name in Israel to Arye Barlev. In early 2000, the Tel Aviv newspaper *Yedi'ot Aharonot's Leshabat* supplement, reported that 15% of the shares of the Israeli public company Africa Israel, which were controlled by businessman Lev Leviev had been acquired by Gaidamak.<sup>14</sup> It seems that Gaidamak had been introduced to Leviev in 1999 by Dani Yatom, the former head of the Israeli intelligence agency

**Below right: Gaidamak's advances into Mayfair. His property portfolio now includes prestigious London real estate.**



Mossad.<sup>42</sup> According to *Ha'aretz*, in January 2002, Gaidamak has since sold his stake back to Leviev for US\$75 million, the same amount he paid for it.<sup>43</sup>

In a January 2000 statement to the stock exchange, Africa Israel allegedly stated that Gaidamak 'owns numerous real-estate properties in Western Europe and several other businesses in infrastructure, investment properties, and energy'. The statement went on, 'Mr Leviev's decision to sell some of the company shares to international businessman Arkady Gaydamak (sic) was made in view of his relative advantages, which can bring added value to the realisation of the company's business aims. Leviev believes that the company can reach international achievements in energy, real estate and investment assets following the partnership with Gaidamak'.<sup>14</sup> After only a few months, the Angolan Government announced that it was awarding exclusivity on the sale of the country's diamonds to Leviev's company. It is not known what role, if any, Gaidamak might have played in delivering control over Angola's diamond production to Leviev.

Since this first announcement, the relationship between Gaidamak and Leviev appears to have grown to other business sectors, including fertiliser and uranium production in Kazakhstan, with possible further ventures into gold production.<sup>44</sup> Of particular note is the acquisition of the chemical treatment complex of Tselina, known as Kazsabton, which was allegedly one of the key companies in the production of nuclear weapons in the Soviet Union.<sup>42,44</sup> Given reports that Gaidamak sold his stake in Africa-Israel back to Leviev, it is not known whether he continues to retain the apparent Leviev/Gaidamak joint investments in Kazakhstan in his portfolio.

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PART ONE



The Scandal

being held by the Russian company Kurganmash.<sup>37</sup> The latter company manufactures armoured troop carriers, of the same type as those mentioned in the contracts of 1993/4 and later in 1995/6 (BMP-2s and BMP-3s). *CTK* also stressed that Valenta 'denied that ZTS-Osos Martin, or Osos Vrutky had ever traded in weapons', although, he said, 'Osos Vrutky has had a licence for such a trade since 1998.'<sup>37</sup>

*CTK* were unable to obtain confirmation from either of the Russian companies as to their stake in Osos Vrutky, and Kurganmash was unwilling to divulge its beneficial owners.<sup>38</sup> However, official Slovak Government records show that in May 1993, 18.97% of ZTS-Osos Martin was sold to the Russian State company Specvnestekhnika Moscow, a precursor to the Rosvoruzhenye company, which itself was one of two precursors of the Russian state arms company Rosoboronexport, mentioned above as a 16% shareholder of Osos Vrutky.<sup>37-38</sup> According to *CTK* journalists, another angle is provided by the Russian magazine, *Moskovskye Novosti*, which in December 2000, reported that the Russian secret service purchased 67.5% of ZTS-Osos stock in 1993, through Specvnestekhnika.<sup>38</sup>

If suggestions that there is a significant interest held by Russian State-owned arms production companies in ZTS-Osos are true, it implies knowledge, and perhaps approval, of the activities of the company and its associates in Angola by high-level Russian Government officials. Russia's current administration should clarify what it knows of these activities.

### Falcone and Gaidamak work on Angola's US\$5.5 billion debt to Russia

According to a number of press reports, both Falcone and Gaidamak were involved in a deal to renegotiate Angola's US\$5.5 billion debt to Russia, where Russia would receive US\$1.5 billion, through financing obtained from oil-backed loans.

According to *Le Temps*, a Geneva-based judicial enquiry into this issue has resulted in the freezing of approximately US\$750 million. *Le Temps* reports, 'the enquiry taking place in Geneva has allowed the reconstitution of the pathways followed by [the first] half of the proceeds of this deal; i.e. US\$750 million.' *Le Temps* continued, 'instead of being deposited in favour of the Russian State, in theory the owner of this debt, the bulk of this amount was deposited into the accounts of high ranking officials of the two countries.'<sup>12</sup>

*Le Temps* reported comments attributed to a source close to the Angolan Government, who reportedly stated, 'the accounts of the dignitaries of the regime, some of which are now frozen in Swiss banks, contain 'official money' that these dignitaries were charged to 'carry' for the Government.'<sup>12</sup>

*Le Temps* refers to 'Vitaly Malkin, a banker who figured amongst the ten "oligarchs" closest to Yeltsin, who held power of attorney over a UBS account, in the name of a company called Abalone Investment Ltd'. The paper continued, 'this account, number CO – 101436, was allegedly used as a receptacle for funds coming from the debt repurchase operation.'<sup>45</sup>

According to *Le Temps*, 'Vitaly Malkin was allegedly a shareholder of Abalone, together with two main characters involved in the affair [the debt deal], the arms dealer Pierre Falcone, and the Russian



Yeltsin meeting with dos Santos. Did Yeltsin agree to the restructuring of Angola's debt to Russia?

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billionaire Arkadi Gaidamak.<sup>45</sup> *Le Temps*' reference to Gaidamak's business relationship with Pierre Falcone in Abalone Investment Ltd is interesting, in light of his comments in an interview with *Le Parisien*, where he reportedly stated, 'Pierre Falcone and myself have never been associated in any company.'<sup>46</sup> A December 2000 Rossiyskiy Kredit Bank – News press release stated, '...the newly elected Council of the Bank held a session which elected Arkadiy Gaidamak [SIC] Chairman of the Council (President) of the Bank. The former chairman of the Council, Vitaly Malkin, has become his deputy.'<sup>47</sup>

As a concluding remark, *Le Temps* comments 'a person with detailed knowledge of the investigation suggests that the Russian debt re-purchase deal by Angola... may have been used to finance the re-election campaign of Boris Yeltsin in 1996.'<sup>45</sup>

### CADA, a Brenco subsidiary, is the key to FAA food and medical supplies

In 1999, the Angolan newspaper *Angolense*, published an article about CADA (Companhia Angolana de Distribuição Alimentar),<sup>48</sup> suggesting that this previously unheard of company was in fact an operation conducted by various un-named generals of the Angolan Armed Forces (FAA). The article stated that the contract obtained by CADA was worth US\$720 million, and left the company the sole supplier of food to the armed forces over a five-year period.<sup>48</sup>

However, Global Witness can reveal that CADA belongs within the Falcone's Brenco group of companies, and is not connected to Angolan Generals. CADA appears to have assumed control of all food, medical and uniform supplies to the FAA.<sup>20</sup> André de Fiori, director of the London branch of CADA, known as Companhia Angolana de Distribuição Alimentar Limited (CADA Ltd), provided an interesting clarification about this arrangement in a letter from 1998.<sup>49</sup>

The letter (*see opposite page top*) is written on Argo letterhead, a company based in São Paulo, Brazil. Mr de Fiori explains that Argo is the Brazilian representative office of the 'Brenco Group.' He provides further clarification, claiming the company is

**villagers, on the other, the troops threatened us with death if we didn't follow**

a 'European based international business group [Brenco Trading Ltd – BTL the holding company is based in London as Brenco France – the administrative headquarters – are located in Paris] specialized in the development of operations requiring the intensive use of financial and commercial engineering in "difficult countries."<sup>49</sup> He explains, 'Brenco has been operating successfully in several countries such as China, Mainland (sic), Cazakistan (sic), Russia, Bulgaria, Colombia, Mexico and Venezuela (sic).'

Further, de Fiori states that, 'one of its [i.e. Brenco's] off-shore companies, CADA ...has recently [early 1998] signed a supply contract with an Angolan state-owned corporation and will be the company that will actually purchase the goods and having the same re-invoiced to the Angolans. Argo acts as the trading group coordinating the procurement and negotiations for the several items on behalf of CADA.'<sup>49</sup>

De Fiori concludes that CADA will issue 'confirmed letters of credit at sight, based on means of payment and guarantees provided by Brenco...'<sup>49</sup>

In a 14th January 2000 article linking the 'Kremlingate' scandal to Angola,<sup>50</sup> the Portuguese daily *Público* also commented on CADA. In an effort to determine the role of CADA in Angola, *Público* asked a number of detailed questions of the Angolan Presidency. The paper made considerable effort to secure answers, but despite several faxes, phone calls and emails, did not receive an answer to the questions.<sup>50</sup> *Público* also sent, amongst others, questions to André de Fiori, director of CADA Ltd. With the exception of a comment to the effect that CADA supplied the Angolan State-owned procurement company Simportex, no answers were received:<sup>50</sup>

Sources within the international food trade industry also provide an interesting insight into the privileges accorded to CADA's operations in Angola. One of the key problems encountered by food traders

doing business with Angola is the overpricing of goods at the Angolan import end of any trade deal;<sup>51</sup> a problem which is, to an extent, moderated by the presence of the Swiss inspection company SGS, which provides what is known as a 'Clean Report of Findings.'<sup>51</sup> This is a verification process designed to ensure that products supplied are of sufficient quality and quantity to justify the price being charged.

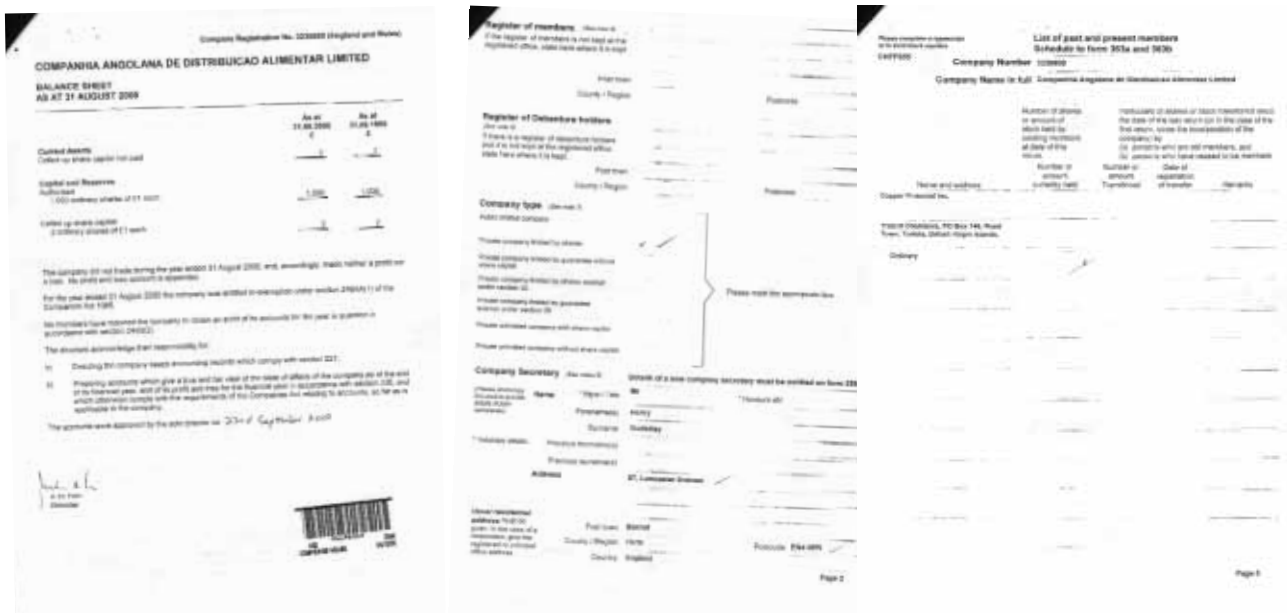
According to commercial food company sources experienced in doing business with Angola, 'imports involving CADA are not subject to such controls.' On one occasion a CADA/ARGO representative stated, 'don't worry about SGS, because we don't need any Clean Report of Findings.'<sup>51</sup> Commercial food companies have informed SGS about this practice.<sup>51</sup> Global Witness urges SGS to make public what it knows about the operations of CADA in Angola.

Companies House documents show that CADA Ltd in London is located at 40 Queen Anne Street, London W1. CADA Ltd was established in 1996, and de Fiori is listed as Director.<sup>52</sup> The company is listed as a subsidiary of a company called Copper Financial Inc, located in Tortola, British Virgin Islands; the latter having been established by Henry Guderley, who is also listed as Company Secretary of London-based CADA Ltd. Guderley also appears in Companies House listings as Company Secretary for a number of other Brenco affiliated UK based companies, including: Brenco Ltd; Essante Ltd; Invest Time Ltd; Clearhall Ltd; and Brenco Aviation Consulting Ltd.<sup>53</sup>

Searches in Companies House did not reveal either the current or former existence of a company called Brenco Trading Ltd, registered in the UK, despite de Fiori's reference to this being the name of the holding company for the Brenco Group. However, a Brenco Trading Ltd was listed in Douglas, Isle of Man in 2000. The publication listing Brenco Trading Ltd, indicates that both Clearhall Ltd and Invest Time Ltd are subsidiaries.<sup>54</sup> Both of these companies are registered at Companies House in London.<sup>55</sup> Another



Below: CADA Ltd's Companies House filing shows the company's shareholding, Henry Guderley's role as Secretary and de Fiori as Director. Note the shareholder's address is the same as Brenco Trading Ltd, a shareholder of Essante Ltd (see page 23).



them! The situation became unbearable...” –Displaced person, Huambo Province<sup>b</sup>

“If

## Deals and connections to other countries

Press coverage, especially since the arrest of Pierre Falcone on 1st December 2000, provides an insight into other arms deals that appear to be related to Brenco. In addition to the fact that Brenco deals in countries ranging from Colombia and Mexico, to China and Kazakhstan, as referred to by Argo's André de Fiori in his 1998 letter (See CADA, a Brenco subsidiary, is the key to FAA food and Medical Supplies – page 19), Brenco, or some component of the Brenco/ZTS-Osos operation appears to be connected to arms and other equipment deals in Burma, Cameroon and Congo-Brazzaville.

### Brenco's company, Setraco, takes part in deals with SLORC in Burma

In 1992, French oil company Total completed its contract for the Yadana gas pipeline in Burma, reportedly through the assistance of a Brenco subsidiary, or affiliated company, Setraco, which supplied 24 Soviet-era helicopters to SLORC, the Burmese military junta.<sup>58</sup> The helicopters were supplied, reconditioned in Warsaw, following the failure of earlier efforts to secure helicopters from Vietnam. At that time, the business card of Jean Pichon, director of Setraco in Rangoon (and former military attaché in France's Bangkok embassy), showed not only the company's Vietnamese offices and an address in Geneva, but also Setraco's 'French liaison office', located at the same address as Brenco France, then at 56 Avenue Montaigne, Paris.

The official Polish position is that these helicopters were delivered direct, without the need for intermediaries. However, a Polish diplomat at that time said, 'the Burmese paid us with Total money.'<sup>59</sup> Here, the suggestion is not that Total paid directly for these helicopters, but that SLORC used Total's signature bonus payments for its Yadana pipeline deal, possibly mixed with funds derived from SLORC's involvement in the international heroine trade, and that these payments were then paid through a joint-venture bank account in Singapore.

Thierry Desmarest, CEO of the combined group TotalFinaElf, should clarify what he knows of arrangements that were made to supply helicopters in connection to the Yadana gas pipeline project.

### Deals with Cameroon

In early 1994, Cameroon was involved in a sovereignty dispute with neighbouring Nigeria over the oil-bearing Bakassi region. According to an AFP report filed in the publication *Jeune Afrique*, a letter from Pierre Falcone to Edouard Mfoumou Akame, then the Minister delegate to

the Cameroonian Presidency, shows that ZTS-Osos obtained a deal to supply weapons to Cameroon.<sup>60</sup>

According to the publication *La Lettre du Continent*, a letter from Falcone on 24th March 1994 with a 'ZTS-Osos' letterhead provides details of the arms purchase, claimed to be worth US\$71,608,700. The deal included: US\$19.6 million for IGLA-IE anti-aircraft missiles; US\$9.3 million for three combat helicopters; US\$6.27 million for 'Faktoria' anti-tank missiles and US\$2.29 million for their launchers; US\$5.4 million for 'Métis' anti-tank missiles and US\$1.9 million for their launchers; US\$6.28 million for ammunition; US\$2.7 million for 10,000 Kalashnikovs.<sup>61</sup> The list was reportedly later increased through the inclusion of additional hardware, including rocket launchers, costing an additional US\$495,000.<sup>61</sup> The total value of the items listed comes to US\$54.24 million, suggesting that other items or hefty commissions must have been included in the total charge.

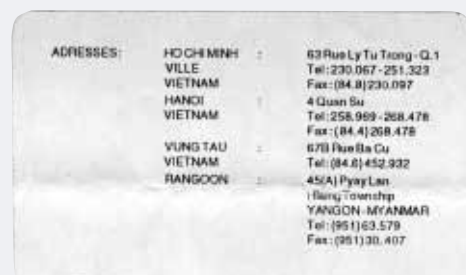
According to *La Lettre du Continent*, Falcone sent a second letter on 11th April 1994 to Akame, requesting confirmation of a transfer of US\$1,513,300 to ZTS-Osos, courtesy of the Moskva Bank.<sup>61</sup> In a third letter to Akame (by this stage, Cameroonian Finance Minister), dated 3rd May 1994, Falcone reportedly enthused, 'we are delighted that you have received your order, and as you know, we are entirely at your disposal should you require any logistic help at a later stage.' The article continues, 'as a "reminder", Pierre Falcone reminds the addressee of "our account" Menatep at the Bank of New York.'<sup>61</sup>

Note, the Russian bank Menatep had its banking licence stripped in May 1999,<sup>62</sup> and by August 1999, in the wake of the so-called Bank of New York scandal, the bank was openly being associated in the press as having acted as a conduit channel to launder money from Russia into accounts overseas.<sup>63,64</sup> Some 99% of Menatep's shareholders voted to bankrupt the bank in September 1999.<sup>64</sup>

### Deals with Congo-Brazzaville

According to *La Lettre du Continent*, on 15th June 1995, Martin Mberri, then State Minister for the Republic of Congo, in charge of development and regional planning, wrote to Arcadi Gaydamak (sic), who he referred to as 'director of the company ZTS-Osos.'<sup>65</sup> Mberri expressed his interest in purchasing some 150 Ural trucks, '...providing that you quickly submit to us the text of the final contract...'<sup>65</sup> According to the article, 'a sale contract was prepared for the acquisition of 100 Ural 420 trucks, 25 Ural 420 water tank trucks, and 25 Ural 420 fuel tank trucks.'

50% of the sale was to be financed through the delivery of oil with a 'guarantee of delivery issued by the Republic of Congo and endorsed by Elf Congo.' The article concludes, 'the lawyers of Pierre Falcone and Arkadi Gaidamak have protested to the tax office that this contract did not come to fruition.'<sup>65</sup> Given the lack of transparency about this issue, TotalFinaElf should clarify what, if anything, it knows of any such arrangements.



Brenco Trading Limited is located in Tortola, British Virgin Islands, at the same address as Copper Financial Inc, the holding company of CADA Ltd in London – it is not clear how Brenco Trading Ltd in the Isle of Man is related to the company of the same name in the British Virgin Islands.

### Liquidation of Brenco France

As de Fiori already described in his 1998 letter, Brenco France played the key administrative function for the group. According to sources within the legal profession in Paris, this seems to be a fact not lost on those keen to see the current investigations into Angolagate brought to a hasty conclusion. According to one lawyer, 'Brenco France was placed under "liquidation judiciaire" [or made bankrupt] on 5th February 2001, and this has resulted in the disappearance of significant quantities of company documents,' adding another layer of procedural confusion to the task of the investigating Judges. Global Witness has visited the offices of Brenco France in Paris on several occasions since this date, and the evident lack of activity, including uncollected post, would seem to support these comments. Global Witness has also checked company records in France and Brenco France is listed as being placed under 'Liquidation Judiciaire du 05/02/2001, with the "Liquidateur" listed as SCP Girard Levy, of Paris.'<sup>57</sup>

### Whose billions are in this bank account?

Global Witness' investigations have also identified the existence of a bank account – number 15468991 – held at the so-called 'First Virgin Bank' in the British Virgin Islands (BVI). This account held approximately US\$1.1 billion during 2001, with two high-powered Angolans acting as signatories.<sup>56</sup>

The true identity of the 'First Virgin Bank' remains a mystery. Enquiries made to the Inspector of Banks, Trust Companies and Company Managers in the BVI, solicited the response, 'First Virgin Bank is not licensed under the Banks and Trust Companies Act, 1990, to carry on banking business within or outside the Virgin Islands'. If this 'bank' is not licensed to operate as a bank, what is it?

Sources have suggested that the most likely explanation is that it is an account in the name of 'First Virgin Bank', held at another legitimate bank in the BVI. Authorities in the BVI should immediately undertake to investigate the true nature of this account. Given the unique relationship between the UK and the BVI, the relevant UK authorities should take the necessary steps to ensure that the BVI authorities do conduct a thorough investigation. Such a move is essential given the clear need for international tax payers to assist Angola's development. Any failure will leave the BVI dangerously exposed once again as a 'non-compliant' jurisdiction in terms of the OECD's efforts to clean up off-shore tax havens.

In addition, whilst the UK's influence in such matters is being discussed, it is essential that the UK and BVI authorities provide all necessary assistance and information pertaining to the ongoing Angolagate investigation in France. This is especially important, given the myriad of Brenco related companies that are located in the BVI.

## Does Angolagate reach the United States?

THE ARREST and incarceration of Pierre Falcone in December 2000 raised eyebrows in Arizona high society within which, according to the publication *Arizona Republic*, Pierre Falcone and his former Bolivian beauty queen wife Sonia enjoy the reputation of seriously wealthy, part-time resident philanthropists. *Arizona Republic* has asked a number of questions about the source of their wealth, referring to the fact that they have been able to '... make the most expensive home purchase [allegedly at US\$10.6 million] in Arizona History.'<sup>9</sup> According to the paper, Al Molina, a Falcone confidante and prominent local jeweller stated, in response to the scandal, 'I am very upset about what's happening right now ... Knowing the man, I have a hard time believing he would do anything unethical.'<sup>9</sup>

*Arizona Republic* paints a picture of 'philanthropy and glitz,' together with friends and associates who seem to know little about the Falcones.<sup>9</sup> As the paper says, 'even the home ownership seems intriguing. Their residence for several years is owned by a British Virgin Islands company, Gabrielle Investments Ltd, which could not be traced. The recorded owner of their new US\$10.6 million estate at the base of Camelback Mountain, SPEP LLC, is a controlling trust with a mailing address in the Turks & Caicos Islands, British West Indies.'<sup>9</sup>

Sonia de Falcone is President and co-founder/director of Essanté Corporation, a Utah-based purveyor of health foods and prophylactics incorporated in Delaware on 6th April 1994. The company claims a mission: 'the word Essanté is French. Translated into English, it means "the essence of total health." That is my mission, to bring vibrant health to the world through whole-food nutritional therapy.'<sup>66</sup> It all sounds reasonable enough and, indeed, is an admirable task. Essanté Corporation even enjoys the PR expertise of



The Lee Solters Company, a Beverly Hills based PR agency, who's past and present client list includes Frank Sinatra, Barbara Streisand, Michael Jackson, Bob Hope and The Harlem Globetrotters.<sup>67</sup>

Essanté's web site helpfully provides 'corporate biographies' of those whose role is to help Sonia Falcone in her mission. Alongside a description and photograph of the company's Vice President of Marketing, Arthur T. Chester, is a blurb and picture of Henry Guderley, Chief Financial Officer, who is described as 'certified as a Fellow of the Institute of Chartered Accounts in the UK, with a speciality in international business.'<sup>68</sup> Unfortunately, the site fails to inform the reader of Guderley's role as Company Secretary for numerous other companies within the Falcone empire (see below and CADA, a Brenco subsidiary, is the key to FAA food and medical supplies – page 19).

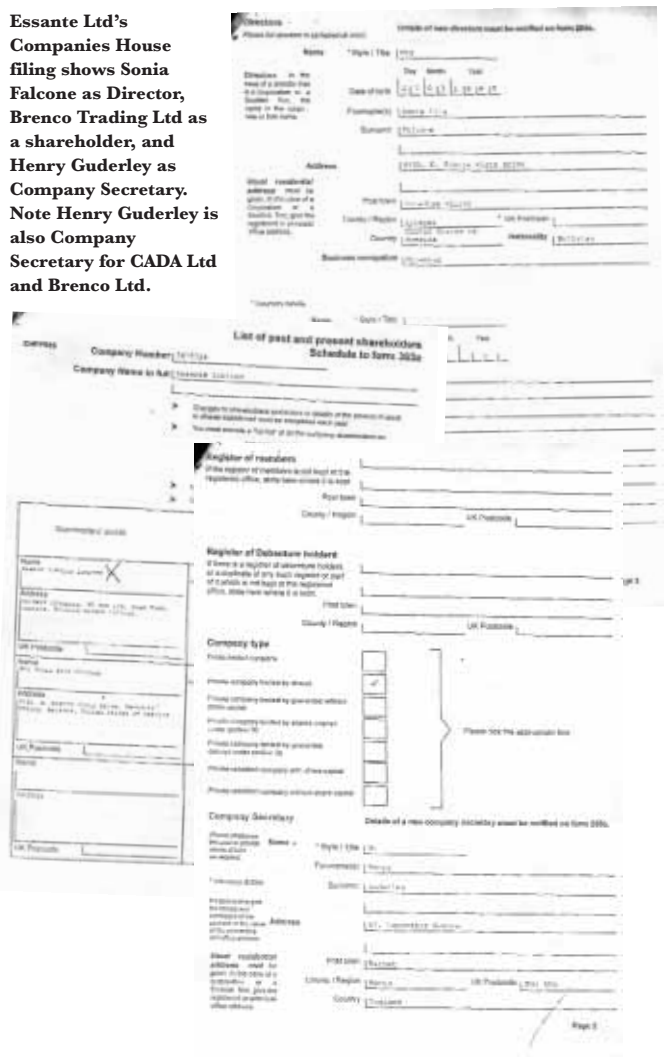
Henry Guderley is also the company secretary of the London-based Essante Ltd, which is located at 40 Queen Anne Street, London W1. Sonia Falcone, of Paradise Valley, Arizona, is listed as the sole director of the company. The shareholding is more surprising: Sonia Falcone is listed as holder of one ordinary share, the other being held by Brenco Trading Limited, of Trident Chambers, PO Box 146, Road Town, Tortola, British Virgin Islands;<sup>69</sup> an address shared by Copper Financial Inc, the listed owner of CADA Ltd (part of the Brenco network in Angola), of which Guderley is also the Company Secretary.<sup>52</sup>

According to a Swiss-based web site on money laundering issues, Geneva's Chief Prosecutor, Bernard Bertossa, began investigations in January 2001 to determine whether Swiss banking facilities were held by individuals and companies whose names featured on a list for whom information was being sought. 'Sonia Falcone' is one of the names reportedly included on the list, though it should be noted that there is no suggestion that she has, or is likely to be, charged with any offence and neither is she under investigation for any wrongdoing.<sup>11</sup> Other names on the list reportedly included former French Interior Minister, Charles Pasqua, his son Pierre Pasqua, and Jean-Charles Marchiani.<sup>11</sup> As of going to press, these investigations continue.



Above: 40 Queen Ann Street – the London registered address for Brenco Ltd, CADA Ltd, Essante Ltd and other companies.

**Essante Ltd's Companies House filing shows Sonia Falcone as Director, Brenco Trading Ltd as a shareholder, and Henry Guderley as Company Secretary. Note Henry Guderley is also Company Secretary for CADA Ltd and Brenco Ltd.**



**only because she had salt at home that she had bought in Kuito ... That was**



**The whole point of the Enron affair is that it discredits the rules of the game. It exposes the institutionalised corruption at the heart of US politics – a casual exchange of money and power that Bush has made his trademark.**

– Julian Borger in 'Bush, the corporations flag-carrier', *The Guardian*, January 2002<sup>76</sup>



© AFP

**Bush and Cheney pursuing America's interests, but by which means? What do they know of Pierre Falcone, and when did they know it?**

### Influence peddling US style?

In January 2001, the *Arizona Republic* reported the return of a US\$100,000 donation to the Bush campaign by the Essanté Corporation, much of which was allegedly given days after President Bush's election victory.<sup>70</sup> The paper reports the Falcone family spokesman, Jason Rose, as saying that '...any insinuation that the couple was trying to buy influence with the new President is unfortunate, false and wrong.'<sup>70</sup>

*In These Times*<sup>10</sup> reported that these donations were broken down into one payment of US\$20,000 that was made in May 2000, followed by a second US\$80,000 payment in November 2000. Interestingly following the May payment, Scott Bundgaard, local State Senator and Bush supporter, arranged for Sonia to join a select group to meet with then candidate Bush, as he flew in to Phoenix Airport.<sup>10</sup>

Sonia Falcone claimed the donations were to '...increase Latino awareness in the Republican Party';<sup>10</sup>. At the time, she claimed that Pierre Falcone was not connected to Essanté and that the donations were financed from corporate profits.<sup>10</sup> In fact, the company was incorporated in Delaware on 6th April 1994 with both Sonia and Pierre Falcone listed as directors.<sup>10</sup>

*Le Figaro* reports that amongst the files contained on the 26 Brenco diskettes, found by the investigating Judges in the apartment of Pierre Falcone's secretary, were references to payments from Brenco to a number of coded accounts held variously at UBS in Switzerland, Bank Leumi in Tel Aviv and Banque Rothschild in Monaco including an account called 'Essante.'<sup>5</sup>

*In These Times* suggests that the real source of Essanté's donations to the Bush Campaign was Pierre Falcone himself.<sup>10</sup> According to an unnamed source, 'the Company [Essanté] has come a long way with Pierre's generosity, but after a few years he'd like to see some profit. It rubs him up the wrong way, but out of love for his wife, he's done it with a smile on his face.'<sup>10</sup>



### Enron's influence trading – Is Falcone's donation part of a pattern?

Under a barrage of criticism across the global press, it seems abundantly clear that Enron's US\$5.8 million in political donations (73% going to the Republicans)<sup>71</sup> over the past 12 years bought the company significant influence over policy outcomes. Of particular note is the US\$826,000 that the company gave to George W Bush over his political career from his start as Governor of Texas right through to his run for US President. Two members of the Bush Cabinet – the Commerce Secretary, Donald Evans, and the Attorney General, John Ashcroft – have had to stand aside from current investigations because they received close to US\$100,000 in political donations from Enron. Enron CEO, 'Kenny Boy' as President Bush dubbed his close friend Kenneth Lay, personally gave Bush US\$100,000.<sup>72</sup>

Vice-President Dick Cheney, facing the threat of civil litigation to break his silence over the Enron scandal, also appears to have close connections to the company.<sup>73</sup> It seems that links between Enron boss Lay and Vice-President Cheney go back to Cheney's time as CEO of oil services company Halliburton, when both were based in Houston, Texas.<sup>74</sup> Once Cheney came back into Government as Vice-President, he took charge of the co-called 'National Energy Policy Development Group,' which was responsible for drafting the President's energy policy<sup>75</sup> – whose output is represented by a bill currently before Congress.

Cheney held six meetings with Lay and other Enron executives to discuss America's emergency energy plan: the end result was that, as UK-based paper *The Observer* reports, the plan 'contains 17 detailed points, all 'virtually identical to positions Enron advocated' – mostly concerned with deregulation and increased capacity...'.<sup>73</sup> The *Washington Post* comments that Cheney and other key Bush Administration officials also aggressively lobbied the Indian Government on behalf of Enron over the company's attempts to sell its interest in a power plant project. The company wanted to bring in US\$2.3 billion from the sale, just weeks before filing for bankruptcy.<sup>77</sup>

**at the very end of February and we decided to leave ...”** –Displaced person, Bié Province<sup>b</sup>

### Angolagate and the Enron scandal – by nature, the same problem?

If anything is clear from the Enron scandal, it is that the capacity to buy influence and achieve strategically beneficial changes to legislation is not restricted to countries so far rocked by the Angolagate scandal. Influence peddling is thriving at the centre of the US political system.

Enron also raises further questions about the level of influence Pierre Falcone, through his donation, was hoping to achieve. It is noticeable that Enron boss, Kenneth Lay's donation of US\$100,000 to Bush's campaign is strikingly similar in size to the US\$100,000 that was donated by the Falcones. If Enron was able to figure at the forefront of the Bush team's political and legislative agenda, what did the Falcones expect from their donation? Following the 'return' of their donation, the Administration now has the capacity for plausible deniability – but what would the situation have been, had *Newsweek* not pointed out problems associated with this donation in the first place?

It seems likely, however, that Falcone's potential influence did not end with political donations to the Bush campaign alone. *In These Times* reports that a meeting took place between Falcone and three unnamed high-level Phillips Petroleum Corporation executives in June 2000, some five months prior to Falcone's arrest in Paris.<sup>10</sup> Phillips Petroleum Corporation now holds a 20% stake in Angola's Block 34, allocated in 2001, but for which negotiations were already well-underway at the time of the company's alleged meeting with Falcone. The article states that Phillips refused to comment on the meeting.<sup>10</sup>

Executive Vice President and General Council Bryan Whitworth responded Global Witness' enquiries in January 2002, stating that he was unable to identify a meeting in Scottsdale in June but that there was a meeting in September and a follow-up in Washington in October 2000 '...to determine whether or not Phillips wanted to utilize Mr. Falcone as a consultant [...] it was concluded that Mr. Falcone should not represent Phillips'. So why was Pierre Falcone chosen as a possible consultant in the first place and why did Phillips not consider him appropriate for this job after these meetings?

An Arizona-based friend of Pierre Falcone, who established a website in support of his activities,<sup>78</sup> volunteered that '...Pierre derives a great deal of income from Exxon Block 33 located within the boundaries of Angola.'<sup>79</sup> Though it is difficult to interpret the true meaning of this statement, in light of apparent meetings between Falcone and Phillips, it is logical to enquire what, if anything, ExxonMobil knows of the activities of Falcone with regard to Block 33. Did Exxon meet with Falcone, and did he play any role in advising, or facilitating, the company regarding its acquisition of the operatorship of Block 33? ExxonMobil has declined to respond to enquiries.

In December 2000, shortly after Pierre Falcone's arrest in Paris, *the Sunday Times* was of the opinion that Angolagate led directly back to the United States. The paper suggested that the French investigation into Angolagate had started to look into the activities of a number of companies involved in Angola, including Vice-President Cheney's former company Halliburton.<sup>80</sup>

The paper also hinted at potential close links

***I acknowledge that by giving me money, Falcone had in mind to ask me sooner or later to introduce him to people who could be of some use to him. Each time he was giving me money, I was aware that I was increasingly linked to M. Falcone.***

– Jean-Noël Tassez's 15th December 2000 comments about his relationship with Pierre Falcone, reported in *Le Monde* <sup>89</sup>

between Falcone and Bush commenting, 'Falcone was sufficiently friendly with Bush to attempt to arrange a meeting between the presidential candidate and another of his contacts, José Eduardo dos Santos, the Marxist President of Angola. French news reports claimed last week [the last week of December 2000] that the meeting never took place, and the full extent of Bush's contacts with Falcone remains unknown.'<sup>80</sup>

It continued, 'Angola surfaced briefly in the American election campaign when Cheney, who resigned as Halliburton's Chief Executive in July [2000], was accused of using his connections as a former defence secretary to secure the company contracts.'<sup>80</sup> Certainly, Halliburton has done extremely well in Angola. The paper went on to state that 'as Defence Secretary, Cheney had been an outspoken supporter of UNITA ... he now finds himself in the intriguing position of having recently headed a company that pursued contracts aggressively with UNITA's sworn "enemy."<sup>80</sup> This raises questions as to how Halliburton, headed by a known UNITA supporter, could have engineered such success in Angola?

It is essential that the key individuals and companies that appear to have connections to Pierre Falcone clarify the nature, if any, of their relationship with him. We have seen the implications of major influence-peddling in the case of Enron, where significant private gains for top executives appear to have been engineered on the back of massive public losses and where whole rafts of legislation have been constructed to the exclusive benefit of the company whilst ordinary employees and the investing public have been hung out to dry. If the impact of influence peddling can be so severe for US company employees – a domestic audience – imagine its effect on the Angolan population, suffering from decades of conflict, instability and massive state looting. All concerned must clarify what they knew and when did they know it.

The sections that follow provide detail about the formal questioning, and in some cases the arrest, of individuals alleged to be at the core of the Angolagate scandal. The reader should note that what is provided here consists of information that has been published in the international media. We have also supplemented the various media comments and opinions with additional data obtained through investigations.

***“Now, the crimes are meticulous and they are never left half done! I do not***



## The searches and arrests begin

ON 29TH NOVEMBER 2000, Financial Brigade Police raided the home of Jean-Charles Marchiani, now an MEP from Charles Pasqua's Rassemblement pour la France (RPF) party.<sup>22</sup> Simultaneously, the investigating Judges together with investigators from the General Council of Hautes-de-Seine also searched both Charles Pasqua's home (now also an MEP), and the headquarters of Pasqua's RPF Party.<sup>22</sup>

According to *Liberation*, items recovered from Marchiani's house, together with information from the 26 Falcone diskettes, then led investigators to Jacques Attali, a former close advisor to President François Mitterrand and the first Director of the European Bank for Reconstruction and Development (EBRD). The same sources of information also precipitating interest in Jean-Christophe Mitterrand.<sup>28</sup> As a result, both Attali and Mitterrand were interviewed by the investigators between 30th November and 1st December 2000.<sup>31</sup>

On 1st December 2000, Pierre Falcone was 'placed under examination' by Judges Courroye and Prévost-Desprez.<sup>22</sup> Later the same day he was charged with 'illegal arms trading, fiscal fraud, misuse of social benefits, abuse of trust and influence peddling,' and sent to La Santé jail in Paris.<sup>22,83</sup>

### Arkadi Gaidamak and his international arrest warrant

At the same time, Arkadi Gaidamak was also summoned to appear before the Judges, but did not show up. According to the French press, an international warrant for his arrest was then issued on 6th December 2000.<sup>18</sup>

On 8th December 2000, *Le Monde* published an interview with Gaidamak, which apparently took place in the Dorchester Hotel in the Mayfair area of London.<sup>84</sup> In the interview Gaidamak stated that the French judiciary and tax authorities have persecuted him for years. He claimed that London had been his main residence for the past ten years and that despite paying yearly some six million French Francs in taxes to the British authorities, this did not appear to be enough to persuade the French authorities that he was no-longer resident in France.<sup>84</sup>

Gaidamak provided a litany of complaints against the investigating authorities and painted a picture of his persecution, all the while he insisted that he was innocent of any wrongdoing. As if to back up his claim, he stressed his tendency to sue for defamation. In conclusion, Gaidamak stated that he would be prepared to meet with Judge Courroye provided, '...he ensures I am going to be treated correctly. For the moment,' he stressed, 'this is not the case.' This interview paints an extraordinary situation where the presence of a witness to a legal process stresses the conditions by which he will agree to be questioned.

Shortly after the interview, sources suggested that Gaidamak left the UK for Israel, where he holds Israeli nationality.<sup>56</sup> It seems that since his departure, Gaidamak has continued to travel internationally, making at least two visits to Angola and at least one to a country in South America,<sup>56</sup> with more recent suggestions that he may have even visited the UK, possibly even as recently as late November 2001.<sup>56</sup>

The issue of the international arrest warrant for Gaidamak is somewhat confused. As already noted, the

**An infernal machine seems to have been started up that risks sparing no one: not the right, not the left, not even the judges.**

— *Le Figaro* quoted in *The Times*, 16th January 2001<sup>82</sup>

French press stated that an international arrest warrant was issued on 6th December 2000.<sup>18</sup> If, in fact, a warrant was issued on this date, this begs the question as to how Gaidamak was able to take part in an interview on the 8th of December at the Dorchester without action being taken by the UK authorities. Global Witness' investigations reveal that in fact warrant number 0019292016 was issued by the Tribunal de Grande Instance de Paris on 11th January 2001.<sup>56</sup> Apparently a second notification was issued 'with a view to arrest' and 'with a view to extradite' Arkadi Gaidamak on the 12th January 2001. This latter notification was circulated to all Interpol member states.<sup>56</sup>

### One key question: Why has Israel not acted on Gaidamak's arrest warrant?

Extradition agreements aside, there are two possible reasons for this situation. Either Israel is simply not honouring its obligations as a member of Interpol, a clearly unacceptable situation, or the serving of the arrest warrant has been delayed – rather extensively, it would seem. Delays often occur due to the fact that international arrest warrants are usually served through diplomatic channels. The current scenario is obviously unworkable and allows for the horse to bolt prior to shutting the stable door, and especially in light of the events of 11th September 2001, such a process seems totally unsuitable for the task at hand and must be reformed.

### Further arrests and charges related to Angolagate

Since the arrest of Falcone on 1st December 2000, the investigating Judges have continued to interview, charge and arrest other individuals in relation to the Angolagate scandal. The following individuals are discussed in the context of allegations that have been reported against them, and are listed according to the timing of their respective interviews with the Judges. It should be remembered that none of these individuals have been found guilty of charges laid against them in a court of law.

### A first casualty connected to the affair?

*Le Monde* raised the prospect that Thierry Imbot, the son of General Imbot, former Director of the French External Intelligence Agency (DGSE), may have become a casualty of the unravelling Angolagate scandal.<sup>85</sup> Imbot, who had himself been a DGSE officer, died in a mysterious fall on 10th October 2000 from the window of his apartment. Allegedly, his name was listed on one of the diskettes as a Brenco International 'consultant for China.'<sup>85</sup> *Le Monde* reported that he was allegedly paid US\$120,000 in five instalments between 1996 and 1999 through an account at Nations Bank of Virginia in the United States.<sup>85</sup> The investigating Judges apparently requested a copy of the police report which followed the investigation into his death, and which concluded that it was an accident.<sup>85</sup>



**know what wars are like elsewhere but here it is no longer enough to just kill!**

*Jean-Christophe Mitterrand*

©AFP

**Did he really do what his father told him?**

The son of the former French President, Jean-Christophe Mitterrand (also known by his nickname, 'Papa-m'a-dit', or 'Daddy told me'), was arrested on 21st December 2000, and held in La Santé jail in Paris. He was accused of 'complicity in illegal weapons trading, influence peddling involving a civil servant, abuse of social benefits, and aggravated influence peddling'.<sup>86,87</sup>

Specifically, it is alleged that Mitterrand received US\$1.8 million from Brenco, which was paid into a Swiss bank account between 1993 and 1998.<sup>86</sup> According to *Le Figaro*, most of this money was paid in 1997 and 1998.<sup>88</sup> Mitterrand claims that US\$700,000 belonged to him and had not come from Brenco. He is further accused of having received other transfers of money and two watches, which were reportedly valued at 3,000 and 15,000 French Francs.<sup>86,89</sup>

More detail about these alleged payments comes from *Le Monde*. The paper suggests that the by now infamous 26 diskettes demonstrate that four payments were made by Brenco International Trading Ltd into an account belonging to Mitterrand at the Banque Darrier in Geneva, Switzerland.<sup>90</sup>

Mitterrand claimed that the payments were for his counsel, enabling Pierre Falcone to set up badly needed credit for Angola, which was raised against future oil production; in other words, this suggests an oil pre-financing, or mortgaging, deal of the sort described earlier and discussed more extensively later in this report (See *International lending to Angola – page 51*). According to *Le Monde*, Mitterrand stated, 'I was never informed about the selling of military material by M. Falcone to the Angolan regime.' Mr Jean-Pierre Versini-Campinchi, Mitterrand's lawyer reportedly stated, 'on this point, the Judges do not even have the start of a proof.'<sup>90</sup> Following his incarceration, the Swiss authorities froze Mitterrand's accounts on the 26th December 2000.<sup>91</sup>

Though Global Witness points to the fact that Mitterrand has not been convicted of any offences, published explanations do not seem to add up. Why was Mitterrand paid during 1997 and 1998 for an oil pre-financing arrangement put together in 1993 and 1994? Were other services provided during this latter period that might be related to these payments, and if so, where and when might Mitterrand have been paid for services provided during 1993 and 1994? If such additional services were provided, what were they? It is not possible to discount Mitterrand's claims, but it is clear at the time of going to press that such claims simply raise further questions about his alleged involvement in this issue.

On 2nd January 2001, after spending Christmas and the New Year in jail, Mitterrand was finally offered bail, set at approximately US\$700,000.<sup>93</sup> Unfortunately, probably due to the freezing of his Swiss account, he was unable to make the payment and remained in jail<sup>93</sup> until the 11th January 2001, when his mother, Danielle Mitterrand, paid the bail demand. She was quoted at the time, 'I brought the money to pay the ransom.'<sup>94</sup>

**The widening investigation – possible funding of the RPF, the party of former Interior Minister Charles Pasqua**

The Rassemblement Pour la France, or RPF party, established by Charles Pasqua, has also been dragged into the enquiry. Both Pasqua and his former deputy at the Interior Ministry, Jean-Charles Marchiani, are currently RPF MEPs at the European Parliament, and Pasqua has declared his intention to run for the French Presidency in the 2002 elections.

As already noted, the first hint that investigators were interested in the RPF came with the Financial Brigade raids on the party headquarters and the residences of both Pasqua and Marchiani on 29th November 2000.<sup>103,104</sup> According to *Le Figaro*, the Judges had a particular interest in financial transactions related to the RPF's European election campaign during 1999.<sup>105</sup> In a separate article, *Le Figaro* reported 'Judge Courroye, who requested the Commission for the control of election campaign spending to sequester documents relating to the RPF's European election campaign of June 1999, will today receive seven boxes of documents. The Magistrate is looking to verify if the arms dealer Pierre Falcone, either directly, or indirectly financed Charles Pasqua's party.'<sup>105</sup> *Le Figaro* continued, 'Pasqua, who has already been questioned as a witness, has always denied these suggestions, like his loyal lieutenant, the former Prefect, Jean-Charles Marchiani.'

**The mysterious 'Robert'**

On 4th January 2001, at the request of Judge Courroye, the Commission Nationale des Comptes de Campagne (CNCC) froze the 1999 RPF election campaign finance accounts.<sup>106</sup> According to *Le Monde*, this action was taken, allegedly because of a letter discovered from Falcone to President dos Santos, in which the former explained that his company Brenco, had paid the sum of US\$450,000 (out of a total of US\$1.5 million) to a certain 'Robert.'<sup>106</sup>

Just who is this 'Robert'? One possible answer comes from a December 2000 article in *Le Canard Enchaîné*, in which it was suggested that Falcone's personal organiser lists the name 'Robert' against various telephone numbers belonging to Marchiani.<sup>107</sup> According to *L'Express*, it is reportedly, 'the famous "Brenco listing" [documents on the 26 diskettes] which steered investigators in this direction.' *L'Express* continued, 'the document refers many times to this "Robert". However, the telephone numbers of this mysterious "Robert" lead to the Parisian address of Marchiani, or to the Var Prefecture [Marchiani was previously the Prefect of the Var], or to his mobile phone.'<sup>5</sup> The paper then provides a possible reason for the Judges' interest in 'Robert', 'the "listing" indicates two transfers to "Robert", one of \$300 000 in November 1997 and a second of \$450 000 at the start of 1999.' *L'Express* then concluded with 'interrogated in November 2000, on possible transfers made by Pierre Falcone, the [former] Prefect's response is absolute: "I have never received any funds from Brenco or Falcone."<sup>5</sup>

*L'Express* refers to an early 1999 letter from Falcone to dos Santos, discovered on one of the 26 diskettes, which allegedly states under item 7, entitled 'Robert':

'A political agreement has been reached. We have advanced personally 450,000 dollars. [...] They will be expecting another 6 or 7 million Francs, that is approximately 1 to 1.2 million dollars. [...] We believe that this money in its entirety should be used for the campaign for the European elections. It is therefore very important to facilitate the release of these funds, because this would



assure the start of an immediate operational real lobby within the European Parliament.<sup>75,108</sup>

Marchiani has vigorously denied that he is the mysterious 'Robert', stating: 'I was in charge of defending the interests and the security of France at the Cabinet of Charles Pasqua, and also to build up contacts with foreign services.' He went on, 'to me personally, neither President dos Santos, or Pierre Falcone have advanced the amount of US\$450,000.'<sup>106</sup> He also denied that he had received any funds from Brenco.<sup>5</sup>

On the 22nd May 2001, Marchiani was indicted with 'misuse of company property and trading of favours.'<sup>116</sup> *Le Monde* concludes that these charges relate to the two payments made to 'Robert.'<sup>116</sup>

The European Parliament should immediately instigate an investigation into the identity of 'Robert' to uncover the nature of Angola's '...operational real lobby within the European Parliament.'<sup>108</sup> In light of the excesses of the Enron's influence peddling, and indeed that of Angolagate, neither the democratic process, nor the people of Angola can afford anything less.

### The investigation focuses in on Pasqua

The Judges' interest in Pasqua consists of a number of main areas of focus, which appears to relate to sources of funds for potential political activities. For example, Pasqua's 29th November 2000 interview with the Judges focused on a 4 million French Francs loan that he took out in early 2000 'in order to fill a gap in the finances' of the RPF.<sup>109</sup> According to *Le Monde*, Pasqua explained that the money came to him, rather than directly to the Party, because he was 'more solvent than the RPF.'<sup>109</sup> He was questioned about the structure of the loan arrangement, which he allegedly claimed broke down as follows: 500,000 French Francs directly from his own savings, 1 million French Francs from a Marseilles associate, and 2.5 million French Francs from a resident of Gabon.<sup>109</sup>

On the 10th January 2001, Philippe de Villiers, the former Vice-President of Pasqua's RPF party was interviewed at his own request by the Judges.<sup>110</sup> Villiers confirmed that he had left the RPF in July 2000 because of 'the lack of transparency in the accounts' of the party.<sup>110</sup> A few days earlier he had said, 'the doubts I had raised in a climate of general unwillingness to understand, appear now to be justified.'<sup>110</sup> It is not clear what information he provided to the Judges, however on leaving his four hour interview, he was quoted 'I can confirm in a very explicit manner that the Mitterrand-Pasqua affair [Angolagate] is a very serious state affair, with inter-continental ramifications and an unsuspected development.'<sup>111</sup>

According to the *Le Monde*, 'The investigators are interested in a number of beneficiaries of Brenco's largesse...' The paper continues, 'The investigators are intrigued by a transfer of 1.5 million French Francs (US\$204,000), which took place on 12th July 1996, to the Association 'France-Afrique-Orient (AFAO).'<sup>112</sup> *Le Monde* concluded, 'They [the investigators] seem to postulate the theory that these funds, debited from a Brenco account at the Geneva Bank, la Cantrade Ormond Burrus, were in effect used to feed the Rassemblement pour la France, presided over by Charles Pasqua.'<sup>112</sup>

In an article about the 22nd May 2001 indictment of Jean-Charles Marchiani, *Le Monde* reported that Marchiani 'is suspected of having received US\$750,000,' as it put it, 'on the fringe of operations concluded with the Angolan State by the businessmen Pierre Falcone and Arkadi Gaidamak.'<sup>116</sup> The paper continued, 'The former Prefect of the Var is also suspected of having received a financial

## Jacques Attali

Following his initial interview with investigating Judges on 30th November 2000, Jacques Attali was interviewed for a second time on the 7th March 2001.<sup>96</sup>

According to *Liberation*, 'Jacques A' was listed as one of the estimated 300 names contained on the 26 Brenco diskettes as having been in receipt of Brenco's largesse.<sup>97</sup> Pierre Falcone's secretary Isabelle Delubac has

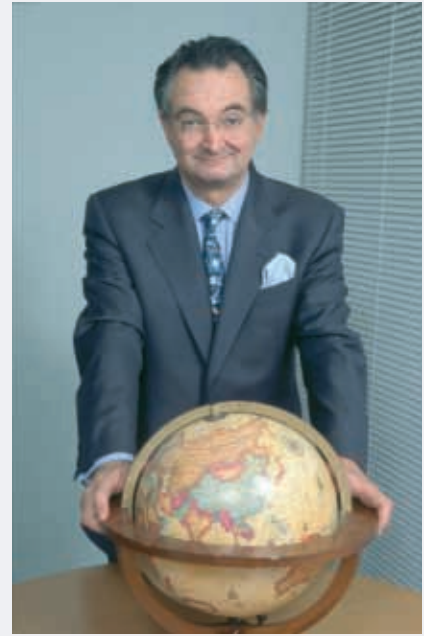
allegedly confirmed this to be Jacques Attali.<sup>97</sup> According to *Liberation*, Delubac explained that Attali was 'an acquaintance' of Falcone, who 'called often.'<sup>97</sup> However, she was not able to explain the comments [contained on the diskettes], 'Jacques A. 50,000 US de BAI', and 'BAIACA, 200,000 \$', both of which appear to relate to activities from July 1998.<sup>97</sup>

In the absence of further clarification, it is impossible to confirm the correct meaning of these annotations. However, one might draw the conclusion for the first annotation 'Jacques A. 50,000 US de BAI' might refer to the acronym for the Angolan bank, Banco Africano de Investimentos. Interestingly, Pierre Falcone's Brenco holds 4% of the shares of this bank (See *Banco Africano de Investimentos (BAI)*, page 30).<sup>98</sup> Reportedly, Attali owns a consultancy company called ACA, which might explain the second annotation.<sup>99</sup> BAI has categorically denied they have ever paid any funds to Jacques Attali, or to any other characters who have been named in the Angolagate scandal.<sup>139</sup> However, BAI has failed to provide any comment as to why they have been specifically referred to in the context of such payments in French mainstream newspapers.

Attali's response has been that these monies were payments for his work on microcredit projects in Angola. Once again, it is not possible to discount Attali's explanations, but prior to their acceptance, he should be expected to point out the location, quantity and nature of the micro-credit schemes he is referring to, and to clarify where these funds came from.

*Liberation* suggests an alternative: 'the Judges might have instead concluded that these payments were for an alleged mediation role by Attali, in an effort to deal with Falcone's tax problems.'<sup>97,99</sup> *Liberation* continued by suggesting that Attali may have introduced Falcone's tax lawyer, Allain Guilloux, to Hubert Védrine, the French Foreign Minister; and that the purpose of such a meeting was to lobby for Védrine's intervention to help reduce the tax demands being made on Falcone.<sup>99</sup>

At the same time, *Le Monde* reported that Védrine's staff had confirmed the Minister's meeting with Guilloux.<sup>100</sup> Staff were quoted as declaring that the subsequent receipt of correspondence and documentation from Guilloux had 'no impact';<sup>101</sup> the need to insist that there was 'no impact' simply leads the conclusion that, at the very least, Guilloux must have attempted to influence procedure through the sending of documentation. If this is true, did Guilloux undertake this lobby alone, or was this meeting facilitated by Attali? Attali's lawyer was quoted by *Le Monde* as saying that '...there is no trace of any intervention by Védrine in the Falcone tax case, neither a trace of any intervention by Attali to Védrine.'<sup>102</sup>



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PART ONE



The Scandal

compensation for the attribution, in 1996, of the Ordre National du Merite to Mr Gaidamak, which was agreed by the President of the Republic, Jacques Chirac.<sup>116</sup>

The award was in recognition of Gaidamak's role in the rescue of two French pilots, who were shot down and held hostage in Bosnia. It was officially requested by the French Ministry of Agriculture, though quite what the Ministry of Agriculture should have to do with awards related to hostage release is anyone's guess. *Le Figaro* reports that Marchiani presented the case for the award to Chirac, though Marchiani himself has been quoted 'Jacques Chirac decided to distinguish Gaidamak.'<sup>113</sup> According to *Le Monde*, 'The presentation of the medal took place on 14th July 1996, by Mr Marchiani himself, two days after the transfer of 1.5 million Francs by Brenco to France-Afrique-Orient.'<sup>116</sup> *Le Monde* again reported that Marchiani vigorously denied all allegations that have been laid against him. In a later article, *Le Monde* quoted Mr Pasqua who stressed that 'there is no correlation between the payment from Brenco to France-Afrique-Orient and the giving of the award.'<sup>115</sup>

Interestingly, the hostages arrived in Paris shortly before new President Chirac hosted a post-Dayton peace conference on Bosnia. According to *Le Monde*, General Gallois, the original hostage negotiator, commented, 'Upon my return to Paris, everything was organised, and I informed the authorities that, for the release of the hostages, it would be sufficient for a high-ranking [French] military official to meet with General Ratko Mladic.'<sup>115</sup> *Le Monde* stressed that General Gallois deplored the existence of 'parallel negotiations', and that he did 'not understand why Gaidamak and Marchiani intervened after [him], it did nothing. It only had the effect of slowing down the release of the hostages.'<sup>115</sup>

Bernard Guillet, Secretary of France-Afrique-Orient and former diplomatic advisor to Pasqua was brought before the Judges and placed formerly under examination for 'abuse of social benefits' on the 12th April 2001.<sup>114</sup> According to *AFP*, Guillet denied accusations against him, stating that as Secretary of the organisation, he had only learned of the payment after it had been made.<sup>115</sup> Guillet was also questioned about an armour-plated Citroën Saffrane, worth 1.2 million French Francs, given to President dos Santos in 1994 (whilst Pasqua was French Interior Minister), reportedly co-financed by Sofremi and Brenco.<sup>112</sup>

In a later interview with *Le Monde*, Guillet gives an interesting insight into one possible reason for Brenco's donation to France-Afrique-Orient. When asked the purpose of the donation, Guillet stated, 'Mr Falcone, who like me knows well the United States, believes that lobbying is necessary. I am aware that in France the judiciary link it, wrongly, to trading favours'<sup>116</sup>; a comment seemingly endorsing the behaviour demonstrated to such good effect by Enron in Washington and beyond.

On the 28th May 2001, Pasqua was also formally placed under examination by the Judges for 'abuse of social benefits and influence peddling'<sup>117</sup> The following day, Pasqua was formally questioned for a second time, on this occasion for 'illegal financing of an election campaign.'<sup>118</sup> Pasqua reacted: 'all this is directed at the political actions which I am controlling.'<sup>117</sup> He went on to say, 'they have not a single element against me. They have strictly nothing. I do not accept being placed under formal examination, and we will take the necessary steps in front of the Chamber of Instruction of the Paris Appeal Court [to end the investigation]'.<sup>117</sup>

In early June 2001, *Le Parisien* reported that



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**What us? Charles Pasqua and Jean-Charles Marchiani deny an 'operational real lobby within the European Parliament' for Angola.**

investigations into the affairs of a number of Pasqua's associates revealed the existence of secret bank accounts in Monaco, through which hundreds of millions of French Francs allegedly passed.<sup>119</sup> The accounts are allegedly located at the Credit Foncier de Monaco bank, which is run by Charles Feliciaggi, who is reportedly close to President dos Santos.<sup>119</sup> The allegation centres on the movement of funds that originated from both the Angolan 'Ministry of the Armed Forces' (presumably, the newspaper meant the Angolan Defence Ministry) and from the 'Presidential Cabinet in Luanda.'<sup>119</sup> One of these transactions was reported to be as high as US\$15 million, and *Le Parisien* suggests that these funds were commissions from the sale of arms. Part of these funds were then redistributed to offshore companies and to establishments in France.<sup>119</sup>

### Efforts to foil the Judges

Against the backdrop of this ongoing process, the various protagonists involved in the case were simultaneously making an extraordinary effort to force a closure of investigations on various technicalities. In one example, accompanied by considerable vilification of the investigating authorities, Allain Guilloux's lawyer attempted to make a case that the Judges should not have had the legal right to obtain documentation which led to the Angolagate investigations, because they were in fact investigating another case.<sup>105</sup> This is an interesting argument, which would make a mockery of legal due process: because the Judges were in fact investigating a non-related case, they were being expected to forget what they had discovered!

In the meantime, Jean-Christophe Mitterrand had embarked on what could be described as a verbal offensive against the Judges. *Le Monde* quoted him as saying that Judge Courroye 'sweats hatred.'<sup>120</sup> This public outburst has not done him any favours, especially given the vigorous defence of Judge Courroye and his team by his colleagues in the Judiciary. Jean-Marie Coulon, the First President of the Court of Appeal in Paris reacted, 'you should expose the professional actions of the Judge and not his personality, as this practice damages democracy which should be protected.'<sup>121</sup>

In another attempt to undermine the investigation, lawyer Gilles Goldnadel suggested according to a 1939 decree on 'war material, weapons and ammunition' that it was 'illegal to mount a prosecution without the "request of the Defence, War, Navy, Air Force, or Finance Minister."<sup>105</sup>

**when Unita came they burnt all the fields and now there is not enough food**

According to Goldnadel, without their authorisation, the Judges should not be permitted to investigate arms trading with Angola. The Court of Appeal in Paris decided on 12th January 2001 that the investigation was valid and should proceed, stating that it would leave the decision on the arms investigation until 23rd February 2001.<sup>122</sup>

In the meantime, the French Minister of Defence issued the required request, and the Judges' investigations continued. The Minister's request seemed, for a while, to have ended the possibility of defence teams avoiding arms trading charges on this technicality rather than letting their clients answer the charges in court. This situation prevailed until 27th June 2001, when the Cour de Cassation in Paris ruled that the arms trading charges against Pierre Falcone, Arkadi Gaidamak and Jean-Christophe Mitterrand should be dropped. The court's argument supported the initial claims that the Judges should not have pursued their arms trading investigations without prior Ministerial authorisation.<sup>123</sup>

In late June 2001, Falcone issued a statement through his US spokesman, Jason Rose, in which he clarified his innocence. Against the arms trading charges, Falcone responded that, 'it [the charge of arms trading] is totally false! The accusation is as destructive and unjust as the charge of witchcraft was in the Middle Ages. Legally, nothing stands up to close scrutiny. What then, am I accused of morally? Of making a lot of money? Most certainly. And I have!<sup>124</sup>

As of going to press, all those who have been charged in the course of the investigation remain charged. Both Pasqua and Marchiani retain Parliamentary immunity and so the investigating Judges are not able to impose any judicial control or insist on their detention, as has been the case for other individuals charged in relation to this matter. However it should be stressed that all should presumed innocent of all charges that have been laid against them, until such time as the charges are proven in a court of law.

### Some other interesting links

In addition to the above tangled web of inter-connected companies and individuals, press articles and investigations raise questions about other companies which are of concern, and which demand urgent clarification.

#### *Banco Africano de Investimentos (BAI)*

According to the US Government State Department web site, BAI was established in 1997 and is listed as the only investment bank in Angola.<sup>132</sup> According to *Liberation*, the bank was inaugurated on 12th November 1996 in Luanda.<sup>133</sup> For a bank, apparently set up with US\$32 million capital, which increased during 2000 to US\$50 million,<sup>134</sup> and with varied business interests from brewery construction in Mozambique<sup>135</sup> to diamond interests through AscCorp,<sup>136</sup> this all seems reasonable enough. BAI has representative offices in Luanda (and other parts of Angola), Lisbon, and Luxembourg.

A perusal of press reports about BAI reveals some interesting items. The newspaper, *O Independente* reports, 'sources at Futungo say the President is worried by the recent developments.' The paper continues, 'this is why with Menatep, a Russian bank, he started the Banco Africano do Investimentos...'<sup>136</sup> In a 1996 article in *Liberation*, ostensibly about the supply of weapons to Angola via ZTS-Osos, *Liberation* reported 'Arkadi Gaidamak ...owns 10% of the capital of the new bank, BAI.'<sup>133</sup>

According to the BAI's own published 'statement from the President', the bank lists its shareholders as follows:<sup>137</sup>



**Banco Africano de Investimentos (BAI).**

Sonangol, UEE	17.5%
Service Group	8.0%
José Carlos Récio	7.5%
Investec Bank, Limited	7.5%
Amer-Com International	6.0%
Caixa Central de Crédito Agrícola Mútuo, CRL	5.0%
Banco Pinto & Sotto Mayor, SA	5.0%
Dabas Management, Limited	5.0%
Central Investimentos –	
Sociedade Financeira de Corretagem, SA	4.5%
Others	34%

An observer might be forgiven for wondering which individuals, or companies are the key shareholders who make up the remaining 34% 'other' group. *Africa Hoje* suggests that a further 8% is taken up as follows: Soares da Costa and Mota & Companhia, each 3%, and Sousa Cintra holding a further 2%.<sup>138</sup>

However, according to French press reports, links to Angolagate appear to go further than simply the possibility of some of the scandal's alleged key players holding shares in the bank. According to *Le Monde*, Jacques Attali, the first director of the European Bank for Reconstruction and Development, was paid 1.5 million French Francs from accounts of both 'Brenco and BAI'.<sup>16</sup> *Le Monde* continued '...an Angolan banking establishment [BAI] in which M. Falcone is a shareholder. Interviewed as a witness on 1st December [2000] M. Attali asserted that his company [ACA] received US\$160,000 from the BAI.' Earlier *Le Monde* commented 'According to M. Falcone, the former confidant of François Mitterrand was paid, 'to study [the set up] of micro credits in Angola.'<sup>16</sup>

In response to Global Witness' enquiries about share ownership, BAI has confirmed that Falcone's company Brenco holds a 4% stake in the bank.<sup>139</sup> In other words, it is Brenco that holds stake in BAI, not Falcone personally. However, regarding questions concerning any role by Gaidamak, BAI states 'it is not correct that any of the names that you refer is or has been shareholder of BAI.'<sup>139</sup>

In the context of Brenco, BAI states that Brenco 'subscribed 4% and paid in USD1,300,000 [US\$1.3 million] at the nominal price of issued shares through a deposit of that amount in the account in Lisbon of the Promoting Committee for the incorporation of BAI. Since then Brenco has never used BAI for any kind of banking transaction and no deposit account has been open (sic) by Brenco at BAI. Neither Brenco or any other name that you refer has ever received any credit or any other support...'<sup>139</sup>

Regarding President dos Santos, BAI states that there is 'no official or unofficial connection between BAI and the President of the Republic of Angola.'<sup>139</sup> In conclusion the letter states, 'There has been no payments by BAI to



any of the people that you refer [presumably, also including Jacques Attali].<sup>139</sup>

In 7th September letter, in response to further questions from Global Witness, Mário Palhares, Executive President of BAI provided the following additional comments:

- We have no comments on the press editorial policy of any newspaper. We have given you the correct information that Brenco was a founding shareholder of BAI with a 4% stake. We have no further comments on this issue.
- Each shareholder of BAI had commercial or investment activity in Angola when BAI was incorporated in 1996. In the case of Brenco, as we have already said in our letter of 29th August [2001], it has never used BAI for any kind of banking transaction and no deposit account has been open by Brenco at BAI. Therefore we consider that stake was a strict financial investment.
- Mr Gaidamak has never had any role with BAI, at any time.
- We make no comments on press allegations. We have given you the correct information that BAI has never made payments to any of the people that you refer.
- As you say, our answer was 'precise and helpful'. In the interest of transparency we have given you precise information all of which is completely reliable and true. Besides, the information referred to is public information and is therefore accessible to the general public.

In conclusion, the letter ends, 'As a last comment, we see no reason to keep going on this exchange of letters and from our point of view, we think that our contribution to your work should be considered as final.'<sup>140</sup>

#### *Elf Petroleum Angola Ltd – an invisible company from the Elf group?*

Since the press explosion of Angolagate in December 2000, much has been made of efforts to protect French interests, as a consequence of the political decisions and actions undertaken by the various individuals involved in the scandal. Further enquiry reveals, however, that the involvement of Elf in Angola is more complicated than most observers might have assumed. Angolan registered Elf Petroleum Angola Ltd.<sup>56</sup> is (or at least was) the Elf subsidiary that held a 10% stake in the Cabco concession in Cabinda's Block o, operated by Chevron.

Elf Petroleum Angola Ltd appears to have been removed from all combined [i.e. TotalFinaElf] group documents.

Regardless of the company's apparent disappearance, there are a number of reasons to suggest that the company does exist:

- In contrast to current company publications, Elf Petroleum Angola Ltd is clearly referred to in Elf's past company publications as having been established in 1991.<sup>141</sup>
- 1999 Elf accounts clearly list Elf Petroleum Angola Ltd as a 100% owned subsidiary of the parent group. 2000 Elf accounts clearly show that Elf Petroleum Angola Ltd was 99.7% owned by the parent company.<sup>56</sup> What happened to the 0.3% that seems to have been lost between 1999 and 2000?
- As of late November 2001, Chevron continued to report that Elf Petroleum Angola Ltd was a partner in Block Zero.<sup>56</sup>

- Elf Petroleum Angola Ltd is clearly referred to, as distinct from Elf Exploration Angola, in the Angolan Ministry of Petroleum's publication, 'Relatório de Actividades do Sector 2000'; GEPE/MINPET May 2001.
- Evidence in Global Witness' possession indicates that Elf Petroleum Angola Ltd has a Bank account at the 3 rue d'Antin branch of Paribas. Attempts were made through an unrelated [to Angolagate] civil legal action to freeze, what sources suggest, were significant funds held in this account.<sup>142</sup> This action was not related to any alleged wrongdoing by Elf, but to attempts to retrieve Angolan State revenue held in the accounts of Elf subsidiaries, due to the fact that Angola had reneged on final payments for a construction project.<sup>56</sup>

Global Witness sought clarification from TotalFinaElf about the activities of Elf Petroleum Angola Ltd on the 31st August 2001. Global Witness also asked the company its views on company transparency relating to payments to national governments on the 24th January 2001. As of going to press, the company has failed to respond to either request.

#### *Falcon Oil and Prodev*

Falcon Oil is a 10% stakeholder in the Exxon-Mobil operated Block 33. Prodev is a 15% holder in Elf's (now TotalFinaElf's) Block 32. A significant proportion of the estimated US\$870 million in signature bonus payments to the Government for these blocks, together with BP operated Block 31, were diverted by the Government for arms procurement.<sup>143</sup> Since then, there has been considerable press speculation as to what these companies actually are, with suggestions that they are not well known within 'big oil' circles as oil companies.

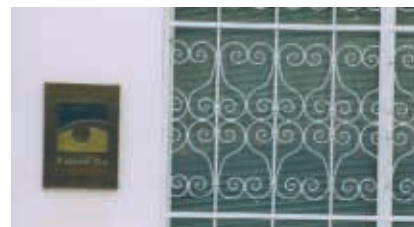
Following the publication of *A Crude Awakening*, investigations continued into these companies. Despite numerous sources in Luanda suggesting that Falcon Oil was the West Virginia, United States, based company Falcon Oil and Gas, the reality is that the Angolan 'Falcon Oil' is Falcon Oil Holdings S.A., registered conveniently in Panama. The company operates an office in Paris.<sup>56</sup> We are not suggesting any wrongdoing by these companies, but they should be subject to the same transparency requirements as other companies.

#### *Other African Unknowns*

In an article entitled 'Roc Oil's mysterious partners', Africa Energy Intelligence notes the existence of two partners in the Cabinda South Block, which it refers to as 'unknown in the oil exploration field in Africa.' These companies are Force Petroleum, which holds 20% in the Block, and Lacula Oil, with 15%.<sup>144</sup>

According to Africa Energy Intelligence, 'Force Petroleum is a private firm based in the United Kingdom and its stake in Cabinda South, is thought to be its lone asset.' The article continues 'as for Lacula, it is reportedly controlled by a Western Major, which is active in Angola. Lacula oil had already been TotalFinaElf's partner on Cabinda South, with the same 15% stake, but it has no other assets.'<sup>144</sup>

In view of concerns about the lack of transparency in the country, Global Witness encourages the companies to reveal their beneficial ownership and to provide details about their activities.



**Falcon Oil – an unknown in the deepwater oil sector holds 10% in Exxon-Mobil's Block 33.**



## Angolans connected to Angolagate

Amongst the 26 diskettes found in Falcone's secretary's apartment in Paris, are details of payments made by Brenco to a number of prominent Angolans. Amongst these individuals, Elísio de Figueiredo seems to have done the best. As already noted, de Figueiredo was the third Angolan Ambassador based in Paris. His role seems to have been to act as liaison between President dos Santos and Falcone and Gaidamak. *Le Monde* reports 'it is believed that the Ambassador, Elísio de Figueiredo, was also remunerated: M Falcone might have given him more than US\$18 million.' The paper continued, 'Isabelle Delubac [Falcone's secretary] stated to the investigators, "I saw this person in the office of Brenco on several occasions."<sup>26</sup>

According to *Le Monde*, Falcone reportedly stated 'I can confirm that we gave cash to M. Elísio de Figueiredo in the context of the costs and actions that he had to undertake in his missions.'<sup>26</sup> Quite why it was necessary for a private individual to cover the costs of an Angolan Government official operating in his official capacity is not clear. *Le Monde* continued, 'the businessman also specified that "in the context of these missions," funds were transferred to other Angolan personalities, such as the Interior Ministry Vice-Minister; head of secret services, M Meala.' Falcone was quoted, 'I want to make it clear that it was in order to facilitate things and not to buy people. In other words, it is not corruption, but it is within the operational logic over there in Angola.'<sup>26</sup> In light of the Enron scandal, presumably Falcone also felt that the provision of US\$100,000 to the Bush campaign was '...within an operational logic over there ... [in the United States]'

This telling statement, implying that public duties are seen as a form of private property by the Angolan ruling elite is a view that should certainly be challenged. It is also interesting to see that Falcone appears to hold the same view as Bernard Guillet, Secretary of France-Afrique-Orient, who said 'Mr Falcone, who like me knows well the United States, believes that lobbying is necessary. I am aware that in France the judiciary link it, wrongly, to trading favours.'<sup>16</sup>

**Dos Santos extends his non-interference in French judicial matters by taking his case to Chirac. Dos Santos' April 2001 letter to Chirac, as published in *Le Nouvel Observateur*.**

## President dos Santos confirms suspicions about Angolagate

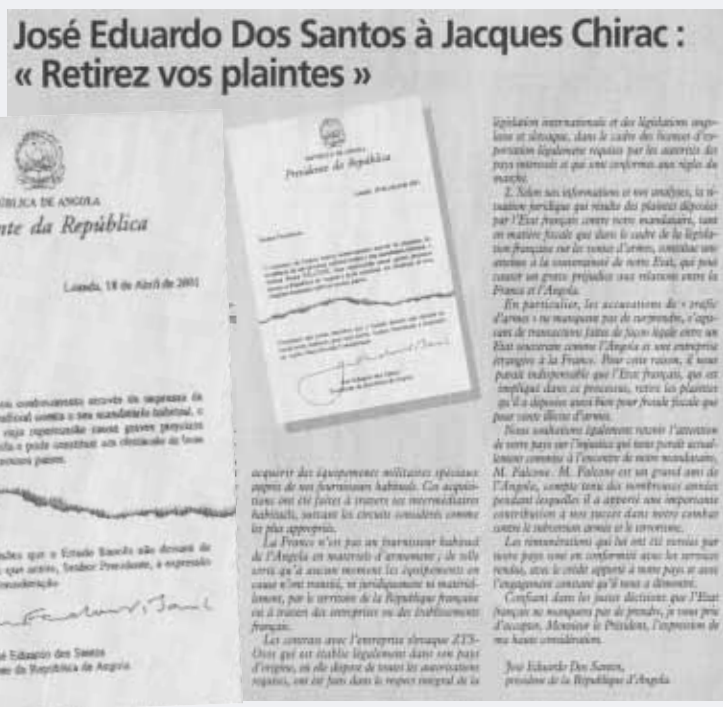
President dos Santos' outspoken reaction to the Angolagate scandal seems to confirm, more or less, most of the suspicions and charges of the Paris judiciary. As a damage limitation exercise, it is hard to see how the President could have made the situation worse. The Angolan President's most telling comments came in his address to the incoming French Ambassador on 23rd February 2001. In a quite extraordinary speech, dos Santos accused 'agents of the French State' of propitiating 'conditions for mind-poisoning and libellous campaigns affecting the reputation of Angolan entities and harming the interests of the Angolan Government...'<sup>145</sup>

Having stated that he had no intention of interfering in French internal affairs, the President then did exactly the opposite. He acknowledged the key role of Falcone and his operation, which he said had State approval in France. In his own words, '...I have a duty to acknowledge that some of the people currently the targets of law suits in France made an enormous contribution to the development of friendship and cooperation between Angola and France ...'<sup>145</sup> He continued, 'Mr Pierre Falcone, for example, through his company, supported Angola at a crucial moment in its history and, thanks to that support, democracy and the rule of law were preserved, millions of people were saved from impending genocide, and we freed our cities from the military sieges and massive and indiscriminate shelling that were causing desolation and despair.'<sup>145</sup>

President dos Santos then confirmed the business advantages to France of this arrangement by stating '...that gentleman dealt with sensitive matters which had the consent of the French authorities and were very useful to Angola. We interpreted his action as a gesture of confidence and friendship by the French State and, for this reason, my Government took decisions that permitted spectacular growth of cooperation with France in the area of oil and economically and financially.'<sup>145</sup> He further insisted that ZTS-Osos was not a French company and that the equipment acquired through the company did not transit French territory, stressing that the source of weapons was through, '...some countries in Eastern Europe, particularly Russia.'<sup>145</sup>

President dos Santos also noted that 'all this deliberate confusion had already happened with Mr Tarallo [presumably a reference to statements attributed to former Elf executive André Tarallo, which suggested that Elf had operated a US\$60 million annual slush fund through accounts in Liechtenstein that were used to pay bribes to various top officials in certain African countries, including Angola] and I must confess to you, Mr Ambassador, that this situation simply leaves us perplexed.'<sup>145</sup>

Finally, having implicitly linked the success of French business interests to the activities of Pierre Falcone, the President warned of the consequences of inaction to bring current legal proceedings to a close, as 'friendship is like a plant which, if not regularly watered and fertilised, dries up. I think it is now up to your Government, through practical gestures, to do more for friendship and cooperation between our two peoples. And it is with that sentiment that I welcome you and wish you success in the fulfilment of your mission.'<sup>145</sup> In diplomatic terms, not only was this an interesting view of non-intervention, but the handing of a poisoned chalice to the new French Ambassador.



**distribution for a long time. The children are hungry. In order to feed them,**

## PART TWO: THE COMPLICITY OF OIL COMPANIES

### 5 Introduction

**G**LOBAL WITNESS strongly believes that international oil companies are complicit in the economic abuses of Angola's ruling elite and the perpetuation of war because they choose not to publish the revenues that they pay to the Angolan State, preventing the Angolan people from being able to render their Government accountable over the use of those revenues.

This section reviews the behaviour of oil companies in this regard. It starts by providing a brief history of Angola's oil sector and reviews the major players in the industry. After reviewing current tax disclosure requirements in the developed world, the discussion then focuses on Global Witness' dialogue with oil companies operating in Angola after the publication of *A Crude Awakening* in 1999. This dialogue was aimed at facilitating voluntary action by companies to adopt a system of full transparency, and to render details of their consolidated payments to all national governments publicly available. A series of repeated objections to disclosure of payment information – despite the fact that companies routinely provide such information in the developed North – are evaluated and, Global Witness believes, are found wanting.

Although some of the more progressively-minded oil companies recognise their responsibility to provide this information, so far only one company, BP, has publicly announced an intention to reveal relevant data (when its oil production in the country commences). The announcement of BP's intension to 'do the right thing' brought a battery of veiled threats from Angolan oil company, Sonangol. The extraordinary confidential letter that Sonangol sent to BP is reproduced in the section 'Company Responses – BP Amoco'.

The rabid response by Angola's elite has revealed the limitations of voluntary initiatives on transparency. Instead, the issue has highlighted the need for a regulatory approach to address the issue by Northern financial regulatory authorities, such as the US Securities and Exchange Commission or the UK Financial Services Authority Listing Authority. A section entitled 'Regulating payment disclosure' analyses this case; a section on 'Risks of complicity for companies' points out the dangers of non-transparency to investors and shareholders.

The IMF Staff-Monitored Programme in Angola is also reviewed and the integrity of non-disclosure by oil companies is questioned given the emerging standards of what constitutes responsible corporate behaviour in a number of different international fora. Comments (reportedly attributed to economists associated with the Oil Diagnostic study) suggest that, in 2001, up to US\$1.4 billion in revenues and loans – almost one third of Angola's state income of between US\$3-5 billion – cannot currently be located. A correspondence from a World Bank official states: 'Successive IMF/WB missions during the last few years worked with data supplied by the authorities and found large unexplained outlays equivalent to between one-third and one-half of total reported fiscal revenues. Unfortunately, these problems have not yet been resolved, and the staff of the IMF is



**Whilst Angolan and international elites get richer from oil discoveries off Angola, one child now dies of preventable diseases and malnutrition every three minutes.**

awaiting explanation of the disposition of about US\$1.4 billion in fiscal revenues and external loans in 2001. These calculations are solely derived from government data. The information on current payments made by oil companies is still scant, since some companies claim confidentiality clauses and no framework has been established for an ongoing reporting of oil-related payments'.

Figures produced at the end of this section also reveal, for the first time, the taxes that each oil company paid to the Angolan Government in the year 2000 and show an unaccounted black hole containing a difference of US\$770 million between revenue data reported by the Ministry of Petroleum and that reaching the Ministry of Finance. This suggests that the current discrepancies uncovered by the IMF are part of a pattern of sustained economic abuses that is deliberately benefiting from civil conflict and unaccountable government.

#### The oil industry in Angola today

Angola is Sub-Saharan Africa's second largest oil producer, after Nigeria. The national economy is highly dependent on the oil sector, which accounts for approximately 86.5% of Government revenues.<sup>150</sup> Angola's off-shore is considered a 'world-class' area for oil production, with some two thirds of exploration wells striking oil, compared to a 50% success rate for Nigeria's deep offshore<sup>151</sup> and a global average of around 15%.<sup>152</sup> This has resulted in considerable interest in potential new prospecting areas from all of the key global players in the upstream oil industry. In 1999, analysts were

**you have to go to the fields very far away ... My head is sore! My arms and**

## Development of Angola's oil industry

Angola's oil industry began in 1955 with the discovery of oil in the onshore Kwanza valley by Petrofina. The industry became more important with the discovery of offshore deposits in the colonial Angolan enclave of Cabinda in the 1960s by the Cabinda Gulf Oil Company (CABCOG), which became a subsidiary of Chevron in 1984.<sup>143</sup>

During 1978 and 1979, a seismic survey of the continental shelf off the coast of Angola indicated significant additional oil deposits. This resulted in the creation of 13 'blocks', in addition to the original Cabinda Block 0, that were located in the shallow waters off the coast of mainland Angola. Following the auctioning of these blocks, the Government created a further 17 new blocks numbered 14 to 30, extending out into deeper waters beyond the initial 14 blocks – these are referred to as 'deep water blocks'.<sup>155</sup> – See map right

In May 1999, the Government awarded the first three so-called 'ultra-deep water blocks': Blocks 31-33, which were acquired by BP-Amoco, Elf and ExxonMobil respectively. In September 2001, the fourth ultra-deep block, Block 34, was awarded to Sonangol, with technical assistance provided by Norsk Hydro.<sup>146</sup>

In theory, each block is finalised through a competitive bidding process and once the block is agreed, a 'signature bonus' is paid by each of the participating companies in the block. This is a non-recoverable payment that the companies declare they will pay in their bidding statement if their bid is successful. Once the bidding process has been finalised an 'Operator' company is chosen. The Operator is the company that will be in charge of the development of the block, making the key decisions about investment levels, design of necessary equipment and its subsequent deployment to ensure that the development of the block takes place as efficiently as possible. Equity partners often contribute to block development under the direction of the Operator. They are effectively co-investors, with the level of their investment and subsequent share of profits determined by their stakeholding.<sup>143</sup>

### Key legislation

For a brief discussion of other aspects of Angolan oil related legislation, please refer to Global Witness' December 1999 report, *A Crude Awakening*. However, the following is worth reiterating here:

Under Angolan Law No 13/78 of 26th August 1978<sup>147</sup>, it is established that **'all deposits of liquid and gaseous hydrocarbons which exist underground or on the continental shelf within the national territory, up to the limit of the jurisdictional waters of the People's Republic of Angola, or within any territory domain over which Angola exercises sovereignty, as established by international conventions, belong to the Angolan People'<sup>148</sup>, in the form of State property.'**

For any discussion of the merits of transparency for the oil sector in Angola, this piece of legislation is of immense significance. If, as stated in the above law, 'liquid and gaseous hydrocarbons' are natural resources that belong to the people of Angola, surely the people of Angola have a right to have access to data concerning the revenue that is generated from the exploitation of **their** natural resources? Currently, Angolans do not have access to such information, and are positively dissuaded from obtaining it.



Angola's offshore oil blocks.


### Contracts for oil blocks





























Until 1979 the favoured form of contractual relationship was the 'Joint Venture Agreement'. The majority (as a percentage of total Angolan oil production) of the *currently producing* oil blocks are joint venture agreements in which each company takes a percentage of the licence, and each company is required to pay development and operational costs according to the percentage stake they hold. After the payment of taxes and royalties, the companies then receive the profits remaining according to their share. In this kind of agreement, Sonangol is required to pay up-front development costs just like the other participants in the block.<sup>143</sup> Currently, the most important producing joint venture block is the Chevron-operated Cabinda Block 0, which pumps approximately 70% of Angola's oil production.<sup>155</sup> The other main production centres are Block 3, off the northern coast, Block 1, and Block 2, both located off Soyo.<sup>143</sup>

Since 1979 the favoured form of agreement has been the Production Sharing Agreement in which foreign oil companies serve as contractors to Sonangol, and bear the full cost and therefore risk for exploration and development of fields within the blocks. Given that Sonangol is also effectively an equity partner, its costs are usually borne by the other stakeholders in the block during this early phase. The costs of development and the subsequent running of production facilities are covered by a percentage of the oil produced (which can be as high as 50%), which is known as 'cost oil'. After payment of taxes due to the government, the remainder 'profit oil' is divided between the equity partners and Sonangol according to their equity stakes in the block.<sup>143</sup>



## The top ten oil companies in Angola

The ten most active oil companies currently operating in Angola are listed below <sup>146,149</sup>, in terms of their block ownership and their role within the blocks, either as Operator (green), or as partner (black). Current producing blocks are marked .

Sonangol Angola	TotalFinaElf France/Belgium	ExxonMobil USA	ChevronTexaco USA	Agip Italy	BP-Amoco UK
Block / Share in block (%)	Block / Share in block (%)	Block / Share in block (%)	Block / Share in block (%)	Block / Share in block (%)	Block / Share in block (%)
<b>4 Kiabo (100%)</b> 	<b>3/85-91 (53.34%)</b> 	<b>15 (40%)</b>	<b>0/A, B &amp; C (39.2%)</b> 	<b>1 Safueiro (50%)</b> 	<b>5 (27.5%)</b>
<b>5 (30%)</b>	<b>17 (40%)</b> 	<b>20 (50%)</b>	<b>14 (31%)</b> 	<b>25 (40%)</b>	<b>18 (50%)</b>
<b>3 (100%)</b>	<b>Area A (49%)</b> 	<b>24 (50%)</b>	<b>2/80-85 (20%)</b> 	<b>0/A, B &amp; C (9.8%)</b> 	<b>31 (26.67%)</b>
<b>34 (20%)</b>	<b>Area B (32.6%)</b> 	<b>33 (45%)</b>	<b>9 (40%)</b>	<b>3/85-91 (16%)</b> 	<b>17 (16.67%)</b> 
<b>0/A, B &amp; C (41%)</b> 	<b>3/80 (50%)</b>	<b>17 (20%)</b> 	<b>22 (40%)</b>	<b>14 (20%)</b> 	<b>15 (26.67%)</b>
<b>2/80-85 (25%)</b> 	<b>19 (30%)</b>	<b>9 (35%)</b>	<b>Area B (16.4%)</b> 	<b>3/80 (15%)</b>	<b>21 (20%)</b>
<b>3/85-91 (6.67%)</b> 	<b>32 (30%)</b>	<b>21 (20%)</b>	<b>20 (50%)</b>		
<b>14 (20%)</b> 	<b>0/A, B &amp; C (10%)</b> 	<b>22 (25%)</b>			
<b>Area A (51%)</b> 	<b>1 Safueiro (25%)</b> 	<b>25 (35%)</b>			
<b>Area B (51%)</b> 	<b>2/80-85 (27.5%)</b> 	<b>31 (25%)</b>			
<b>19 (20%)</b>	<b>14 (20%)</b>	<b>32 (15%)</b>			
<b>21 (20%)</b>	<b>31 (5%)</b>				
<b>22 (20%)</b>	<b>33 (15%)</b>				
<b>24 (20%)</b>					
<b>25 (25%)</b>					
<b>31 (20%)</b>					
<b>32 (20%)</b>					
<b>33 (20%)</b>					
<b>Cabinda N. (20%)</b>					
<b>Cabinda C. (20%)</b>					
<b>Cabinda S. (20%)</b>					
			<b>Petrogal</b>		
			Portugal		
			Block / Share in block (%)		
			<b>1 Safueiro (10%)</b> 		
			<b>14 (9%)</b> 		
			<b>Cabinda C. (20%)</b>		
			<b>32 (5%)</b>		
			<b>33 (5%)</b>		
				<b>Norsk Hydro</b>	
				Norway	
				Block / Share in block (%)	
				<b>34 (30%)</b>	
				<b>17 (10%)</b> 	
				<b>5 (27.5%)</b>	
				<b>9 (10%)</b>	
				<b>25 (10%)</b>	
					<b>Statoil</b>
				Norway	
				Block / Share in block (%)	
				<b>17 (13.33%)</b> 	
				<b>15 (13.33%)</b>	
				<b>31 (13.33%)</b>	
					<b>Shell</b>
					UK/Netherlands
					Block / Share in block (%)
					<b>18 (50%)</b>
					<b>21 (10%)</b>
					<b>34 (15%)</b>

predicting a potential US\$18 billion of investment over the next four years.<sup>153</sup> However, Angola's oil production for 2000 remained at approximately 750,000 barrels per day (bpd)<sup>154</sup>. Analysts forecast this to rise to around 900,000 bpd by 2002, as new production comes on-stream, divided among blocks as follows:<sup>154</sup>

Block	Production (bpd)
Block 0	500,000
Block 2	50,000
Block 3	95,000
Block 14	95,000
Block 17	100,000
Others	60,000
<i>Total</i>	<i>900,000</i>

N.B. The Economist Intelligence Unit does not specify which blocks fit under 'others'.

Recently awarded Blocks such as 15, 18, and 31-34, as well as additional fields from the current blocks are not expected to produce for a number of years. ExxonMobil's Block 15 is expected to come on-stream in 2004, producing a peak of 250,000 bpd. The time frame for first production from the ultra-deep water Blocks 31-34 are harder to predict given the immense water depths and engineering requirements.<sup>154,155</sup> The next significant increase in Angolan oil production will start in 2002, after the Girassol field from TotalFinaElf's Block 17 came on-stream in December 2001.<sup>154,155,156</sup>

Despite the regularity of oil company press releases over the past year lauding their latest new finds, the gradual expansion of Angola's oil industry has not all been plain sailing. Relations between the Government and the companies took a downturn towards the end of 2000, when the Minister of Petroleum José Maria Botelho de Vasconcelos stated that Angola wanted to slow the pace of development to extend the life of the production cycle in Angola's deep water blocks.<sup>157,158</sup> This

friction was epitomised by ExxonMobil's argument with Sonangol over the development of Block 15. Minister de Vasconcelos accused ExxonMobil of choosing an unduly costly technical option to develop the block and for failing to consult adequately beforehand.<sup>157,158</sup> Such a move, he claimed, would have had a negative impact on the Government's share of future oil revenue generated from the block.<sup>157,158</sup> There is clearly an inconsistency here between the legitimate interests of the Angolan State to maximise its revenue from its resources and the profit motive of the oil companies, which seek to maximise return in the shortest possible time.

According to *the Economist Intelligence Unit (EIU)* another reason for the slow development of some of Angola's new oil fields is a shortage of cash within Sonangol.<sup>154</sup> This is surprising given Sonangol's recent string of loans from international banks (*See International lending to Angola – page 51*). The EIU points out that some industry sources suggest this is due to cash diversion from Sonangol, without being more specific.<sup>152,154</sup> If this is true, it should be of major concern to the IMF.

### Signature bonuses and the awarding of Blocks 31-33

The value of signature bonuses has increased dramatically for the attribution of ultra-deep blocks. In the past, the awarding of contracts was determined on the basis of a specific company submitting a detailed plan to the Government for the setting up and running of an oil block, with details of profit-sharing worked out through negotiation. Sources in Luanda now indicate that the key decisions made regarding the awarding of oil blocks are taken at the highest level, and licence awards are skewed more towards a political rather than a technical basis.<sup>155</sup>

In 1992, Sonangol's then new director Joaquim

**through the mata, or the tropa (government army) ... will get you. Here, these**

Duarte da Costa David, appointed by President dos Santos, introduced the concept that companies should pay one-off non recoverable signature bonuses, which is a standard practice in other oil producing countries.<sup>155</sup>

According to consultants Wood Mackenzie,<sup>159</sup> the signature bonus payment of January 1993 for Block 17 was US\$6 million. Based on the data in the table below, the average of all the bonus payments paid between the signing for Block 17 and Block 21 in January 1999 is US\$17.6 million, with a high of US\$45 million for Block 21. Blocks 24 and 25 attracted slightly higher bids of US\$70 million and US\$60 million respectively.<sup>159</sup> Even taking these higher payments into account, the various companies paid an average US\$5,361 per km<sup>2</sup> for these blocks.

Given the extraordinary interest in Blocks 31-33 it was clear that the bonus payments were likely to be at the higher end of the spectrum of payments to date. However, sources indicate that the companies massively under-estimated the up-front demands of the Presidency, and rather than paying the estimated US\$100 million for each block, they were forced to pay significantly higher sums.<sup>155</sup> Wood Mackenzie estimates suggest that US\$400 million, US\$250 million and US\$350 million were paid for Blocks 31–33 respectively. <sup>159</sup> *A Crude Awakening* reported that the total signature bonus payments for these three blocks were approximately US\$870 million (roughly 20% of the national budget for the year 1999). In other words, for blocks of roughly comparable size to those previously mentioned, the companies involved in Blocks 31-33 were willing to pay an average US\$63,688 per km<sup>2</sup>, which represents an increase of more than ten times (1179%) over the average of the 11 previous payments.

When asked about the size of these signature bonus payments, the oil companies have generally suggested that they are not highly inflated given the area of the blocks available. This is not accurate: the surface area of Blocks 31-33 is roughly comparable to previously signed blocks. Similarly, Wood Mackenzie<sup>159</sup> suggests that Blocks 15, 17 and 18 may hold reserves with a comparable volume. So, it appears that the new blocks do not hold 1179% more oil than those paid for previously.

On one level the Angolan Government should be congratulated for extracting the maximum possible

downpayment from the international oil industry for Angola's resources, especially if this considerable revenue had been used for constructive development of the country. Instead, as *A Crude Awakening* reported, sources indicate that around US\$400-500 million (of the total signature bonus payments for blocks 31 to 33) disappeared into the Presidency for clandestine arms purchases.<sup>143</sup> In the absence of further clarification from the companies and the Angolan Government, such high payments appear as both a lost potential benefit for the Angolan people and possibly a bad deal for the companies and their shareholders.

### No accountability without transparency

Since the launch of *A Crude Awakening* in December 1999, Global Witness has been involved in a dialogue with the oil companies operating in Angola. Its purpose has been to extend the definition of corporate social responsibility by discussing the rationale for oil companies to publish data about their payments to the Angolan Government – a concept that will be referred to as 'full transparency'.

Both the Angolagate scandal and Global Witness' investigations clearly show that a significant proportion of Angolan State income, of which almost 87% is derived from oil production<sup>159</sup>, is subject to misappropriation by Angola's elite and that this process of state looting is intimately tied to the progress of the war.<sup>160</sup> Against this background, Angolans have no capacity to hold their government to account for its actions because lack of information about government income prevents any adequate scrutiny of current practices. As basic information about government income is not available, how is it possible for ordinary people to demand accountability of Government expenditure? The almost complete lack of press freedom simply compounds the problem.

Companies operating in Angola that are not exercising full transparency make themselves complicit in both the continued funding of a virtually privatised war and in the wholesale robbery of the state on a scale equivalent to that perpetrated by President Abacha in Nigeria and President Mobutu in former Zaire.<sup>160</sup> This is not to say that these companies are *directly* involved in the process of state looting, or in paying bribes, though some certainly are. However, given that it is revenue from oil that generates the vast majority of the State's income, which, in turn, is misappropriated, oil companies cannot absolve themselves from this direct causal relationship without full disclosure of payments. Global Witness strongly believes that adopting a system of transparency by revealing the revenue created by the oil industry in Angola will create transparency for the bulk of government revenue by default, thus enabling ordinary Angolan citizens to begin the process of calling their government to account for its utilization of state assets. The lack of full transparency by companies also undermines the spirit of Law No 13/78, which states that Angolan oil belongs to the Angolan people.

Global Witness calls on companies to publish all data on tax and other payments that are made to national governments – as is already routinely published in Europe, North America and Australasia. Although the focus of this report is on Angola, companies should publish such payments for all their countries of operation.

Table of Estimated Angolan Deep Water Oil Block Signature Bonus Payments

Licence	Date	Area Km <sup>2</sup>	Bonus	
			Bonus US\$ million	per net area US\$/Km <sup>2</sup>
Block 17	Jan 1993	5,030	6	1,193
Block 16	Jan 1993	4,912	13	2,647
Block 15	Sep 1994	4,172	35	8,389
Block 14	Mar 1995	4,094	15	3,664
Block 20	Oct 1996	5,000	10	2,000
Block 18	Oct 1996	5,000	9	1,800
Block 22	Jan 1998	5,480	16	2,920
Block 19	Feb 1998	4,850	10	2,062
Block 21	Jan 1999	6,180	45	7,282
Block 24	Jan 1999	4,778	70	14,650
Block 25	Mar 1999	4,852	60	12,366
Block 31	Jun 1999	5,349	400	74,780
Block 32	Jun 1999	4,317	250	57,911
Block 33	Jun 1999	5,996	350	58,372
Total			1,289	

Source: Reproduced from Wood Mackenzie *ad hoc* report – Bonus payment figures are estimates, and total figures paid may include other payments, such as for 'social projects'.

## Current practices on tax payment declaration

### UK registered companies

In the UK, companies file their end-of-year accounts at the UK Registrar of Companies (at Companies House), according to UK Standard Accounting Principles. These Principles generally comply with International Accounting Standards. Declarations of tax payments are listed as 'UK tax payments', both broken down and net, and 'overseas taxation', which is not broken down.<sup>161</sup>

Clearly, if a UK-registered company only worked overseas in Angola, all taxes recorded overseas would refer to Angola. This is the case with some subsidiary oil companies that have been set up as part of an oil company's overall Angolan operations; for example, BP's subsidiary in Angola, is BP Exploration (Angola) Ltd, which is a UK registered company. However, from the point of view of an Angolan citizen, such a scenario is confusing: before being able to obtain data on oil company payments, it would first be necessary to know the name and place of registration of the appropriate subsidiary companies, and it would require payment data to be collected from numerous international locations. This task is further complicated by the fact that parent companies often deploy a large number of subsidiary companies, which may be operational only for a short period of time.

Even worse, if a UK-registered company has operations in a number of different countries, the 'overseas' tax payment data included in annual accounts are an amalgamation of separate information for all locations. Therefore, examination of the annual accounts of such companies would not reveal tax payment data for Angola. In principle, an interested citizen could then consult a company directly to obtain payment data for a single jurisdiction but, of course, in the case of Angola, oil companies do not give out such information.

### Non-UK registered companies

In the US, Europe and other developed jurisdictions, tax payment data for companies operating in those countries are easily available as one can go to the equivalent of UK Companies House and directly request such information. However, such information is not available in Angola and other less-regulated states. This lack of information is compounded by the problem that better regulated jurisdictions fail to apply the same level of reporting to their home and overseas operations.

Given that all key information is already available to oil companies, though not readily accessible, Global Witness recommends the following measures as part of its policy of 'full transparency':

Parent companies should provide a breakdown of taxes and other payments made to national governments for all countries of operation – for example, data should be provided in the parent company's consolidated annual reports in addition to information already available in those of subsidiaries. Data should be listed as total net payments to national authorities for each country of operation and should appear in both the annual returns to regulatory authorities and the annual reports of parent and subsidiary companies.

Data should be provided locally in the national language of each country of operation, as well as in the home language of the company.

Parent companies should publish the names and locations of registration of each subsidiary company and specify their countries of operation.

It should be pointed out that publishing these data involves negligible cost for the companies concerned, given that they already have such information to hand for internal accounting purposes.

## 6 Company dialogue

THE DIALOGUE that followed the launch of *A Crude Awakening* in December 1999 consisted of one-to-one meetings between Global Witness and many of the key oil companies concerned. It also included a multi-stakeholder meeting that was hosted by the UK Foreign & Commonwealth Office during October 2000 in London, at which the issue of full transparency was a central issue on the agenda.

Some companies involved in this dialogue responded favourably to the principle of full transparency, both for Angola and on a worldwide basis. However, a number of objections and misunderstandings that have been aired during various meetings also need to be addressed. These are discussed below.

### 1. Corporate confidentiality

Companies have suggested that calls for transparency demand that oil companies and their subsidiaries to publish confidential corporate information. It has even been proposed that Global Witness is calling on companies to publish data on the bidding process for an oil block whilst it is still underway.

This is false. Global Witness is not interested in the bidding process for oil blocks whilst underway – this is clearly confidential information. An interest could potentially develop if such a bidding process involves the payment of bribes, or payments in kind, or if the process of block acquisition is undertaken outside of an open bidding process. In normal conditions, the time for public disclosure should be after the bidding process has been completed and the operator and its partners have been chosen.

Furthermore, it is hard to understand why basic data about tax payments and signature bonuses should be deemed confidential, when it is clear that companies already provide such data in their countries of origin. It is clear that companies are operating double standards: corporate transparency seems to be a necessary concept for the developed North, but an entirely different matter for the developing South. Global Witness is calling on companies to be transparent throughout their operations, worldwide.

### 2. International oil companies are major players

Companies have suggested that their payments to the Angolan Government do not make up the majority of its income from oil. Instead, it has been suggested that the majority of revenue comes from Sonangol's partnership arrangements in block development. Thus, if the aim is to determine a reasonable estimate of government income, asking oil companies for their payment data would only provide a small amount of the necessary information.

There are several reasons why this objection does not stand up to analysis.

Firstly, the majority of Government income for the next decade of production will increasingly be derived from oil company tax payments. During this period, the main bulk of the Angolan State's income

**[there, en route] will stop you and take your food ... They don't kill you, but**



© Jeff Barbee / Panos Pictures

Gas flaring – Angola's offshore.

from oil will be generated by company tax payments rather than by partnership arrangements with Sonangol. Global Witness has reached this conclusion from the analysis of BP-Statoil Alliance's forecast data for Block 17.<sup>162</sup> (For further details, see *Elephant's tail or elephant – right*.)

The value of such tax contributions has been augmented by massive signature bonuses from oil companies. In July 1999, BP-Amoco, TotalFinaElf, ExxonMobil and their equity partners paid roughly US\$870 million in signature bonuses for Blocks 31-33, generating approximately 20% of total Government income for that year. Although these are one-off payments, in recent years there has been an 'oil block auction bonanza'<sup>155</sup> that has resulted in regular cash bonus payments to the Angolan State. Block 34 agreed in 2001, has continued this trend with a bonus of US\$300 million being paid.<sup>163</sup>

Any discussion of the significance of payments made by the companies is incomplete without also considering the fact that the majority of Sonangol's own share of production is used to service Angola's debt. Lack of transparency makes it almost impossible to be precise, but sources suggest that the next three to four years of the Government's share of oil production has already been mortgaged to provide for previous loans (See *International lending to Angola – page 51*).<sup>155</sup> Therefore, the bulk of deployable government income (i.e. income available after subtracting the amount needed to service debt) will continue to be derived from taxes and *ad hoc* bonus payments from oil companies.

*This objection also begs the question of why, if company payments are apparently unimportant, companies are colluding with the Angolan Government not to publish them clearly and transparently.*

## Elephant's tail or elephant – the reality of oil companies contributions to the Angolan State income

Oil companies provide revenue to the government by means of their tax payments, bonuses and awards, and from oil revenue generated by Sonangol's oil share sales and Sonangol's concessions. Some oil companies however, have argued that their tax payments make a minimal contribution to Government income compared to Sonangol's profit sharing arrangements. One company used the analogy that payments made by international oil companies are the elephant's tail rather than the elephant itself. However, far from being 'minority contributors', Global Witness can reveal that, over the medium term, oil companies are the main direct contributors to Angolan State income.

The following analysis is based on 1997 calculations by Environmental Resources Management, commissioned by the BP-Statoil Alliance for Block 17, a deep-water block which has started production in December 2001.<sup>156</sup> In the near future, the majority of Angola's income will start to be derived from such young oil blocks (see *The Oil Industry in Angola Today – page 33*). Although the original oil production forecasted for Block 17 was inflated, the relative contributions of company tax and Sonangol's profit sharing are maintained.

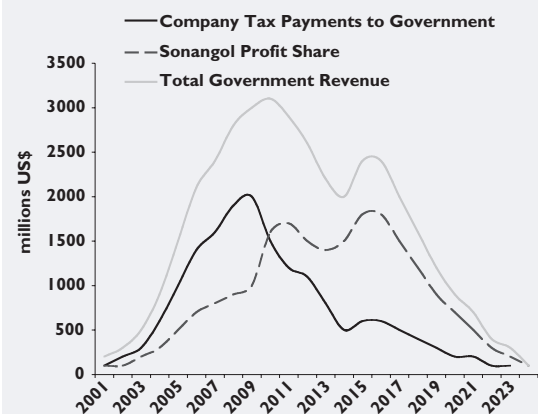
The BP-Statoil Alliance data show that oil company tax payments constitute approximately 68% of Government income during the first nine years of production. Relative parity between tax payments and Sonangol's share of production is only achieved in year 10 and overall, the average percentage of Angolan Government income being generated through taxes from the oil companies for the estimated life of the field is forecast to be 43.74%.

As Angola's oil production is scheduled to move away from Joint Ventures to Production Sharing Arrangements such as that in Block 17, the majority of Government income will start to be generated from a similar payment schedule. In other words, over the next 5-15 years (and probably longer as more and more blocks are contracted to new operators and come on-stream), Angola will be entering a phase when over 60% of Government income will be generated from tax payments from companies.

In the medium term, it appears that oil companies are the elephant rather than its tail.

### Oil Company tax payments against Sonangol profit share

Source: BP-Statoil Alliance data estimates for Block 17



**they beat you ... and make you carry things for them.”** –Displaced man, early 2001<sup>a</sup>

### 3. The role of the International Monetary Fund (IMF)

Companies have suggested that the best way forward would be through the publication of data generated from the 'Oil Diagnostic' study within IMF's Staff Monitored Programme.

Although important, Global Witness believes that the IMF process is insufficient. There are a number of problems with this approach as an answer to the lack of oil revenue data available for public scrutiny in Angola. It pre-supposes that the IMF Oil Diagnostic work was thorough (which mostly depends on the quality of information that was made available to the KPMG team) and that it will be made publicly available (depending on whether the Government will permit an adequate public airing of the findings). Furthermore, any IMF operation in Angola is not a replacement for full transparency by oil companies in all countries of operation, as the Oil Diagnostic is specific only to Angola. (*For a more detailed discussion, see The IMF in Angola – right*)

### 4. Confidentiality agreements

Companies have signed confidentiality clauses in their Product Sharing Agreements with Sonangol and are therefore reluctant to publish payment data.

This is of concern since it adds another layer of controls over the provision of data to the Angolan public, and provides the companies with a reason to avoid improving transparency. By acceding to a demand for a confidentiality agreement preventing the publishing of basic payments to the state, companies are in effect aiding and abetting the continuation of the Government unaccountability.

Does the confidentiality clause cover tax payments to the Government? Commercial legal opinion questions whether confidentiality clauses should prohibit companies from disclosing tax payments to the Angolan Government. The Product Sharing Agreement is a partnership agreement between the contractor (i.e. an oil company) and Sonangol, implying that secrecy only applies to the two companies involved and not to the revenue generated or to tax payable to the Government. This suggests that companies should be free to publish details of revenue generated from a particular block and resulting tax payments they make to the Angolan Government. In addition, BP has shown that the amalgamation of data across a number of blocks provides an answer to concerns about confidentiality with respect to payments to Sonangol.

### Publish what you pay!

Given the very high level of investment, management skill, technical ability, financial weight and experience required to develop and operate successfully in the deep and ultra-deep water oil blocks in Angola, it is clear that there are only a few companies which possess the overall capability to do the job. These are essentially the oil supermajors – ExxonMobil, ChevronTexaco, TotalFinaElf, BP-Amoco and Royal Dutch/Shell – and some of the industry majors like Norsk Hydro and Statoil, although most of the latter would probably require a partnership with others given the financial burden of block development.

As a result, there are only a few real players in the oil market, and Global Witness believes that they should formulate a common approach to this issue of transparency and ensure that any confidentiality clauses signed would not include confidentiality over basic payments to the State. It is unlikely that a common agreement to publish what is paid would result in oil blocks being reassigned to other takers.

At any rate, it is clear that a lot of data already leaks from the system. For example, the consultants Wood Mackenzie appear to have considerable access to such data, which is commercially available. Such leaks do not remove any obligation reasonably expected of the companies: it is clearly unacceptable to expect ordinary Angolans to have to pay large sums to an overseas consultancy to get data on their own resources. The benefits of confidentiality are further questioned by the fact that Sonangol publicly stated the size of the signature bonuses for Blocks 31-33 during a 1999 oil conference that was held in London.<sup>153</sup>

## The IMF in Angola

In early April 2000, the Angolan Government and the IMF initiated a programme in Angola to reduce inflation, improve transparency in the public sector operations and to begin implementation of critical structural reforms – called the Staff Monitored Programme (SMP). The IMF and its partner, the World Bank, consider the SMP to be a necessary first step towards securing international financial support within an economic recovery programme.<sup>164</sup> In other words, it is recognised implicitly that following the SMP, the IMF could enter into negotiations for a financial programme in the country. The SMP includes an exercise known as an 'Oil Diagnostic'. This is not a full audit of oil revenues nor is it a retrospective study that will examine past allegations of misappropriation of State funds. Instead, the study is only set to examine whether the amount of revenues generated by oil companies during 2001 is the same as the amount deposited in the National Bank of Angola.<sup>165</sup> This accounting exercise will be used to train Angolan officials.

The Oil Diagnostic is of major importance as it is potentially a powerful tool to achieve transparency in the oil sector. However, there were numerous problems in the way the process was established, which were compounded by numerous delays in the provision of information to the IMF and World Bank.<sup>166</sup>

The initial agreement to carry out the Oil Diagnostic was reached in April 2000, although it only came into practice after November 2000 when the Angolan Government announced that it had awarded a US\$1.6 million contract to KPMG, an international accounting and consulting firm. KPMG's mission had two stages:<sup>165</sup>

Stage I was to involve an initial assessment of current situation. KPMG was to assemble and assess relevant information for the most recent year in a database, including current estimates of proven and probable oil reserves, current and expected volume of petroleum production, total volume of exports and their value, and the division of the oil receipts from sales among operating companies, Sonangol and the Government. For this, available final versions of private audits of the accounts of oil companies and public entities such as Sonangol and the National Bank of Angola were requested. Particular attention was to be paid to the operation of the financing facilities, such as the 'Cabinda Trust' and the 'Soyo Palanca Trust', government-to-government export credit facilities, as well as the cross-debt situation between relevant entities such as Sonangol, the National bank and the Ministry of Finance.

On the basis of the information gathered, the consultants were to provide a 5-year projection of expected revenues of petroleum operations and institute a monitoring system to compare projections with actual revenues received. KPMG were to train up their Angolan counterparts in procedures used and give an account of any variations noted.

**“When this attack happened I was down by the river washing. On my return I**





**Without accountability of government revenue, what future for Angola's vast army of internally displaced children?**

A comprehensive final report was to be prepared 18 months after the commencement of the project. Recommendations to improve institutional regulatory arrangements and transparency in petroleum-related financial transactions were to be made to the Government and copied to the World Bank and the IMF.

Stage II of the IMF Diagnostic covered maintenance and monitoring of revenues. This stage was estimated to involve 15% of the overall effort and last for an additional 12 months during which KPMG's auditors were to ensure that the monitoring system and database are maintained, and to complete the training of their Angolan counterparts.

If fully and thoroughly implemented and if appropriate reports are made publicly available, the Oil Diagnostic study would certainly generate greater transparency and accountability in the management of the oil revenue in Angola. However, it has a number of serious limitations. Human Rights Watch provided a detailed critique.<sup>167</sup> Relevant objections include:

The Government of Angola lacks a clear commitment to render the KPMG reports public, although one of the key objectives of the diagnostic is transparency.<sup>167</sup> Sonangol's recent threats to oil companies regarding their potential disclosure of tax revenues clearly illustrate the Government's disregard for transparency (See *Company responses – page 41*).

The Angolan Government must make a firm commitment to release all Oil Diagnostic reports to the public as soon as they are available and to ensure that they are disseminated within the country in Portuguese. Given the serious nature of the recommendations likely to be made in KPMG's

final report, it is essential that the Angolan Government should publish it in full, and should report on the implementation of those recommendations to the Angolan public.

The IMF and the World Bank must insist that the Government publishes these reports as an explicit condition for subsequent cooperation. Recently, the IMF has told Global Witness that they have demanded publication of regular information on oil revenue flows as a condition for further assistance.<sup>168</sup> This stance must be maintained if the process is to have any credibility.

The Oil Diagnostic lacks any retrospective analysis on revenue data prior to the start of the exercise, despite allegations from Global Witness and others of covert pre-financing for arms deals. KPMG is expected to examine data going back to approximately 1998 as a basis for comparison with current production and revenues, but it is not clear whether these data will be included in the quarterly monitoring reports. Pre-2000 data should be included in the first Diagnostic report, especially considering that large cash payments from signature bonuses were made available to – and appear to have been diverted from – the State during 1998 and 1999.

The terms of reference of the Diagnostic also lack provision for detailed and public accounting in response to discrepancies identified by KPMG. The Government only needs to provide 'sufficient explanation' for missing funds; KPMG's ability to account for these discrepancies is therefore completely dependent on the quality of information with which it is provided. Although in some cases, discrepancies may be due to fluctuations in oil prices; in other cases, they may be due to cash diversion for

clandestine arms purchases or due to covert loan repayments funnelled through Sonangol.

The Diagnostic's terms of reference explicitly state that it is not an investigation into the use or misuse of oil revenues by individuals within the Government. It is critically important, therefore, that the Government should provide – and the multilateral lending institutions insist on receiving – the most thorough, verifiable, and public explanation of all discrepancies.

Provisions for capacity building are limited and ineffectual. The Government is expected to assume direct monitoring after KPMG's final report. Reports suggest that significant structural problems exist in the separation of functions among the Central Bank, the Ministry of Finance and Sonangol.<sup>166,168</sup> Indeed the Government itself recognises that Sonangol, for example, operates in an old fashioned way, reminiscent from Angola's recent socialist past, in which 'the government interferes with the management of state companies, requesting Sonangol to process payments to state institutions or individuals, without gaining from it. [...] These orders do not come from the Treasury, their nature is not defined [...] and there is no information flow with either the Treasury or the National bank to, at least, allow for their registration'.<sup>169</sup> Thus, the World Bank and the IMF should continue to supervise directly the progress of the Diagnostic until the Government adequately demonstrates its ability to publicly report on these matters.

So far, the Diagnostic is not on track. The process has witnessed a number of apparently avoidable delays; for example, KPMG did not receive the first report from the Government, expected in April 2001. The IMF sent a mission in July 2001 to review the SMP's implementation over the previous six months.<sup>168</sup> Due to the lack of substantial progress, the IMF was forced to extend discussions into October; eventually, a set of indicative macroeconomic targets and a series of transparency measures to be taken during the remainder of 2001 were agreed with the Angolan Government.<sup>168</sup> These included the commitment that the Government would publish data on oil and other revenues and hire an independent international company to implement international accounting standards in Sonangol.<sup>168</sup> However, the IMF's visit in October did not take place and the Government stated that the IMF's requirements are difficult to meet due to lack of institutional capacity.<sup>169</sup> Finally, in February 2001, the IMF declared the SMP flawed. IMF engagement in Angola is now reduced to Article IV regular consultations, although the Oil Diagnostic process seems not to have been abandoned.<sup>234</sup>

Another key point is that, regardless of the lack of capacity of any retrospective analysis, it is imperative that the Diagnostic fully investigates current discrepancies in revenue flows in order to shed light on the myriad of off-shore companies and structures deployed for State looting.

Global Witness believes that any future discussion concerning IMF or World Bank support to Angola would need to fully address the points raised above.

## 7 Campaign progress to date

**D**ESPITE THE objections outlined above, various oil companies have begun to accept the need for greater transparency of payments made to national governments.

However, the degree of acceptance of full transparency across all the key companies and the concrete actions that companies intend to take are not uniformly clear. For this reason, in January 2001, Global Witness wrote to the Chief Executive Officers (CEOs) of all the oil companies currently operating in Angola.<sup>170</sup> The letter raised the issue of corporate complicity in state looting and indirect funding of the war in Angola, and concluded:

*'We felt it appropriate to write to all the CEOs of the oil companies currently operating in Angola to determine their personal views about transparency of oil company payments to national governments. The key question here is whether oil companies wish to remain part of the problem, or whether they have the imagination to become part of the solution, with immense benefits for the countries concerned, a likely considerable reduction in company overheads, considerable potential kudos and the chance to make a serious impact on cleaning up international corruption – the chance [through cooperative action], in fact, to level the playing field, which we know is a major complaint of some companies.'*

### Company responses

Some of the oil companies responded positively. These responses varied, but showed that the issue of full company transparency is of concern. Other companies made no response at all. Still others expressed interest in the topic but declined to put their opinions in writing.

#### BP-Amoco

In a letter to Global Witness dated 6 February 2001, BP-Amoco Group Managing Director Richard Oliver stated, in addition to maintaining a regular dialogue with both the World Bank and IMF over Angola, that the company would publish the following information annually on their operations in the country:<sup>171</sup>

1. Total net production by block.
2. Aggregate payments by BP to Sonangol in respect of its Production Sharing Agreement terms.
3. Total taxes and levies paid by BP to the Angolan Government.

In addition, BP clarified that their recent signature bonus payment of US\$111,689,000 for Angola Block 31, of which BP holds 26.7%, could be found in BP Exploration (Angola) Ltd's 1999 annual report to Companies House. This latter disclosure does not relate to any change of policy by BP, as the company was required to provide this data under UK companies reporting requirements.

BP stated that there is a need to aggregate the data from the various blocks where they have a holding, either as operator or as an equity partner to avoid contravening specific details of their confidentiality agreement with Sonangol. It is not yet clear how they

**In our actions and dealings with others, we will... promise only what we expect to deliver, only make commitments we intend to keep, not knowingly mislead others and not participate in or condone corrupt or unacceptable business practices.**

– Ethical conduct commitment of BP-Amoco

intend to publish such aggregated data, as although BP holds an interest in several blocks in the Angolan offshore, only Block 17 is currently operating.

BP's announcement received an extraordinary response from Sonangol, which the latter copied to all the other oil companies operating in Angola as an implied threat should they too publish what they pay. Sonangol's letter, written in an immoderate style, accuses BP of already publishing unspecified confidential data, and threatens to invoke Article 40 of their Production Sharing Agreement, which states that 'without prejudice to the provisions of the general law of any contractual clause, Sonangol may proceed to the termination of this agreement if contractor ... discloses confidential information related to Petroleum Operations without having previously obtained the necessary authorization thereto'.<sup>172</sup>

An unofficial translation of Sonangol's letter is included below:

Dear Sir,

*It was with great surprise, and some disbelief, that we found out through the press that your company has been disclosing information about oil-related activities in Angola, some of which have a strict confidential character.*

*According to the media, your company promised to continue to supply further such information in a letter dated 06/02/01 and signed by Mr. Richard Oliver [Sic], thereby seriously violating the conditions of legal contracts signed with Sonangol.*

*As a result, we are making enquiries to confirm the veracity of information that has been published which, if confirmed, is a sufficient reason to apply measures established in Article 40 of the PSA [Production Sharing Agreement] i.e. contract termination.*

*We are aware that some oil companies have recently been under pressure by organised groups that use available means in*

Estimado Senhor,

Foi com grande surpresa e alguma incredulidade que tomamos conhecimento, através da imprensa, que a vossa companhia tem vindo a divulgar informações sobre a actividade petrolífera em Angola, algumas das quais de natureza estritamente confidencial.

De acordo com alguns meios de comunicação social, a vossa empresa, através de carta datada de 06/02/01 redigida pelo Sr. Richard Oliver, prometeu continuar a fornecer tais informações no futuro, violando gravemente o estatuto nos contratos assinados com a Sonangol.

Na sequência deste assunto, estamos a efectuar algumas diligências no sentido de confirmar a veracidade das informações que têm sido publicadas, e que a confirmar-se, constitui motivo suficiente para a aplicação das medidas estabelecidas no Artigo 40 da PSA, no que, a respeito do contrato.

E de acordo com o conhecimento que, nos últimos tempos, algumas organizações petrolíferas têm vindo a fornecer por parte de alguns grupos organizados que utilizam todos os meios, em nome de uma pacífica transparência da nossa governação legítima, essas organizações requerem certas algumas informações específicas.

A Sonangol, como concessionária nacional, tem plena consciência de que não se devem misturar as relações comerciais que existem com a vossa companhia, com outro tipo de relações, objectivando divulgar falsas informações ou obter indevidamente, através de meios que violam gravemente as melhores condições livremente estabelecidas.

Assim sendo, registamos vivamente que a vossa empresa impede intencionalmente as nossas relações com a Sonangol, bem como a legislação angolana, nomeadamente em relação de confidencialidade da informação.

Reconhecemos que existem causas próprias para violar todo e qualquer tipo de informação assinada, desde essas que devem ser respeitadas.

Petição a gravidade da situação e caso se verifiquem dados verdadeiros ou acorridos pela estrada tomada pela vossa empresa, reservamo-nos o direito de tomar as devidas medidas, tanto sejam contraídas as informações veiculadas pela imprensa. O mesmo vale para o caso de tal procedimento voltar a repetir-se.

Finalmente e no intuito de preservar as boas relações que sempre mantivemos com as várias empresas petrolíferas que operam em Angola, desaconselhamos vivamente os nossos parceiros a tomarem medidas similares no futuro.

Sem outro assunto de momento, quedamo-nos a desejar os melhores resultados comerciais.

**mata. My wife was there inside the village. She saw Unita put my father,**

an orchestrated campaign against some Angolan institutions by calling for 'pseudo-transparency' of legitimate government actions.

*As the national authority that awards concessions, Sonangol is fully aware that its economic link with your company should not be mixed with other relationships that seriously violate existing contracts in order to attract bogus credibility.*

*Given this situation, we highly recommend that your company scrupulously respects the agreements that it has signed with Sonangol, as well as Angolan legislation relating to confidentiality of information.*

*May we recall that there are specific channels, which should be respected, to release any type of authorised information.*

*Given the seriousness of this situation, if the provision of information by your company is confirmed and we observe moral or material damage thereof, we reserve the right to take appropriate action. The same is valid if you repeat such practices in the future.*

*Finally, and in the hope of maintaining the good relations that we have always had with the oil companies that operate in Angola, we strongly discourage all our partners from similar attitudes in the future.*

*In closing, please accept our best wishes,*

*[Signed]*

*The President of the Administrative Council*

*Manuel Vicente*

Sonangol's rabid reaction shows beyond doubt that the Angolan Government has little or no real intention of allowing greater public scrutiny over natural resource revenue. Further, it also places Sonangol in a position fundamentally in contradiction to the spirit of the IMF's Oil Diagnostic.

If Government actions are 'legitimate', why does Sonangol object to transparency? Why is the full transparency that 'certain organised groups' like Global Witness have demanded only 'pseudo-transparency'? The letter also reveals an unfortunate and telling confusion in Mr. Vicente's mind between Sonangol – a company – and the Angolan Government's current administration. Further, Sonangol's threats themselves are questionable because it is unlikely that the confidentiality clause in the companies' Production Sharing Agreement covers payments to the Government.

The Sonangol letter reveals that the oil companies operating in Angola are in something of a difficult position. They either face serious reputational or operational risks: either they publish and risk retaliation by vested interests or they face charges of complicity with state looting and Government mismanagement of revenue.

The threat of such retaliation is a clear argument for Northern Governments, and their financial regulators, to legally oblige companies to publish what they pay to all national governments. Such a legal obligation would take the

decision to disclose information out of the hands of companies and prevent the threat of non-compliance with secrecy provisions. Mandated payment disclosure would also level the playing field between competitors, preventing more principled and transparent companies from being undercut by their less scrupulous competitors (See *Regulating payment disclosure – page 47*).

Global Witness considers BP's development a major contribution to transparency in Angola; however, its declaration would have been more effective as part of a broader coalition because, if one intends to reach an approximation of the revenue from the oil sector in Angola, every major player has to disclose its payments and clearly, there is less danger of retaliation if companies show a united front. Nevertheless, BP has clearly shown that the issue of full transparency for company payments to national governments is now on the agenda of corporate social responsibility, moving the debate into the domain of corporate accountability. In so doing, the company has set a new international standard to which all companies must adhere, including BP itself.

### Statoil

Statoil's President and CEO, Olav Fjell, wrote to Global Witness on 15 February 2001<sup>173</sup> pointing out the company's reporting obligations in terms of existing Norwegian law. Statoil appears to have a number of Norwegian subsidiary companies that have interests in various oil block interests in Angola. These are:

- 'Statoil Angola AS', holding the company interest in Angola's Block 31.
- 'Statoil Angola Block 15 AS', which holds the Block 15 interest.
- 'Statoil Angola Block 17 AS', which holds the Block 17 interest.

Shot-up Kuito, Angola.



**grandfather, sister-in-law and four children into a house and set fire to it. ...**

Under Norwegian company law, each of these companies is obliged to file details of their tax and signature bonus payments in each of the separate company's annual reports and accounts. These reports are filed at the 'Brønnøysund Register of Annual Company Accounts', Havnegata 48, 8910 Brønnøysund, Norway. All these documents are a matter of public record.

Statoil also confirmed that the company anticipates that Block 17 (operated by TotalFinaElf) will commence production from the 'Girassol' field in 2002 (in fact, operations commenced in December 2001) and that the annual accounts of Statoil Angola Block 17 AS will then show tax payments to the Government of Angola in the appropriate end-of-year filing.

In addition, Statoil has filed end of year accounts for 1999, and the report for 'Statoil Angola AS' shows a signature bonus payment for Block 31 (13.3% of which is held by Statoil) of NOK454,833,824 under Note 4 (US\$58,355,179).<sup>174</sup>

Statoil appears keen to suggest that the level of transparency about their payments to the Angolan Government is as high as that required in Norway for Norwegian operations. It is true that in Norway it is as easy to find data about payments to the Angolan Government as it is concerning payments to the Government of Norway. This certainly means that the company operates to a far higher level of transparency than the majority. However, transparency about company payments to Angola in Norway is not the same as making data available to Angolans in Angola.

#### *Royal Dutch/Shell*

On 14 February 2001, a spokeswoman for the Royal Dutch/Shell Group<sup>175</sup> in response to calls for full transparency stated, 'we're considering a response. As an overall principle, we are committed to openness and transparency.'

Global Witness subsequently received a letter<sup>176</sup> from then-chairman Sir Mark Moody-Stuart dated 19th February 2001, in which he stated that, 'wherever possible, such disclosures [publication of payments by companies to national governments – Global Witness addition] ought to be made.' He also pointed out, as a general observation, that to gain a complete picture it would be necessary to combine the declaration of such payments by the companies with the publication of data obtained through an 'oil monitoring programme', such as that provided by KPMG in Angola.

#### *TotalFinaElf*

Although TotalFinaElf have not responded to Global Witness' letter, they appeared keen to jump on the bandwagon of BP's announcement. Global Witness fielded numerous press enquiries in which it was assumed that TotalFinaElf had matched BP's statement on transparency in Angola. According to *Reuters*,<sup>175</sup> on 14 February 2001, and seemingly in response to Global Witness' press release about BP's letter, TotalFinaElf announced that it had turned over 'precise technical and financial information' for the IMF's Oil Diagnostic study. TotalFinaElf's spokesperson was further quoted as saying, 'we operate in Angola like we operate everywhere else in the world. We are careful not to break any local, French or international laws'. He then added, 'we are



**TotalFinaElf – will they become transparent?**

an oil company. We are not political. We have nothing to hide about what we are doing in Angola'.

Cooperation with the IMF team in Angola is the bare minimum that would be expected of any of the companies operating in Angola. If not, the company would be actively under-mining a major intergovernmental institution. Such moves, however, do not constitute public transparency. The claim that the company is not 'political' suggests that it views the idea of publishing data about payments to the Angolan Government as a political statement. This is a misnomer, because such a concept could equally apply to the fact that a company chooses not to publish payment data.

If, as the company spokesperson claims, the company 'has nothing to hide about what we are doing in Angola', why don't they publish?

#### *BHP Petroleum*

BHP wrote to Global Witness on 14 March 2001.<sup>177</sup> The company stated that it does not currently produce oil in Angola and thus was unable to publish data about payments made to the Angolan Government. In a subsequent letter on 1 May 2001 to clarify its position on future revenues, the company stated that it would reconsider the issue of information disclosure subject to the 'constraints of any confidentiality clauses that may be in place at that time. In the meantime we will continue to cooperate with the KPMG study of the Angolan Petroleum sector.'<sup>178</sup>

Global Witness urges BHP to reconsider its position on full transparency and to join an emerging consensus on the need for payment disclosure before it starts producing in the country. It should also publish data relating to signature bonuses that have already been paid.

***They took everything from the village, all the goats, cows and clothes. They***



**How is Sonangol's lack of transparency consistent with its self image as a 'driving force in the development of Angola'?**

### *Petrobras*

The Petrobras Internacional subsidiary in Angola sent Global Witness a letter dated 7 May 2001.<sup>179</sup> The company stated that it has a 'long-standing policy for all of its activities...to conduct business in an ethical and accountable fashion'. However, regarding the issue of tax and royalties, the letter continued by stating 'we can assure [sic] the company has been performing all of its commitments following strictly the provisions of the contracts signed with the governments of the host countries'.

Petrobras has taken a positive line on transparency – at least for transparency concerning the payments it makes to social funds, and taxes that are paid to both local and federal Brazilian authorities.<sup>180</sup> Their website provides some data under the heading: 'Income tax on overseas fin. & services', though it is not clear what this heading covers. At best it could represent taxes paid in all countries of operation, simply added together. Global Witness holds the company to its principle of ethical and accountable behaviour and requests that it practices full transparency for all countries of operation. Other companies should take note of Petrobras' website tax payment data presentation format, as it is significantly better – from the perspective of public access – than company registration filings.

### **Other companies – Are they avoiding the issue?**

At the time of going to press, several major oil companies, including ExxonMobil, ChevronTexaco and TotalFinaElf have all failed to respond to Global Witness' letter and have not published any press statements concerning this issue. This is of major concern, especially given the dominant role in terms

## Company social programmes

Any visitor to Angola soon comes across one of the various oil company social projects. Such goodwill projects vary but include schools, medical facilities, building reconstruction and the like. Although it is hard to condemn such initiatives, they sit ill alongside the policy of complicity with mismanagement and wholesale plundering of Angola's oil revenues by the ruling elite. Such corporate philanthropy coming from the same companies that choose to disempower civil society by not being transparent about their payments to governments seems to be salving a guilty conscience rather than responsible global citizenship.

There are also concerns over the management of such projects and questions over whether they are covert kickbacks to the ruling elite.<sup>160,190</sup> Global Witness is not currently focusing on oil company social programmes, but believes that all social programmes must be independently audited both for the purpose of the project and for its value for money. Results should be made freely available in the relevant country.

Such concern is intensified with a mooted US\$40 million joint Sonangol/international oil company development programme which companies were keen to stress during 2001. If this programme was conducted well, according to the above principles, it could be a good initiative but whatever its merits, the oil companies should take note that goodwill projects are not a replacement for company transparency about payments to the Angolan Government.

of oil production of ChevronTexaco and TotalFinaElf's operations.

At the same time, there seems to exist a culture of hypocrisy because these companies seem keen to imply that their behaviour is beyond reproach. Exxon makes the claim that, 'Exxon's commitment in every country and community in which we operate is to conduct its business in accordance with only the highest ethical standards and integrity.'<sup>181</sup> Similarly, Chevron asserts that, 'we will conduct our business in a socially responsible and ethical manner ... We will respect the law, support universal human rights and improve the quality of life in the communities where we work.'<sup>182</sup>

Interestingly, an examination of TotalFinaElf's web site did not reveal any comments relating to the company's position on corporate social responsibility and ethical behaviour.<sup>183</sup> Sources indicate that, in fact, the company has produced a ten-page document that details the company's ethical policies.<sup>184</sup> However, it seems that TotalFinaElf is not keen to advertise its existence. Sources indicate that this document represents a statement of intent by the company rather than an actual policy. Any real commitment by the company is untested whilst these statements remain publicly unavailable and unaudited.

Calls for full transparency, of course, equally apply to Sonangol. However, the company's violent objection to BP's policy of transparency about its payments to the Angolan Government means that Global Witness does not anticipate any rapid changes from the company regarding transparency.

Although Sonangol has undermined the spirit of the IMF's Staff Monitored Programme, the IMF must continue to press the company and demand full transparency as a condition of moving forward with any further multilateral assistance to Angola.

## Corporate social responsibility – Genuine sentiment or mere PR?

Corporate Social Responsibility is generally taken 'as the concept that an enterprise is accountable for its impacts on all relevant stakeholders'.<sup>191</sup> Stakeholders are traditionally seen as those directly impacted by business operations. However, this delineation of responsibility is arbitrary and limited and Global Witness believes that, where the natural resource sector is involved, the concept of Corporate Social Responsibility (CSR) should also include the people who ultimately own those resources – i.e. the general population of the country. This relationship is stated explicitly in Angolan Law No 13/78, where it is established that 'all deposits of liquid and gaseous hydrocarbons ... belong to the Angolan People, in the form of State property'. By not publishing what they pay, every non-transparent oil company operating in Angola is in violation of the real principles of CSR as civil society and the general population are being deliberately excluded from the dialogue over the governance of their resources in Angola. Thus, Global Witness argues that the definition of corporate responsibility must be bound up with the operation of transparent and accountable business practices.

There is a gradual recognition of this wider definition of CSR, which must encompass measures to hold corporations accountable for their actions. A number of different international fora have now established, or are establishing, transparency of corporate payment to national governments as part of their wider practices. Indeed, several oil supermajors in Angola have already subscribed to these general principles by virtue of being signatories to certain voluntary codes of corporate good behaviour, as described below.

### Global Reporting Initiative

The Global Reporting Initiative (GRI) was established in 1997 by the Coalition for Environmentally Responsible Economies (CERES) together with UNEP to develop 'globally applicable guidelines for reporting on the economic, environmental and social performance' and to make 'sustainability reporting as routine and credible as financial reporting in terms of comparability, rigour, and verifiability'.<sup>192</sup> In part, the GRI is an exercise in quality control – there are around 2000 companies worldwide<sup>192</sup> that report on various aspects of their economic, social and environmental performance but, for the majority, information is currently 'inconsistent, incomplete and unverified'.<sup>192</sup>

The economic indicators that the GRI espouses include a detailed breakdown of profits, return on capital employed and dividends by geographic region.<sup>193</sup> Specifically, under section 6.5.1, the guidelines recommend that participating companies publish, 'taxes paid to all taxing authorities'.<sup>193</sup>

Shell, Texaco,<sup>194</sup> TotalFinaElf, and Halliburton (an oil services company) have committed themselves to reviewing the Sustainability Reporting Guidelines and are considering publishing a full sustainability report.<sup>195</sup> Although these companies have, in theory, made an effort to provide a constructive input in the revision of these guidelines, whether their current commitment implies that they will start reporting on 'taxes to all taxing authorities', needs to be clarified urgently.

### OECD Guidelines for Multinational Enterprises and Principles of Corporate Governance

The revised OECD Guidelines for Multinational Enterprises in 2000 and its 1999 Principles of Corporate Governance both recognise the importance of disclosure. Section IV of the Principles on 'disclosure and transparency' notes that a 'strong disclosure regime is a pivotal feature of market-based monitoring of companies and is central to shareholders' ability to exercise their voting rights ... disclosure can be a powerful tool for influencing the behaviour of companies and for protecting investors'.<sup>196</sup> Post-Enron, can any corporate entity not afford to make such declarations standard business practice?

The suggested disclosure regime involves companies ensuring that timely and accurate disclosure is made on all material matters regarding the corporation, including the financial situation, performance, ownership and governance of the company and that such 'information should be prepared, audited and disclosed in accordance with high quality standards of accounting, financial and non-financial disclosure and audit'.<sup>197</sup> More specifically, the Principles note that, 'it is important that transactions to an entire group be disclosed. Arguably, failures in governance can often be linked to the failure to disclose the 'whole picture', particularly where off-balance sheet items are used to provide guarantees or similar commitments'.<sup>198</sup> Article III(1) of the Guidelines states that information should also be disclosed along 'business lines and geographical areas'.

Taking these provisions together, it is hard to see how high quality standards of accounting, and recognition of stakeholder rights does not include details of tax payments to national authorities. This report emphasises the need to consider the 'whole picture' of corporate governance in Angola. Global Witness therefore urges the OECD, to take immediate action to address this oversight in disclosure.

### UN Global Compact

The Global Compact, an initiative of UN Secretary General Kofi Annan is a process intended to 'develop a common understanding on how the private sector can contribute to building peace and security in zones of conflict'.<sup>199</sup> The Compact held an inaugural dialogue in March 2001<sup>199</sup> and participants outlined that full transparency was a key issue to redress deliberate and inadvertent funding of economic agendas that may underpin local or regional conflicts. Specific proposals are now forthcoming after the Compact's second meeting in October 2001: a policy of full transparency in conflict zones must now be implemented.

### The EU Green Paper on Corporate Responsibility

The European Commission has recently submitted a Green Paper Promoting a European framework for Corporate Social Responsibility.<sup>200</sup> The paper launches the debate on how the European Union can promote corporate social responsibility at both the European and international level, and invites public authorities, enterprises, social partners, NGOs and other stakeholders to submit their views. Like the Global Compact process, it is imperative that the EU Member States understand the need to foster corporate transparency and accountability rather than simply encouraging voluntary philanthropy by corporations. Unlike, the Global Compact, the EU authorities can, and must, directly legislate on the issue.

There seems little excuse for Member State governments not to pursue the line of mandatory disclosure of aggregated payments to host governments in national business regulations given the paper's avowed intention of 'developing a European framework, in partnership with the main corporate social responsibility actors, aiming at promoting transparency, coherence and best practice in CSR practises'<sup>201</sup> and its recognition that 'codes of conduct are not an alternative to national, EU and international laws and binding rules ... [that] ensure minimum standards applicable to all'.<sup>202</sup>

Indeed, there is already a legislative precedent in the Cotonou Agreement on aid between the EU and the Group of African, Caribbean and Pacific States which notes that the fight against corruption is a fundamental element of future development assistance and makes explicit reference to corruption as a major developmental problem. Specifically, Article 9(3) states that good governance is the 'transparent and accountable management of human, natural, economic and financial resources for the purposes of equitable and sustainable development. It entails clear decision-making procedures at the level of public authorities, transparent and accountable institutions, the primacy of law in the management and distribution of resources and capacity building for elaborating and implementing measures aiming in particular at preventing and combating corruption. Good governance ... constitute[s] a fundamental element of this Agreement'. In the interests of joined-up government, there seems little purpose in development assistance being determined on this basis, whilst oversights of the operations of multinational companies registered within Europe can effectively undermine the same objectives.

### **The World Business Council for Sustainable Development (WBCSD)**

WBCSD is a coalition of some 150 international companies, which have a shared interest in the principles

of sustainable development.<sup>203</sup> WBCSD group has focused on a number of key corporate social responsibility issues, which include, amongst others, values and governance, regulations and controls, accountability and disclosure, human rights and social impact. It is clear that full transparency, certainly in the Angolan context, is an issue related to such concepts. WBCSD may provide ideal conditions to be used as a forum for discussion on how full transparency can be taken forward as the group includes the following oil companies with a presence in Angola: BHP, Norsk Hydro, Shell International, Statoil and Texaco.

### **Ethical Investment and transparency**

Ethical investment funds have become important investment vehicles – not least because they have generally shown levels of growth in excess of long-term stock market averages. Furthermore, the very existence of an 'ethical sector' has helped catalyse development of investment criteria in the wider fund management industry, which have come to learn that strong and principled management is good for bottom-line growth and which are understandably keen to avoid being labelled as 'non-ethical' investors.

Many investment funds hold large shares in oil companies and as the definition of what constitutes acceptable corporate social behaviour changes and fund managers take a growing interest in including full transparency as a bottom-line criterion for investment decisions, there is an increasing risk of divestment and fall in share prices.

Similarly, oil companies listed on investment indices that have been set up to recognise and reward leadership in social responsibility issues – such as the Dow Jones Sustainability Group Index (BP, Texaco, Norsk Hydro and Shell) and the FTSE4GOOD Index (BP and Shell) – may find their places under threat if they are not transparent about their payments to the Angolan State.

**Accountable to whom? Oil companies' failure to publish what they pay demonstrates their contempt for ordinary Angolan citizens.**



**16 or 17 people ... We were behind the group and I heard shooting so we hid**

## 8 Regulating payment disclosure

**T**HERE IS AN urgent need for oil companies to adopt a policy of full transparency in Angola, yet Sonangol's threats to BP show the dangers of defying the *status quo* and challenging the interests of the ruling elite.

Over and above the need for collective action by the oil companies as a consolidated block, Global Witness believes there is now a clear case for Northern Governments, and their financial regulators like the US Securities and Exchange Commission (SEC) or the UK Financial Services Authority – Listing Authority, to step in and legally oblige companies to disclose payments to all national governments in consolidated and subsidiary accounts. A legal obligation for companies to publish what they pay to all national governments solves a number of inter-related problems that have so far thwarted voluntary attempts at transparency.

Mandated payment disclosure would:

- Level the playing field between competitors, preventing more principled and transparent companies from being undercut by their less scrupulous competitors.
- Eliminate concerns about confidentiality clauses gagging companies publishing payment data. Such contracts contain a 'get-out' clause exempting information that must be disclosed due to regulatory requirements from confidentiality. For example, Article 33(2) of the Deep Water Production Sharing Agreement states that 'either Party may, without such approval, disclose such information ... c) to the extent required by any applicable law, regulation or rule (including, without limitation, any regulation or rule of any regulatory agency, securities commission or securities exchange on which the securities of such Party or of any of such Party's affiliates are listed).'<sup>185</sup>
- Address the problem of non-transparency in all countries of operation. Non-transparency will be a growing problem as natural resource operations become increasingly located in less developed countries where civil society and government transparency are proportionately weaker.
- Depoliticise the issue of payment disclosure in authoritarian regimes and allow companies greater freedom of responsible behaviour. Publishing what is paid to such regimes is likely to have a knock-on effect of encouraging greater transparency and fiscal governance by default.
- Eliminate a major international double standard between levels of transparency in the North and South.
- Involve negligible associated costs. Companies already know what they pay for internal accounting purposes.



**Luanda's Boa Vista residents were forcibly relocated at gunpoint in 2001 to make way for redevelopment. Their civil and human rights were breached for whose benefit?**

- Incorporate all the major and super-major players in the resource sector – it is improbable that (and would be very telling if) a major company would delist from an international exchange to avoid transparency.

It is Global Witness' understanding that such a move is within the legal remit of major financial regulators. Most securities exchanges have a public interest disclosure power that is separate from their requirement that risks to investors be clearly disclosed. Legal language related to public interest disclosure is generally interpreted quite strictly 'to be limited by the purposes of the statutes at issue' but Global Witness believes that the general history of securities regulation shows that disclosure of corporate financial data has clearly been used to affect a change in the way that corporations are managed and held accountable for their actions.<sup>186</sup> The 1934 Securities Exchange Act that created the Securities and Exchange Commission (SEC), for example, specifies in sections 12, 13, 14 and 15 that registration, reporting and disclosure requirements for securities are subject to conditions, rules and regulations that the Commission prescribes 'as necessary or appropriate in the public interest or for the protection of investors'.<sup>187</sup>

As Felix Frankfurter, President Roosevelt's appointee to steer the 1933 Securities Act through the US Congress, famously wrote in *Fortune Magazine* that August, 'The Securities Act is strong insofar as publicity is potent; it is weak insofar as publicity is not enough ... The existence of bonuses, excessive commissions and salaries, of preferential lists and the like, may all be open secrets among the knowing, but the knowing are few. There is a shrinking quality to such transactions; to force the knowledge of them into the open is largely to restrain their happening. Many practices safely pursued in private lose their justification in public. Thus, social standards newly defined gradually establish themselves as new business habits'.<sup>188</sup> It is clear from such statements that the SEC's should act to require revenue disclosure by natural resource companies for all countries of operation.

Global Witness strongly believes that regulations to require disclosure of payments to all national governments are an immediate and effective step for major national securities exchanges to foster transparency and accountability amongst the global resource extraction industry. Further, such regulation is a boon for the industry itself.

***in the long grass of a field we were passing ... not so far away from where we***



## Risks of complicity

Direct involvement or indirect complicity with a corrupt, neo-authoritarian regime carries a number of associated credit risks for investors including:

**Reputational risk:** Companies complicit with a corrupt, neo-authoritarian regime and the disempowerment of nascent civil society obviously risk their reputations and 'good name'. As the transparency agenda enters ethical and mainstream investment decisions, so non-transparent companies can expect to be dropped from progressive investment indices such as Dow Jones Sustainability Group and the FTSE4GOOD indices as well by social screens associated with ethical funds (See *Corporate Social Responsibility* – page 45).

**Non-transparency as direct investment risk:** There is a clear recognition amongst the investment community, especially in the light of the Enron scandal, that good corporate governance and the management and accounting systems in place in a socially responsible company confer a direct benefit on corporate financial performance. Conversely, if companies are not transparent about their payments to national governments, actively seek to avoid inspection of their financial dealings, and run off-the-books accounts, what hope is there that corporate governance and management structures are effective and/or accountable?

**The 'Suharto effect':** As President Suharto's regime in Indonesia showed, apparently unassailable neo-authoritarian governments tend to fall apart very quickly. In cases where there has been considerable suppression of human rights and freedom of expression – as in Angola today – there is usually a period of reckoning once the next government takes power. Any future Angolan Government is likely to look long and hard at those seen to be complicit with the current regime; investors in such companies could end up paying the bill.

**Direct litigation and liabilities from corrupt activities:** Global Witness believes that information is emerging that may facilitate pursuit of individuals and companies under national legislation criminalizing bribery of foreign public officials due to the 1997 OECD Convention on Combating Bribery of Public Officials in International Business Transactions.

**Credit denial:** Global Witness' investigations in Angola show that banks and Export Credit Agencies have failed to check whether funds provided have been used as intended. This carries the implicit risk of misappropriation of funds and debt default. As such institutions increasingly demand transparency and non-bribery statements from recipients of funding, so credit lines to non-transparent companies may be denied.

## 9 The truth about tax payments to the Angolan Government in 2000 – another case of missing funds?

**D**ESPITE THE RESISTANCE from companies and the Angolan Government in rendering public information on revenue disclosure, Global Witness is pleased to reveal this information for the first time for the year 2000. It is hoped that this information will encourage greater financial responsibility within the Government and greater scrutiny from without. Of course, informal information provision is no substitute for open and transparent accounting: Global Witness now invites all parties to open their books and come clean.

Companies that are not transparent are complicit in state looting because they actively prevent civil society from calling their Government to account – the 'complicityometer' that follows gives an idea of the extent that oil companies are actively hiding their payments. The larger the company's contribution to state revenue, the highest its degree of responsibility towards the Angolan people, the more urgent it is that the company becomes fully transparent. This picture will change significantly as new Blocks such as 17 and 15 come on stream, with companies such as ExxonMobil and BP winning a place amongst the most complicit producers. Of course, if BP keeps its promise of rendering public its payments to the Angolan Government, the company will not be guilty of complicity in the dispossession of ordinary Angolan citizens.

Disturbingly, between the Ministry of Petroleum and the Ministry of Finance some US\$770 million has unaccountably gone missing. The Ministry of Petroleum reports that US\$3.8 billion<sup>89</sup> (38,620,678,455.45 Kz) in tax was paid to the Angolan State, whereas the Ministry of Finance reports that US\$3.0 billion<sup>89</sup> (30,781,908,506 Kz) was received during the same period of time. Although part of this discrepancy may be due to different exchange rates used in calculations, Global Witness urges the Angolan Government to immediately clarify this highly unusual situation. The message is clear: oil revenues are haemorrhaging from the formal state and confused lines of control and bureaucratic disorganisation reign. Figures reportedly emerging from economists associated with the Oil Diagnostic study suggest that, if anything, this accounting black hole may have increased to US\$1.4 billion in 2001.

# Complicity-O-Meter

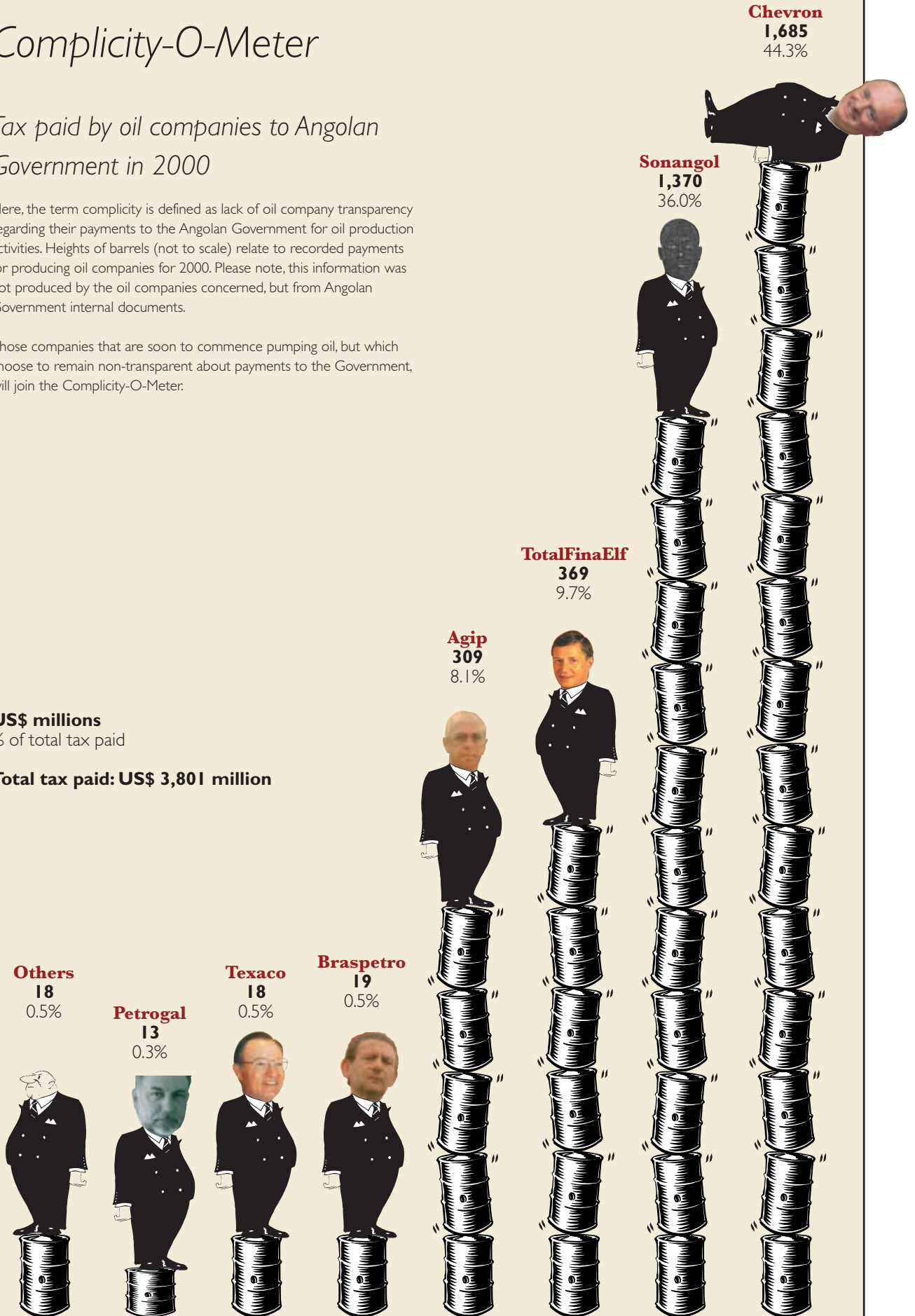
## Tax paid by oil companies to Angolan Government in 2000

Here, the term complicity is defined as lack of oil company transparency regarding their payments to the Angolan Government for oil production activities. Heights of barrels (not to scale) relate to recorded payments for producing oil companies for 2000. Please note, this information was not produced by the oil companies concerned, but from Angolan Government internal documents.

Those companies that are soon to commence pumping oil, but which choose to remain non-transparent about payments to the Government, will join the Complicity-O-Meter.

US\$ millions  
% of total tax paid

Total tax paid: US\$ 3,801 million



Notes Galpenergia owns Petrogal. Petrobras owns Braspetro. Since 2000, Texaco has been taken over by Chevron – the new combined group is called ChevronTexaco.

and all the people lay dead, right there in the middle of the road. FAA had just

PART TWO  
Oil Companies

## 10 The complicity of oil companies – conclusion

**W**HILST GLOBAL WITNESS recognises the difficulties that companies face when considering changing their existing reporting systems, it is clear that those operating in Angola have a special responsibility to the Angolan people, whose resources they are exploiting. This goes much further than providing social programmes to foster corporate goodwill and must include changes to reporting practices to include publishing all payments made to the Angolan Government.

BP's actions have demonstrated corporate acceptance of the principle that good corporate governance requires full transparency of payments by companies to national governments. Other companies, like Statoil, already provide a high degree of transparency of their payments to the Angolan Government by setting up each block development as a separate company, meaning the overseas tax payments are fairly specific.

Despite the clear-cut need for full transparency, and the fact that the definition of good corporate governance is rapidly changing to require such transparency, it is hard to understand the incredible resistance in some quarters. Do such companies have something to hide?

Companies that avoid this issue are not only complicit in the wholesale robbery of a state – apparently amounting to almost a third of all state revenues in 2001 – but will be demonstrably applying hypocritical double standards over claims of corporate social responsibility and ethical behaviour and expose themselves to considerable reputational risk. Non-cooperating companies not only risk their own good name and those of their investors, they also serve to undermine confidence in the entire industry to address complicity in state looting and the political and environmental disasters of the past. They also demonstrate their contempt for the desperate plight of the ordinary people of Angola.

Compare the missing US\$1.4 billion in 2001 with the US\$200 million that the UN had to scrape together for food aid for Angola's one million internally-displaced people.

Global Witness is pleased to reveal extent of oil company payments to the Angolan Government for the year 2000. ChevronTexaco and TotalFinaElf top the list of hidden contributions: these two companies are also notable for refusing to engage in discussions on transparency. The data also show a black hole in the formal state oil accounts: some US\$770 million disappeared between the amounts reported by the Ministry of Petroleum and the Ministry of Finance.

Global Witness has seen strong resistance to change before – perhaps most notably from the international

**When a corporation is convicted of repeated felonies that harm or endanger the lives of human beings or destroy the environment, the corporation should be put to death, its corporate existence ended, and its assets taken and sold at public auction.**

– Eliot Spitzer, Attorney General of New York State, 1998

diamond trade. However, once the diamond trade recognised that past practices were unacceptable and would not be tolerated any longer, it came in their business interest to change. The principle of good corporate governance is now changing to require full transparency of payments by companies to national governments.

Under the threat of retaliation by Sonangol, unilateral, voluntary approaches such as that taken by BP have been shown to be problematic – although BP may still publish. It is clear that the more responsible oil companies are being put in a difficult position of either renegeing on commitments already made in a number of Corporate Social Responsibility fora or alienating their national business partners. It seems that individual oil companies cannot go it alone without the threat of being undercut by less scrupulous competitors. Therefore, Global Witness urges all the oil companies working in the country to adopt a policy of full transparency as a group.

In this context, the simplest and most effective solution to this problem is for major financial regulators such as the Securities and Exchange Commission to impose mandatory disclosure of aggregated payments to all jurisdictions in which major natural resource sector companies operate. Global Witness calls upon Northern governments, where most of these companies are based, to implement appropriate changes to their disclosure rules as a matter of urgency.

If the oil companies in Angola genuinely wish to be considered true 'global citizens' and are anxious to avoid the charge of directly funding the progressive impoverishment of a nation, then there is an urgent need to change current practices. Global Witness is keen to work constructively with those who genuinely wish to see improvements in Angola.

**'If we lose a tank, we pick up the phone and order another one. If UNITA loses one, it is more difficult.'** – Angolan general, January 1999<sup>333</sup>



© Chris Sattberger / Panos Pictures

**turned and open fired on the people, just like that.** – Displaced woman, early 2001<sup>a</sup>

## PART THREE: THE FINANCING



Banco Nacional de Angola (BNA).

## II Introduction – international lending to Angola

GLOBAL WITNESS published details of a string of major international loans to Angola up to December 1999 in *A Crude Awakening*. The information therein was provided to give an indication of the extent to which Angola's future oil wealth, and hence, the country's development capacity, has been mortgaged. The report challenged the Government's policy of obtaining short-term loans at high interest rates, when the vast majority of this income appeared to do little or nothing for the development of the country or for the provision of much-needed domestic services.<sup>143</sup> An almost complete lack of transparency about such loans means that the information about their size or purpose is very difficult to obtain internationally, and almost impossible to obtain in Angola. This creates an extraordinary set of circumstances, whereby the banks providing credit have, in effect, established an entire set of parallel financing for the State that has been totally free of any scrutiny by the people of Angola, whilst the basis of these loans is oil, which is meant to belong to the 'people'.

Two years later, the situation vis-à-vis unaccountable loans in Angola has deteriorated significantly, with some US\$3.55 billion in 'new' loans agreed from September 2000 to October 2001. This shows the Angolan Government's startling disregard for its agreement with the IMF to restrict new borrowing to US\$269 million (*see New lending since December 1999 – page 53*) and may considerably exceed the amount known by the IMF. Similarly, other loans before the end of 1999 have been

**We are in the business of making loans to the Angolans. It is true, we cannot be sure where the money goes, and so yes, I suppose you can make the case that we are indirectly funding the war.**

– Admission by anonymous banking official<sup>207</sup>

recently uncovered and details of these should be added to those reported in *A Crude Awakening* (*See Loans agreed prior to December 1999 – page 53*), providing additional evidence about the deteriorating indebtedness of the country.

This section attempts to explain the complex structure of loan procurement in Angola based on direct loans to the Angolan Government, structured loan arrangements, loans facilitated by oil trading companies and loans specifically tied to the financing of capital expenditure provided by international bilateral export financing agencies. The role of the Soyo-Palanca and the Cabinda Trusts which act as international guarantors by mortgaging Angola's future oil income is also discussed.

Global Witness challenges the ethics behind the policy of oil-backed lending to countries with strong histories of non-accountability and corruption such as Angola and calls on all the financial entities involved to improve the transparency conditions by which such loans are arranged and disbursed. An example of inter-bank cooperation that could be used as a model for future oversight and controls of loan arrangements is the Wolfsberg Principles (*see The Wolfsberg Principles – Anti-money laundering guidelines for private banking – page 55*).

Finally, the problem of international money laundering through offshore tax havens is detailed under the heading 'Shutting Down the Dictator's Laundromats' to complete the discussion of how the international financial system must increase cooperation and transparency in its efforts to fight fraud and embezzlement.

**“...FAA would come to the village and look for cows. When they knew where**

## 12 The credit tap remains wide open...

**I**N RECENT YEARS, Angola has been able to obtain short-term loans from a variety of sources. These loans have varied in scale and purpose and include the following types:

- **Direct loans from individual banks to Government**

For example, loans provided by Banque Paribas (now called BNP-Paribas following its merger with BNP in June 1999<sup>204</sup>), where loan facilities were controlled by Pierre Falcone and Arkadi Gaidamak.<sup>205</sup>

- **Structured loans arranged on the London market**

For example, the US\$455 million loan put together by Standard Chartered Bank in February 2001.<sup>210</sup>

- **Loans specifically tied to the financing of capital expenditure, such as those provided by international bilateral export financing agencies**

For example, the US Ex-Im Bank US\$64 million loan provided in July 1999, which supported the sale of equipment and services provided by a number of US companies that included Halliburton and Brown & Root.<sup>143</sup>

Each of these different loans provides capital over and above that generated from tax and other payments from the oil companies derived from oil extraction; nevertheless, as discussed below, the majority are raised on the back of future oil extraction. However, because of the Angolan Government's poor international credit status, such loans are only provided by financial institutions at relatively high rates, making them a poor deal for the Angolan people. On average, oil-backed loans are arranged at around two to three percentage points above LIBOR – the benchmark London Interbank Rate on the London market. This results in future oil production being mortgaged at a significantly higher rate than the preferential loans that are obtainable through an IMF programme. Further, loans arranged through the IMF would not have to be backed up by up-front sales of oil.

### **Direct loans to the Angolan Government from individual banks**

Direct loans – such as those from Paribas – are often arranged under a high degree of secrecy, preventing any form of public scrutiny in Angola. Lack of transparency makes it impossible to know the total number and scale of the loans that have been made available by Paribas but evidence suggests that between 1993 and 1999, the bank provided approximately US\$1.68 billion to the Angolan Government (owed by the Banco Nacional de Angola – BNA).<sup>143-207</sup> This figure does not include a US\$100 million 'revolving credit' facility that was valid until 2000.<sup>143</sup> Global Witness has been unable to confirm if this figure accounts for all the loans provided, which

means that the real amount loaned may be significantly greater. Some sources have suggested that the total debt of the Angolan Government to Paribas may be as high as US\$3 billion.<sup>206</sup>

Arcadi Gaidamak has claimed that he and Pierre Falcone (*See Another ZTS-Osos contract with Angola – Gaidamak comes on board? – page 16*) were made Angolan citizens through the provision of diplomatic passports and subsequently controlled credit facilities derived from oil-backed loans.<sup>205</sup> This presents an extraordinary set of circumstances in which a parallel budget of the Angolan State is being controlled extra-territorially by unaccountable and unelected foreigners. It seems hard to avoid the conclusion that unaccountable oil-backed loans have formed a key part of the off-budget financing of the Angolan Government war effort which, in turn, may have been subject to significant misappropriation during the military procurement process.<sup>207</sup>

Global Witness is not suggesting that Paribas directly facilitated the kick-back process from the arms trade, or that the bank was necessarily aware of the end-use of the revenues provided. However, Global Witness does question whether the bank provided adequate transparency about the provision and use of these loans to enable scrutiny by the people of Angola.

BNP-Paribas should explain why and how credit from loans arranged in the name of Sonangol were put at the disposal of individuals who were not directly connected to the company. If Gaidamak's claims are true, to what extent were officials at the highest levels of Paribas aware of this highly unusual situation? What checks and balances were put in place to ensure appropriate management of these funds and to whom, and on what basis, were they disbursed? In particular, the bank should explain the role of the oil trading company Glencore and any Angolan or international officials in this process.

Indeed, when the bank embarked on its process of loaning hundreds of millions of dollars in loans in 1993, the Government was looking like a potential loser of the war and a victorious UNITA may have refused to honour such credit. Why did Paribas make loans under such risky circumstances? BNP-Paribas should explain what, if any, political backing existed behind the decision to make these initial loans and which entities were prepared to bankroll any losses.

Global Witness calls on BNP-Paribas to immediately make public full details of all loan arrangements to Angola. This information should include details about the purpose and intended recipients of the loans as well as personnel responsible for disbursement. The bank should also clarify the size of all outstanding arrangements, providing dates of maturity.

### **Structured loans on the London market**

This type of loan involves a bank that acts as lead arranger (or syndication agent) which is then responsible for bringing together other participating banks and for organising the loan deal.<sup>206</sup> The role of lead arranger carries significant financial benefits: the bank receives a percentage of the total amount that is lent as a commission for organising the syndicate. This payment is surplus to any interest that the bank receives on the money lent. The participating banks are organised in groups according to the percentage

**they were they would return and take the cows. Sometimes they would kill**

they lend. This creates a hierarchy within the various players, referred to in descending order of importance as lead arranger (syndication agent), co-arranger(s) and participants (arrangers).<sup>206</sup>

*The role of the Cabinda and Soyo-Palanca Trusts in guaranteeing loans*

From a bank's perspective, structured loans have the advantage of sharing the risk amongst the participating banks. However, simply being able to share the risk is not sufficient for the loan to go ahead – the banks need to feel secure that they will be repaid. In the case of Angola, the banks putting together structured loans have abundant security for their lending, thanks to both the Cabinda and the Soyo-Palanca Trusts.<sup>143,206</sup>

These oil trusts are effectively a set of offshore accounts that have rights over a significant proportion of the oil generated from the Angolan Government's share of production. The Cabinda Trust, which is run by Lloyds Bank in London, has access to oil (and hence revenue from selling the oil) from Cabinda's Block 0 concession. Any repayments tied to the Trust have priority over all other obligations from the Government's share of production from the Block. The Soyo-Palanca Trust mainly relies on Block 3/85 and Block 2, though it can utilise oil from Block 0 if it is not first earmarked for the Cabinda Trust.<sup>143</sup>

The advantage of this set-up to the lending banks is that it provides them with reliable information about whether or not Angola has sufficient available oil production to service its debts and meet repayment requirements.<sup>143,206</sup> A 'Credit Committee', which decides whether to execute the loan, normally requests information about the intended use of the monies being provided; the standard Angolan Government or Sonangol response is that the money is needed for development or reconstruction.<sup>206</sup> It is interesting that the lending banks request such information but it is apparently very rare that there is any follow-up to determine whether the money was spent in the way described.<sup>206</sup> The amount of information that the banks require to make the loan also contrasts oddly with the non-transparency of their own disbursement procedures.

*Loans agreed prior to December 1999*

Recent investigations have also uncovered at least another two loans finalised in October 1999 that should be added to the list compiled in *A Crude Awakening*. The first involved a loan for 'credit facilities' of US\$224 million, which was provided by Nissho Iwai Corporation to Sonangol.<sup>220</sup> Nissho Iwai also provided a facility of US\$129 million in 1998.<sup>143</sup> The second loan involved a credit of US\$134 million to Sonangol provided by a syndicate headed by European private banking specialist MeesPierson.<sup>221</sup>

According to a financial database, a total of US\$2.31 billion was lent to Angola between February 1996 and December 1999.<sup>222</sup> Apart from US\$75 million that was lent to the Banco Nacional de Angola on 17th December 1997, the remainder was provided to Sonangol.

## New lending since December 1999

**Global Witness can reveal that since *A Crude Awakening*, the Angolan Government appear to have obtained about US\$3.55 billion in loans arranged between September 2000 and October 2001. The various loans, and their implications for the country's level of indebtedness, are discussed below:**

**1st September 2000:** US\$500 million facility arranged by BNP-Paribas, Société Générale and Natexis Bank.<sup>208</sup> The loan was provided to Sonangol and listed as being for 'trade finance'.<sup>206</sup>

Press reports suggested that this loan placed the Angolan Government in breach of its agreement with the IMF to significantly restrict the level of new borrowing through short-term structured loans during 2000.<sup>208,209</sup> The IMF reported that this loan raised the country's debt to US\$8.27 billion through to September 2000, up from the agreed US\$8.1 billion under the IMF programme.<sup>208</sup> IMF officials stated that, 'The disbursement of a US\$500 million oil-guaranteed bank loan in September 2000... led to the non-observance of the Programme ceiling on non-concessional debt'.<sup>208</sup>

This pattern of non-observance of IMF limits has dramatically accelerated in 2001. Although the IMF and the Government agreed a US\$269 million ceiling on new borrowing (pegged to a set of assumptions about oil prices and other variables), Global Witness has uncovered a series of loans to the country worth more than US\$3 billion. An unclear fraction of this money is destined for refinancing services, but nonetheless the IMF limit appears to have been exceeded by almost five times, or US\$1.1 billion, and likely by considerably more.

**13th February 2001:** US\$455 million facility arranged by Standard Chartered Bank for Sonangol.<sup>210</sup>

The purpose of the loan is listed as either 'working capital' or as 'trade finance'.<sup>206</sup> The co-arrangers of this loan consisted of: African Export-Import bank; BHF Bank; BNP-Paribas; Bank Brussels Lambert; Bayerische Hypo und Vereinsbank; Bayerische Landesbank Girozentrale; Citibank; Commerzbank; Credit Agricole-Indosuez; Credit Lyonnais; Fortis Bank; ING Barings; KBC Bank; Natexis Banques Populaires; Royal Bank of Scotland; and Société Générale.<sup>211</sup>

Standard Chartered stated the purpose of this facility was to 'prepay an existing oil receivables backed facility, which is due to expire during 2001'.<sup>212</sup> Sources suggested that the existing facility was a loan of US\$575 million negotiated in 1999 with Swiss bank UBS.<sup>206</sup> Standard Chartered went on to say that the 'the balance [of the new loan] will be used to fund projects in connection with the national reconstruction plan of Angola'.<sup>210</sup>

There is some confusion over the amount of new money in this loan; the publication *Trade Finance* quoted a Standard Chartered spokesman as saying that 'this is a deal that has been around for a number of years and is essentially a re-financing of a previous facility'<sup>213</sup>, which implies minimal new money. However, the journal went on the report that, 'it is understood that around US\$250 million of the loan is new money'.<sup>213</sup> This assertion is further supported by the fact that, according to *African Energy*, UBS' previous 1999 loan of US\$575 million loan was to be repaid over four years, but that the rise in oil prices may have meant a more rapid payback phase and its possible completion by July 2001. Thus, 'Angola had been paying this loan off for around 22 of 26 months by the time [that] it secured the new Standard Chartered loan. This would suggest relatively little of the UBS loan was left unpaid, and in need of refinancing... this would therefore mean the new-money portion of the new Standard Chartered loan would be relatively large – likely well in excess of the IMF's US\$269 million figure'.<sup>214</sup>

It has also been suggested that the issue of re-financing, 'was simply a ploy to cloud the waters and avoid immediate

accusations of breaching IMF guidelines.<sup>214</sup> *African Energy* makes a serious allegation which, if true, may imply that the structure of the loan has not only clouded the Angolan Government's cooperation with IMF, but may also aid misappropriation of state assets (which is precisely the reason for the IMF's objection to this kind of loan arrangement). If the UBS loan has not been paid off to the extent suggested, the money that should have been used by Sonangol to clear this debt could have been misappropriated. Regardless of the true purpose of this loan, neither the terms 'working capital', or 'trade finance' under which the loan is described in banking databases seem to provide an adequate explanation as to whether this loan was a refinancing package or not.

**8th March 2001:** US\$455 million facility arranged by Commerzbank for Sonangol.<sup>215</sup>

In Standard Chartered's press statements regarding their role as lead arranger for the February US\$455 million loan, the bank appears to have forgotten to mention that they also participated in an additional US\$455 million loan less than one month later. This additional loan appears on banking databases also as 'working capital', but the database makes it clear that this loan is not a refinancing package.<sup>215</sup> If available information is correct, then the Standard Chartered loan left the Angolan Government with the potential, at best, to only borrow a further US\$19 million during 2001 before additional borrowing exceeded its agreed IMF limit. Thus, the Commerzbank loan appears to have over-reached this limit by approximately US\$436 million. This should be of major concern to the IMF.

On this occasion, the lead arranger role was swapped from Standard Chartered to the German Bank, Commerzbank. Other participating banks included: African Export-Import Bank, Bahrain Intl Bank, Bayerische Landesbank, Credit Agricole-Indosuez, Fortis Bank, KBC Bank, Royal Bank of Scotland Plc, Standard Chartered Bank, BNP Paribas, BayerHypo Vereinsbank, Citibank, Credit Lyonnais, ING Bank, Natexis Banques Populaires, Société Générale and Commerzbank AG.<sup>215</sup>

**12th April 2001:** A complex loan arrangement for US\$441.2 million provided by un-named Brazilian banks to the Angolan Government. The loan is constructed of three different loans of US\$175.9 million, US\$160.3 million and US\$105 million.<sup>216,217</sup> The deal, which was signed in Brasília in February 2001 involves the shipment of 20,000 barrels of oil per day to Brazil at US\$28 per barrel. According to the radio station *Voice Of America*, 80% of the loan is to be used to repay Angola's debt to Brazil, with the remaining 20% being used to purchase Brazilian external debt bonds.<sup>216</sup>

Luanda-based economist José Cerqueira commented to *Reuters* that, 'this kind of operation is profitable for the bankers, but the Angolan people will lose.'<sup>217</sup>

Assuming the breakdown of the loan is correct, then some US\$352.8 million (80% of US\$441 million) could be seen as refinancing an existing debt to Brazil. This suggests that US\$88.2 million (or the remaining 20%) is new money. Thus, this loan amounts to US\$524.2 excess of the IMF's borrowing limit. This should be of major concern to the IMF and the international community, especially given that the loan appears to be for financial speculation on the Brazilian debt market, rather than for the reconstruction of Angola.

**16th July 2001:** US\$600 million facility arranged for Sonangol by BNP-Paribas, Glencore Finance Ltd, Natexis Banques Populaires, Société Générale as lead arrangers.<sup>218</sup>

Also acting as arrangers were Commerzbank, Credit Agricole-Indosuez, Fortis Bank, Hypo Vereinsbank, KBC Bank. Citibank acted as Co-arranger. Other banks involved in this loan included BHF Bank Aktiengeschaft, Royal Bank of Scotland PLC, ABB Export bank, BMC Bank Corporation, Landesbank Rheinland



**The cost of war – 86,000 disabled from landmines and counting...**

Pfalz, DG Bank AG, WestLB, ABC International Bank PLC, CSFB, Moscow Narodny Bank.<sup>218</sup> It has been alleged that this loan was arranged for Sonangol without previous consultation of the Finance Ministry, and without further notification of the either the Finance Ministry or the National Bank of Angola.<sup>207</sup>

The banking database lists this loan as being provided for 'corporate purposes' although the purpose of this loan is opaque, there is no evidence to suggest that it was destined for refinancing purposes. Thus, the amount in excess from the IMF borrowing limit for 2001 has now been raised to US\$1.1 billion, or by approximately five times the limit established by the IMF for Angola.

**25th October 2001:** US\$500 million facility arranged for Sonangol by BNP-Paribas, Natexis Banques Populaires, Société Générale as lead arrangers, with Glencore Finance Ltd this time playing the role of arranger.<sup>219</sup>

The loan purpose is given as debt repayment.<sup>219</sup> More specifically, the banking database refers to the use of this facility as for refinancing a US\$500 million credit provided in 2000, presumably the 1st September 2000 loan arranged by the same banks, as discussed above.

Given the plethora of banker claims that each new loan is for refinancing existing loan structures, it is difficult not to come to the conclusion that the eventual repayment of these facilities might be extremely problematic. For example, one might presume that the September 2000 loan would have been put together according to a strict repayment schedule. If this is true, what has happened to the funds that should have already been deployed according to that schedule?

**Final week October 2001,** agreement for US\$600 million loan for Sonangol, provided by the Arab Banking Corporation.<sup>206</sup>

Banking sources indicated that this loan also involved Glencore, though the specific role of the company or its subsidiaries is unclear.<sup>206</sup> It is also not clear what if any other banks have taken part in this loan. Sources indicated that the bank's supervisory board allegedly raised concerns about this loan, but nevertheless went ahead.<sup>206</sup>

### The case for banking transparency

There is a demonstrable lack of transparency over the loans made to the Angolan Government. Symptomatic of this opacity is the way that syndicates have arranged loans of more than thirteen times the agreed ceiling on new borrowing agreed with the IMF. Loans are often attached to a stated purpose during the syndication process but it remains unclear, what, if any, measures are taken by lead arrangers or credit committees to check that monies are appropriately disbursed. At the minimum, new credit of US\$1.1 billion has been loaned to the country in 2001, significantly exceeding the IMF limit of US\$269 million. Thus, oil-backed loans are clearly another unaccountable source of income for the Angolan Government.

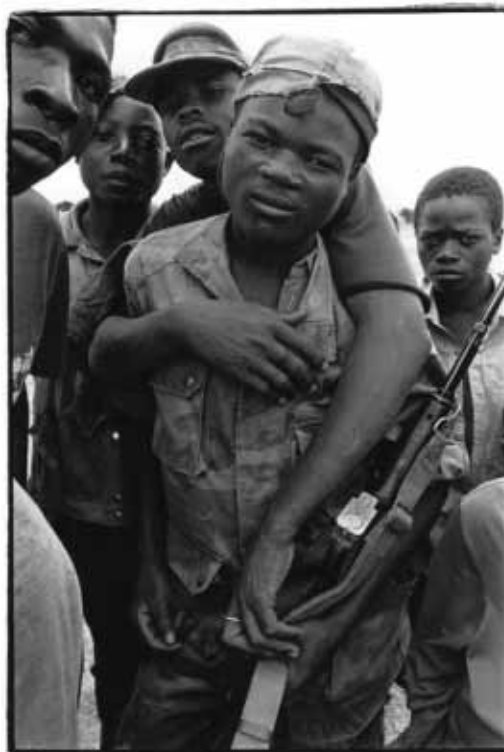
Global Witness challenges the ethics behind this policy of oil-backed lending to countries with strong histories of resource misallocation. Although banks can be sure of the return of their capital with high interest rates because such loans are serviced by a share of oil-production, they risk rendering themselves complicit with misappropriation of state funds if provisions to check loan disbursement and assure fiscal transparency are not implemented. At best, the provision of recent loans could be said to have undermined the work of multilateral institutions like the IMF; at worst, it may be that these provide a whole set of parallel financing, outside of public scrutiny, for the operations of the shadow state and provide lucrative opportunities for cash diversion.

Further, there appears to be a certain amount of 'creative ambiguity' in the provision of such credit facilities, for example, Standard Chartered's US\$455 million loan, ostensibly to restructure existing debts, may contain over US\$250 million in new money. It is not possible to know if this is true unless Sonangol, the banks and/or the Angolan Government provides appropriate information.

Such information is not being made routinely available to Angolan civil society in whose name such debts are arranged. Thus, like oil revenues, ordinary Angolans cannot know whether such loans are appropriate and are, therefore, unable to hold their Government to account over disbursement of credit facilities.

The case for full transparency in international lending to Angola is as important as that for oil companies operating inside the country. Banks should:

- Publish full details of loans provided, including details of the amount lent, the recipients, the interest rate charged, the expiry date and the purpose of the loan;
- Clarify what measures they take to verify that actual expenditure corresponds with that stated on bank documentation and during negotiation;
- Insist that such expenditure is verifiable as a condition of providing the loan;
- Publish regular updates detailing the resources held by the Trusts, and the demands being made upon them. This concerns banks such as Lloyds Bank in London, which runs the Cabinda Trust.



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**Carrying the burden of debt. Angola's youth sacrificed to a privatised war.**

### *The Wolfsberg Principles – Anti-money laundering guidelines for private banking*

On 30th October 2000, 11 leading international banks – ABN-Amro bank, Barclays Bank, Banco Santander Central Hispano, SA, Chase Manhattan Private Bank, Citibank, Credit Suisse Group, Deutsche Bank AG, HSBC, JP Morgan Inc, Société Générale, and UBS AG – together with anti-corruption NGO Transparency International announced they had agreed to a voluntary set of global anti-money laundering principles.<sup>223</sup>

The Wolfsberg Principles seek to deny the use of the banking services for 'criminal purposes' as each bank will 'endeavour to accept only those clients whose source of wealth and funds can be reasonably established to be legitimate.'<sup>223</sup>

Global Witness would like to congratulate the various banks involved, together with Transparency International, for taking such an initiative; taking the precedent that these Principles have set for inter-bank cooperation, Global Witness would be very grateful to hear from any of the Wolfsberg signatories, to discuss how to move forward with full transparency for oil-backed loans. At the minimum, Wolfsberg signatories should not collaborate with or take part in any loans that are not fully-transparent as to their disbursement and subsequent expenditure or that do not impose the same standards on their agents or recipients.

**where the cows were and then let them go. One day 5-6 FAA came to take the**



## Oil trading companies

Oil trading companies active in Angola, such as Glencore, Vitol, Addax, Attock Oil and Nissho Iwai and individual traders, like the former 'fugitive financier'<sup>226</sup> Marc Rich, have also played a key role in providing unaccountable revenues to the Angolan State. *A Crude Awakening* published some details of the deals that have been put together by these companies.

Sources suggest that Marc Rich, either separately or with Glencore, the oil-trading operation that he claims he left in 1994,<sup>224</sup> was personally involved in arranging a US\$1 billion loan to the Angolan Government in July 1998, in return for his purchase of every barrel of oil not already allocated to previous oil-backed loans, from the Government's share of oil production.<sup>206</sup>

Mr. Rich has enjoyed a controversial career as a commodities trader, including fleeing the US to Switzerland in 1983 on 51 counts of tax evasion of over US\$48 million and running illegal oil deals with Iran during the hostage crisis at the US embassy in Tehran in November 1979.<sup>225,226</sup> His subsequent pardon by the outgoing President Clinton in February 2001 is currently under investigation due to allegations that it was linked to over US\$1 million in political or 'philanthropic' contributions to the Democratic Party causes.<sup>226</sup> Other allegations include collusion with Abacha's regime in Nigeria and sanctions busting for the Apartheid regime in South Africa.

Rich's 1998 deal is alleged to run for three years, which means that it should have expired in July 2001. The deal appears to have been routed through Sonangol and the Presidency and may be yet another unaccounted, unaccountable loan to the shadow state.<sup>206</sup>

Although Mr. Rich no longer claims to be associated with Glencore, the deal does appear to correspond roughly in value to the supposed total US\$870 million in loans provided by Glencore over the previous year (December 1997 – US\$320 million; mid-February 1998 – US\$300 million; July 1998 – US\$250 million).<sup>143</sup> Inaccuracies in reporting aside, if the US\$870 million derived via Glencore is the same as that suggested as coming from Marc Rich, it is possible that he is still involved in the operations of Glencore, which both parties have denied.

Alternatively, if the loans are separate, estimates for the total value of oil-backed loans negotiated with Angola should be scaled up by US\$1 billion.

Disbursement of Glencore's February and July lending (some US\$550 million) also involved Paribas.<sup>143</sup> Given that the original arrangement to raise oil-backed loans from 1993, put together by Pierre Falcone and Arakdi Gaidamak, involved both Glencore and Paribas, a reasonable suspicion exists that these loans could also be part of an oil financing-for-arms arrangement.

It is very difficult to determine the reality of this situation because of the lack of transparency surrounding these oil-based credit arrangements. Thus, there is an urgent need for the international community to insist on full transparency for oil trading operations.

## The role of International bilateral export credit financing agencies (ECAs)

Bilateral export financing agencies operate to reduce the risk for national companies wishing to invest



What could the missing billions do for Kuito and other Angolan cities?

overseas. Financing, either in terms of direct loans to participating companies or as a form of credit insurance to mitigate the risk of project payment default, is normally provided in return for the contractors obtaining required equipment or some of the necessary workforce from the country that is providing the underwriting insurance. In effect, this means that export financing is national taxpayer subsidisation of project abroad to boost national businesses.

Oil companies are often required to make massive investments in infrastructure before any oil is produced, so risk is mitigated by setting up secure financing arrangements with a number of ECAs. Agencies with significant portfolios in Sub-Saharan Africa include (in decreasing order of importance):<sup>227</sup>

COFACE	France
Export-Import Bank (Ex-Im Bank)	United States
Mediocredito Centrale SpA	Italy
Export Credit Guarantee Department (ECGD)	UK
Kreditanstalt für Wiederaufbau	Germany
Credit Guarantee Insurance	South Africa
SACE	Italy
Nederlandsche Credietverzekering Maatschappij	The Netherlands
Korea Export Insurance Corporation	South Korea

The main agencies currently providing government risk insurance for Angola include the US Ex-Im Bank, France's COFACE, Italy's SACE, and South Korea's Korea Export Insurance Corporation.<sup>143</sup>

Investment provided by bilateral ECAs is growing and current international lending exceeds that provided by the World Bank, IMF and all other multilateral agencies combined. However, unlike the multilateral lending institutions, most export credit agencies are not required to consider the social and environmental impacts of the projects they support. Global Witness was informed by one agency in 2000 that the only major factor affecting their decision to authorise a loan was the likelihood of it being repaid.<sup>228</sup>

This makes for an interesting scenario in the Angolan context: national taxpayers are financially contributing to oil field development through export financing arrangements in conjunction with companies which then collude with the 'shadow state' to prevent transparency. Thus, taxpayers in the North are indirectly helping to fund the disempowerment of

**cars. I was in the church and they came in and started shooting. They did not**

Southern civil society. Further, while state assets are misappropriated, international taxpayers will be required to finance the redevelopment of Angola through multilateral and bilateral assistance programmes. Although on the one hand, there is a perceived benefit of job creation to the national economies of the countries of active export financing agencies, on the other hand, taxpayers in the North are unwittingly subsidising and underwriting the disempowerment of civil society and the subversion of the democratic process in a developing country.

The solution must be to include transparency criteria as a condition of all future export credit financing agreements in all countries of operation.

For example, an agency could impose a loan condition insisting that all players participating in the agreement are required to practice full transparency. In the case of Angola, given that many of these loans are obtained for the purpose of financing Sonangol's field development programmes, this would mean that Sonangol would need to be fully transparent about the payments it makes to the Angolan Government, as well as publishing all current oil-backed loans, at the risk of not receiving bilateral export financing.

There are obvious difficulties for any individual export credit financing agency to proceed unilaterally with such a move for transparency. As one pointed out, 'we can see the benefits of doing this, but please

## Shutting Down the Dictators' Laundromats

By **Jonathan Winer**, former Deputy Assistant Secretary of State for International Law Enforcement, US State Department

The covert financial networks of the world and the infrastructure of money laundering to bank secrecy havens in mini-states like Liechtenstein, the Grand Caymans, or the Virgin Islands may, at last, be in the process of exposure. The Organisation for Economic Cooperation and Development (OECD) in Paris, the Financial Action Task Force (FATF), based at the OECD, and the Financial Stability Forum of the G8 countries have finally begun to take action to pressure mini-states who have rented out their sovereignty to provide anonymity through their financial services sector to the world's drug-lords, criminals, arms dealers, and dictators as well as their corrupt paymasters and facilitators in the North.

For the past two decades, access to the world's financial system has become a critical element in theft of national wealth from some of the poorest countries of the world, just as it has provided a mechanism for the hiding of illegal (and criminal) political slush funds in some of the world's most developed democracies. The basic mechanisms for this covert infrastructure could be any of the following:

- Anonymous company formation with local agents, to create a business whose ownership could not be traced;
- Anonymous trusts with local agents in another country, to create an anonymous owner for the anonymous business, and thus another layer of protection;
- Use of 'brass plate' banks from non-regulated jurisdictions promising bank secrecy,
- Opening of 'correspondent' accounts in regulated banks by the 'brass plates' to move the money around the world.

In a globalised economy, mini-states offering bank secrecy have become the method of choice for handling the proceeds of corruption of the world's worst governments. Presidents and despots such as Nigeria's Abacha, Zaire's Mobutu, Gabon's Bongo, those close to Angolan president dos Santos and Russian President Yeltsin, Germany's Christian Democratic Union under Helmut Kohl, the French oil company Elf-Aquitaine, and Peru's intelligence chief Montesinos, each used the same set of jurisdictions and mechanisms to launder, as



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applicable, the proceeds of bribes, weapons deals, slush funds, hush funds, and funds stolen from the state. Indeed, every single one of these corruption cases moved through the tiny European principality of Liechtenstein, described at an international forum on financial crime at Cambridge University as 'a financial brothel in which every criminal in the world finds a bed.'

Under the existing system, kleptocratic dictators such as Nigeria's President Abacha could recruit agents in the British Virgin Islands (BVI) or the Bahamas to open up an anonymous international company for him. He could then establish an anonymous trust in a more respectable jurisdiction like the Isle of Man that would own the BVI or Bahamian company. The BVI company could open an account through the Internet at a bank in Latvia, Liechtenstein or Vanuatu, and that bank in turn could do business for the BVI company at major banks in New York, London, Hamburg, Paris, and Zurich, through 'correspondent' accounts.

The problem is not merely that smaller states have licensed themselves to corrupt dictators and criminals, but that illicit banks and funds have had the same access to the world's financial markets as legitimate ones. Each of the above scandals has a common theme of disappearing money coupled with the inability of governments, regulators, law enforcement agencies and prestigious international organisations to trace it when something went radically wrong. As governments analysed the problem, they began to

don't push us into this alone, without achieving the same criteria for the other agencies. If it was possible to get the other national agencies to move ahead with this, we would gladly do it.<sup>228</sup>

Without a commitment to transparency by ECAs, an obviously perverse situation results: the international community through the IMF is effectively pushing for transparency in Angola, while many of the same states are individually undermining such efforts. Worse, they are doing this with revenues from national taxpayers, who are predominantly unaware of this situation and, in the end, may be required to subsidise picking up the pieces from the economic mismanagement of and capital flight from

corrupt neo-authoritarian government regimes, which they have unwittingly sponsored.

Global Witness strongly urges that national governments insist that their export financing agencies practice full transparency, and that full transparency of funding partners and recipients becomes a pre-requisite for funding. Global Witness is not calling on these agencies to stop providing loans to finance oil development projects in Angola, but in the absence of transparency criteria becoming a pre-requisite for future loan provision, it could be said that these agencies are themselves complicit in mismanagement and misappropriation of state assets and the disempowerment of civil society.

realise there were a number of factors leading to the worldwide problem of dirty money, including:

- Fragmented supervision, within countries by sector, and among countries, by national jurisdiction;
- Secrecy laws that impede the sharing of information among countries and between regulators and law enforcement authorities;
- Inadequate attention to electronic payments in existing anti-money laundering supervision and enforcement, including 'know your customer' rules focusing mostly on currency, even as the world's financial services businesses rapidly continue their move into E-money;
- The lack of international standards governing key mechanisms used in transnational financial transactions, such as exempt companies, shell companies, international business companies, offshore trusts, offshore insurance and reinsurance companies, offshore fund vehicles, including, but not limited to, hedge funds;
- Inadequate due diligence by company formation agents, attorneys, and financial institutions in the process of incorporating and licensing of new financial institutions and shell companies and trusts owned by their affiliates.

Over the 1990s, these mechanisms were exposed in a series of investigations which began with attempts in the Philippines to recover the billions stolen by Ferdinand Marcos, and included efforts by Swiss Prosecutor Carla del Ponte to trace hundreds of millions in drug money taken by Raul Salinas, brother of the then-President of Mexico, Carlos Salinas. The G-7 decided to take action when asset recovery efforts against the Suhartos in Indonesia, Mobutu in Zaire and Abacha in Nigeria revealed that they used the same jurisdictions as Colombian cocaine traffickers and Islamic terrorists.

Huge losses in tax revenues, scandals involving political leaders ranging from countries in transition like Mexico and Russia, to some of the most important figures in modern European political history, such as former German Chancellor Helmut Kohl, and fears of global financial instability, motivated the world's most industrialised nations to create a blacklist of 'non-cooperative' jurisdictions in 2000. The list contained a Who's Who of the world's most notorious money-laundering jurisdictions, including countries such as Israel and Russia that had been previously thought untouchable for political reasons. There were no immediate sanctions placed on those listed; however, the G-7 countries directed their financial institutions to look more closely at all transactions coming out of those countries. This provided an incentive for some jurisdictions, including Antigua, Bahamas, Caymans, Liechtenstein and the Philippines, to soften bank secrecy laws.

At the same time, bankers from regulated jurisdictions such as the US, Canada, Japan, Switzerland, and the EU began

to question how tiny countries in the South Pacific such as Nauru, Niue and Vanuatu with a population of only 20,000 or so could have banks moving billions of dollars in assets a year. These essentially unregulated jurisdictions seemed to be little more than financial laundromats offering systems for hiding funds, rather than any legitimate services. Accordingly, to reduce the threat to their own reputations, and at substantial cost to their shareholders, banks such as Citibank in the US and UBS in Switzerland refused to do business in 1999 and 2000 with banks in such unregulated jurisdictions.

While the first steps have been undertaken in creating a 'name and shame' process to isolate jurisdictions that are hiding dirty money, many essential elements of a global system for preventing corrupt leaders from stealing their nation's wealth still need to be put into place. These include:

- Having the world's most important financial markets shut down access to the financial institutions of 'mini-states' who refuse to cooperate in investigations involving foreign corruption cases. They should face sanctions from their governments if they fail to do so;
- Enacting laws permitting the seizure of the proceeds of foreign corruption and making them money-laundering offences in countries like the US-, which treat domestic corruption as a crime but have no laws to combat foreign corruption;
- Continuing the drive to limit bank secrecy, ensuring it is always lifted in cases involving allegations of crime, corruption, or theft;
- Broadening the sharing of law enforcement and regulatory information among countries engaged in investigating financial crime as a requirement of full participation in making use of the global financial services infrastructure, such as the world's payments systems;
- Sanctioning financial institutions that have facilitated money laundering and financial crime, with substantial fines, or closure. The US took this approach to the Japanese bank Sumimoto in the late 1990s, requiring the bank to leave the country after some of its officials prepared fraudulent bank documents in an effort to hide financial losses from regulators;
- Making it illegal to accept money whose origin cannot be explained by legitimate economic activity. No banks accepting funds from Nigeria's Abacha family, Mexico's Carlos Salinas, or Zaire's Mobutu, could have been under any illusions that they were earned legitimately;
- Repatriating the proceeds of corruption to the public treasury of the looted state, with the condition that the funds be spent in a fashion that is transparent and democratically determined, ideally on basic social services such as education and health care.

### 13 Conclusion

ORDINARY ANGOLANS have been stripped of their rights and dispossessed by over four decades of civil war. The conflict itself has been deliberately exploited to provide for highly-organised economic abuses involving the full-scale appropriation and laundering of state assets through parallel budgets, over-priced arms deals and deliberate indebtedness through mortgaging of future oil production. This system of private gains and public losses is sustained by blaming the war for the resultant failures of the State. Top military and Government authorities appear to make money from the military procurement process itself and nearly every item that is consumed in the war against UNITA serves to enrich Angola's ruling elite and their network of brokers, bagmen and influence-peddlers.

This over-riding 'operational logic' of bribery and kickbacks in the Angolan shadow-state is partly the creation of a Northern foreign policy that has remained firmly focussed 'two miles down' on the deep-water oil fields. At best, Northern Governments have sought to appease the ruling elite to avoid harming national business interests. At worst, France and others have treated Angola as a 'judicial no-man's land which, in the name of mutual political interests, was to stay for eternity a land of unpunished crimes'.<sup>229</sup> As a result, the 'Presidents' men' have taken Angola to the cleaners – a third of the state budget for 2001 appears to be missing, and may perhaps be located in offshore laundromats.

Of the oil companies operating in Angola, only BP has made a public stand over transparency; Shell, Norsk Hydro and Statoil have agreed with the concept and indicated a willingness to move forward on the issue; Chevron-Texaco, TotalFinaElf and ExxonMobil – the largest (and soon to be largest) oil extractors in Angola – have, so far, remained in denial.

Civil society is entitled to be provided with adequate information to be able to call their government to account over the management of 'their' resources. Although peace has, unsurprisingly, been the main priority of Angola's nascent civil society, it has shown an increasing acknowledgement of the need for good governance and transparency to achieve a lasting solution to the war. In 2000, Angolan NGOs triggered a debate at the level of the National Assembly to demand full disclosure of the state budget. Although in itself a substantial work of fiction, the full budget was published for the first time in 2001. Access to quarterly state expenditure and demands for more spending in health and education and less on defence and security may be next on the agenda. Others have started a process to ensure that state institutions function in a transparent manner according to Angolan law.

Calls for transparency have most recently emerged from Archbishop D. Zacarias Kamuenho, head of



Public losses, private gains! The ninth month of protest against corruption and impunity outside Angonave – an Angolan public company; May 2001, Luanda.

the Angolan Catholic Church and winner of the Sakharov prize for his work to promote human rights and peace in Angola. During the prize award ceremony at the European Parliament last December, Archbishop Kamuenho highlighted the role of the extractives industries in perpetuating the war and stressed the pressing need to 'bring about the transparency [that]... would stimulate the implementation of social investments to the benefit citizens quality of life'. The death of UNITA boss Jonas Savimbi only adds to this pressure. It is becoming increasingly unrealistic to blame the war for all the failures of the Angolan State.

Although the ultimate challenge of rendering the Government accountable will rely heavily on civil society's role in Angola, without access to information they can only do so much. By refusing to publish what they pay to the Government, oil companies create a necessary condition for the operation of the machinery of state looting because without information about the basic state income, it is impossible for ordinary Angola citizens to detect when they are being short-changed and call their Government to account over the mismanagement of rents from their resources. Non-disclosure of payments would be considered legally and morally unacceptable in peacetime and demonstrates an apparent contempt for the desperate plight of the ordinary people of Angola. Transparency is seen as a necessary precondition for acceptable business practices in the Northern hemisphere, so why not the South?

It is obvious that the techniques of state looting detailed here are readily exportable to wherever the predatory nature of international oil and financial businesses interact with weak civil society and unaccountable neo-authoritarian governments. A recent Oxfam America report on 'Extractive Industries and the Poor' identifies a clear statistical relationship between states with dependency on primary extractive industries and unaccountable state institutions that are linked to poverty.<sup>230</sup> This 'Paradox of Plenty' comes about because resource-rich governments tend to use low tax rates and patronage to dampen democratic pressures and spend an unusually high fraction of their income on internal

security. In addition, the political structures that accrete around a 'bonanza' economy generally fail to bring about social and cultural changes that lead to long-term investment in social development. States that are dependent on oil and mineral wealth also face a much higher chance of civil war and conflict.<sup>231</sup> The charge of industry complicity extends to all other countries – such as Azerbaijan, Chad, Cambodia, Democratic Republic of Congo, Equatorial Guinea, Gabon, Kazakhstan, Sudan, Nigeria to name but a few – where natural resources provides a significant source of state income, where corruption associated with state income is of concern, and where such companies are not fully transparent about their payments. The risks of complicity with unaccountable governments are not all one-way: as *The Economist* noted, 'firms doing business in countries with unpleasant governments ... [are] endangering the most priceless of assets, their good name.'<sup>232</sup>

This issue cannot be addressed 'voluntarily'. BP's experience with Sonangol shows that, even if an oil company wants to be transparent, it may be threatened with having its concessions terminated and re-assigned to less scrupulous competitors. Despite high-sounding principles, adherence to the bottom line of profits without principles has, so far, ensured that standards of disclosure and transparency in Angola remain those of the lowest common denominator. Oil companies acting collectively could break this deadlock – and send a powerful message about global good governance – but, so far, the industry has lacked the collective imagination to address this problem.

Thus, there is an obvious necessity for a parallel regulatory approach to address the failure of voluntary initiative on transparency and to set minimum standards of financial disclosure amongst

multinational companies for all their countries of operation. Global Witness believes that the major national securities regulators have both the power and the right to effect immediate change to companies' reporting and disclosure standards to this end. Northern export credit agencies should impose transparency criteria on all their partner investors. The IMF, World Bank, and International Finance Corporation – on the back of genuine improvements in the transparency of their own operations – should develop and institutionalise a model of transparency and revenue management that could be exported into different national situations. This could, for example, help to avoid the legacy of delays that has dogged the IMF's Oil Diagnostic.

Similarly, the anti-money laundering work that accompanied new 'War on Terror' has shown what can be done when the collective will is engaged to tackle the problem: this effort should now be used to address the one of the causes of global poverty to track and repatriate the assets stolen from amongst the poorest people in the world by the richest. Compare, for example, the US\$1.4 billion to over US\$3.55 billion in unaccountable oil-related revenues and loans for the last year, and the US\$770 million unaccounted for the year before that, with the struggle by the UN to raise the US\$200 million that is needed to feed the one million internally-displaced people dependent of food aid in Angola.

National governments and their allied economic actors can no longer absolve themselves from responsibility for the dispossession and double standards of the world resource extraction industry. The international community will either have to live up to the challenge of endorsing and achieving transparency in the sector or it will have to pick up the pieces.

**Dispossessed and left at the mercy of donor assistance. Without transparency of resource revenue, ordinary Angolans do not stand a chance.**





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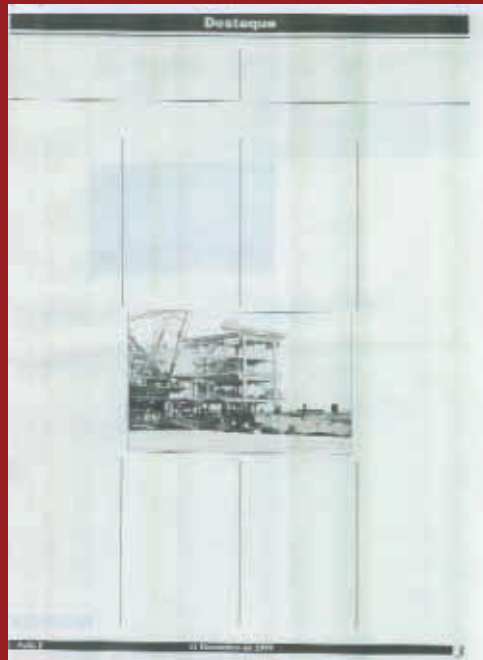
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global witness

Global Witness Ltd  
P O Box 6042, London N19 5WP, United Kingdom  
telephone: + 44 (0)20 7272 6731  
fax: + 44 (0)20 7272 9425  
e-mail: [oil@globalwitness.org](mailto:oil@globalwitness.org)  
<http://www.globalwitness.org/>



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Global Witness Ltd  
P O Box 6042, London N19 5WP,  
United Kingdom

telephone: + 44 (0)20 7272 6731  
fax: + 44 (0)20 7272 9425  
e-mail: [oil@globalwitness.org](mailto:oil@globalwitness.org)  
<http://www.globalwitness.org/>

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