

# Criminal investigation of Halliburton's Nigerian operation widens **Evidence of corruption during Cheney's tenure**

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26 May 2008

Criminal investigations of former Halliburton subsidiary Kellogg Brown and Root (KBR), for alleged bribery in the construction of Nigeria's \$10 billion liquefied natural gas (LNG) export plant on Bonny Island, have been widened to cover the past 20 years of Halliburton's operations in Nigeria. Investigators will also probe accusations of embezzlement by senior executives, and Halliburton's relations with other multinationals, including Royal Dutch Shell.

Halliburton recently dismissed two of its most senior executives, Robert Stanley and William Chaudin, on suspicion of embezzling \$5 million from a Nigerian energy project.

The initial claim, which started the investigation some six years ago, was that Halliburton and others working on a gas export project conspired to win a \$5 billion construction contract in 1995 by establishing a \$180 million slush-fund to bribe Nigerian officials, and to reward Western contractors between 1994 and 2002, which includes the period when US Vice-President Dick Cheney was Halliburton's chairman and CEO (1995-2000). Such payments are illegal under a 1997 convention barring "bribery of foreign public officials in commercial negotiations," adopted by the Organization for Economic Cooperation and Development.

Cheney was also at the helm when, on March 18, 1999, Halliburton and the consortium paid \$37.5 million to British lawyer Jeffrey Tesler, who served as a consultant to KBR after it was formed in a 1998 merger between Halliburton and Dresser Industries, which Cheney engineered. This and three other similar payments to Tesler are some of the key points in the investigation by French, British, US and Nigerian

police.

Halliburton's April 25, 2008 quarterly filing to the New York-based Securities & Exchange Commission (SEC), which regulates companies that sell stock on public markets, marks the first time that specific evidence was cited to support claims that Halliburton bribed Nigerian officials in violation of the US Corrupt Foreign Practices Act (CFPA) while Cheney was the company's CEO and, as such, responsible for its books.

According to a footnote in the April 25 filing, US Department of Justice officials told Halliburton that they have "evidence of payments to Nigerian officials by another agent in connection with a separate KBR-managed project in Nigeria called the Shell EA project," worth some \$350 million. The filing also notes that Halliburton and KBR have suspended the agent and another agent who had worked for KBR on "several current projects and on numerous older projects going back to the early 1980s".

This is the first time that Shell has been formally mentioned in the criminal investigation. The Shell EA oil and gas field is involved in the supply of gas to the LNG export plant on Bonny Island. KBR built the giant floating production, storage and offloading vessel, the "Sea Eagle", which has a 170,000 barrel-a-day capacity, for Shell Nigeria.

Foreign shareholders hold a 51 percent equity stake in Nigeria LNG (NLNG), and Shell is the biggest foreign shareholder in NLNG, along with Total (France), ENI (Italy) and the Japan Gas Corporation. Shell provided the technical consultants to evaluate bids for the NLNG project, which were submitted by rival consortia Bechtel, and KBR and partners—Technip (France),

Snamprogetti (Italy) and the Japan Gas Corporation—a consortium known as TSKJ. NLNG’s decision to award the contract to TSKJ was unanimous, although Nigerian officials have since complained of heavy political and commercial pressure.

In its quarterly filing to the SEC last October, Halliburton said it was subpoenaed by the US Department of Justice and SEC over the use by TSKJ “of an immigration services provider, apparently managed by a Nigerian immigration official, to which approximately \$1.8 million in payments in excess of costs of visas were allegedly made between approximately 1997 and the termination of the provider in December 2004 and our 2007 reporting of this matter to the government”.

Halliburton now admits that it is “unable to estimate an amount of probable loss or range of possible loss related to these matters as it relates to Halliburton directly” from claims against it by third parties, for special, indirect, derivative or consequential damages, if it were to be successfully prosecuted by the US authorities for violation of the CFPB.

Halliburton also noted in its SEC filing that federal investigators had “expressed concern regarding the level of our cooperation,” suggesting suspicion of a cover-up or at least delaying tactics.

Three years ago Halliburton’s lawyers, Baker Botts, gave the US Department of Justice 500 pages of notes compiled by its consultant, Wojciech Chodan, between 1993 and 1999, which has helped investigators to understand the plans by TSKJ to pay off Nigerian officials and Western businessmen.

*Africa Confidential* recently obtained a set of Chodan’s notes, which outline the involvement of TSKJ in planning the establishment of the slush-fund. The notes record TSKJ meetings with oil companies such as Shell, Elf and Agip, and also debates by members of TSKJ about the merits of making “secret” and “open” payments to agents. At the bottom of each page is printed “FOIA CONFIDENTIAL TREATMENT REQUESTED BY HALLIBURTON”, i.e., that the government should not pass the documents on to journalists who might request them under the Freedom of Information Act.

This is not the first time that Halliburton has been pursued by the SEC. During the 2004 US presidential campaign, the company agreed to a \$7.5 million

settlement with the SEC over suspect accounting practices that took place during Cheney’s affiliation with Halliburton.

The accusation was that Halliburton had changed the way in which it accounted for construction revenues in 1998 and did not report that change to investors for more than a year, a violation of securities rules. This caused the company’s public statements regarding its income to be materially misleading in boosting Halliburton’s paper profits by \$120 million, and giving Wall Street the false impression that Halliburton was profitable between 1998 and 1999, so boosting the value of its stock and helping Cheney earn more than \$35 million when he sold his shares in 2000.

Accounting irregularities at Halliburton exceeded \$234 million during Cheney’s tenure, according to documents obtained by the watchdog group Center for Public Integrity. However, the lack of media coverage of this issue, especially within the US, is indicative of the fact that it is highly unlikely that the US Justice Department will pursue Cheney over the Nigerian scandal even if the alleged bribery and embezzlement did take place on his watch.



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