

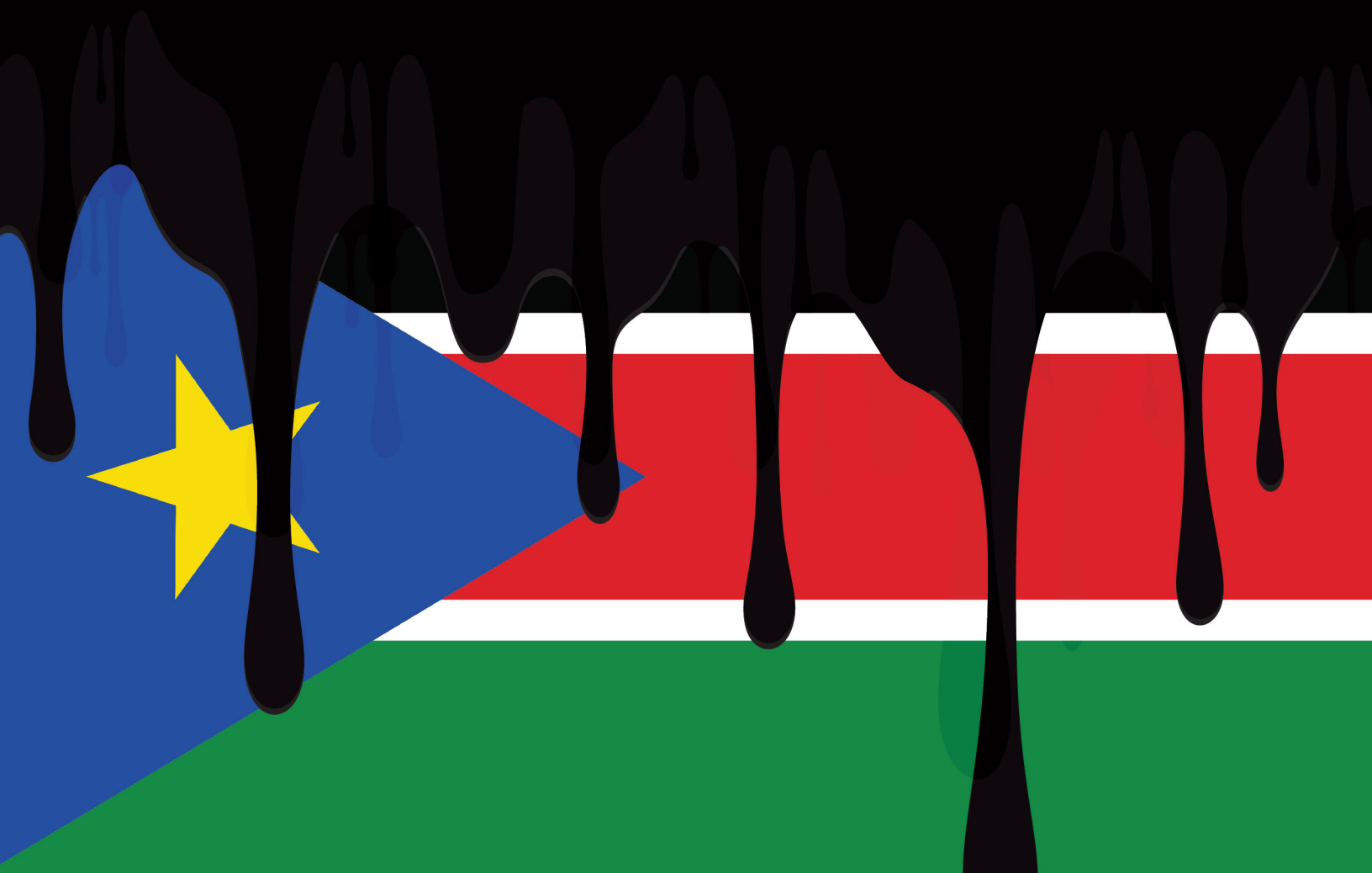


THE SENTRY

Crude Dealings

February 2023

How Oil-Backed Loans
Raise Red Flags for Illegal
Activity in South Sudan



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Shortly before the publication of this report, Trinity Energy wrote to The Sentry with comments on certain findings within this report. A summary of Trinity Energy's comments can be found on p. 59.

Executive Summary

A three-year investigation by The Sentry into a loan deal between a local company and a regional bank—with the backing of the South Sudan government—has uncovered red flags for illicit business practices, including bribery, tax evasion, and trade-based money laundering. The investigation found clear indications that the arrangement enabled powerful individuals to benefit from the manipulation of business worth hundreds of millions of dollars. The loan deal skirted legislation on oversight, transparency, and competition and facilitated off-book government spending, including supplies of fuel to the South Sudan army. It also perpetuated a damaging reliance on future oil production to finance current spending, mortgaging the future prosperity of the country and its citizens.

In April 2018, South Sudan's Trinity Energy Limited agreed a trade finance facility with Cairo-based African Export-Import Bank (Afreximbank) for a series of \$30 million loans to purchase diesel and gasoline to sell to the South Sudan market.¹ As part of the deal, the government of South Sudan committed to award cargoes of crude oil to Trinity Energy.²

The arrangement gave Trinity Energy—a company that had never before traded crude—privileged access to the market for South Sudan's oil, the country's most valuable resource and the source of the vast majority of its national wealth.³ Crude oil earnings accounted for 81% of government revenue in the second half of 2018, when the Afrximbank trade finance deal was first in place.⁴ Trinity Energy was awarded more than 40% of crude cargoes contracted by the government from June 2018 to May 2019.⁵ At the same time, the company was given a dominant role in the market for petroleum and diesel imports,⁶ a position that facilitated its secretive provision of fuel to the South Sudanese army.^{7, 8}

The trade finance facility also gave Glencore Singapore Pte Ltd, a subsidiary of Geneva-based oil trader Glencore PLC, privileged access to crude contracts. The agreement designated the firm as the “original offtaker,” meaning that it bought and shipped the cargoes of oil awarded by the government to Trinity Energy.⁹ Glencore shipped South Sudanese crude worth \$376 million in 2019, all of it through deals with Trinity Energy.^{10, 11}

The Sentry interviewed a former Trinity Energy employee and reviewed the trade finance facility, bank statements, emails, internal memos, and ministerial correspondence and found that the arrangements between Trinity Energy, Afrximbank, and the government of South Sudan were contrary to South Sudanese law, and their implementation raised red flags for bribery, tax evasion, and trade-based money laundering.^{12, 13}

The investigation found that Trinity Energy spent millions of dollars on “facilitation” and “business acquisition” costs for the Afrximbank deal, including 18.7 million South Sudanese pounds (SSP) (\$125,000) in payments to the government committee responsible for approving the deal.^{14, 15, 16} During the implementation of the trade finance deal, Trinity Energy changed millions of US dollars on the black market, paid fake invoices overseas to disguise the black market exchange of hundreds of thousands of dollars, and engaged in behaviors indicative of tax fraud.^{17, 18, 19, 20, 21, 22, 23} The South Sudanese government's actions were at odds with its own laws on procurement, competition, transparency, and petroleum revenue management.^{24, 25, 26}



The absence of checks to government power in South Sudan opens the door to commercial dealings that are based on personal relationships and the exchange of benefits and favors. The result is that companies and the executive branch can conduct business in the absence of oversight or transparency and with scant regard to the rule of law, economic sustainability, and the wellbeing of the nation and its citizens. State officials and businesspeople operate in an environment of impunity that incentivizes rather than deters negligence, rent-seeking, and illegal activity.

Key findings

Red flags for bribery

- Trinity Energy spent an estimated \$2.5 million on what it described as “visits, meetings, [and] travel involving stakeholders” and a further \$1.5 million on “lobbyist fees and facilitation fees” to set up the trade finance deal with Afreximbank and the first two \$30 million letters of credit under the deal.²⁷
- Trinity Energy spent 62.7 million SSP (\$418,000) on “business acquisition fees” associated with the Afreximbank deal between signing the agreement in April 2018 and shipping the first crude cargoes associated with the deal in July and August 2018.^{28, 29, 30, 31}
- These “business acquisition fees” included payment by Trinity Energy of a check for 18.7 million SSP (\$125,000) to members of the government’s Technical Loan Committee, the body responsible for approving the Afreximbank deal.^{32, 33, 34}
- Trinity Energy paid cash to a state official in return for a 50% discount on government license fees for imports of fuel products purchased with Afreximbank letters of credit, according to a Trinity Energy executive involved in making the payment.^{35, 36, 37, 38, 39, 40, 41, 42, 43, 44}
- At the time of the trade finance deal and during the period of its negotiation, the owners and directors of Trinity Energy had business and family ties with politically exposed persons (PEPs) in senior government positions.^{45, 46, 47, 48, 49} These included two former ministers of finance,^{50, 51, 52, 53, 54, 55} the head of the state customs agency,⁵⁶ and a senior general in the South Sudanese army. According to incorporation documents on file with the Ministry of Justice, the company’s directors also had ties to two colonels in the National Security Service, both of whom were connected to President Salva Kiir.^{57, 58, 59, 60, 61, 62, 63, 64, 65, 66}
- During the period in which the trade finance deal was active, the government called on Trinity Energy for favors, including a \$400,000 cash loan to cover expenses for an overseas mission by First Vice President Taban Deng Gai and a 100 million SSP (\$621,118) loan to the Ministry of Petroleum to cover a shortfall in financing.^{67, 68, 69, 70, 71}
- The government paid a premium to Trinity Energy for the sale of fuel to the South Sudanese army.^{72, 73}

Red flags for trade-based money laundering

- Trinity Energy knowingly paid false invoices from Welldone Suppliers, a Uganda-based company, to send hundreds of thousands of US dollars overseas.^{74, 75, 76}



- Trinity Energy moved hundreds of thousands of dollars to companies in South Sudan and Kenya owned by its shareholders and directors. These related-party transactions are red flags for trade-based money laundering, transfer pricing, and possible breaches of the arm's length principle.^{77, 78, 79, 80, 81, 82, 83, 84}

Red flag for tax evasion

- During the period in which the trade finance facility was in place, Trinity Energy compiled inaccurate employee earnings data that—if submitted to government authorities—could be a breach of South Sudan's taxation law.^{85, 86, 87, 88, 89}

Possible breach of sanctions

- Trinity Energy supplied fuel to Santino Deng Wol,^{90, 91} a general in the South Sudanese army who was under European Union (EU), United States (US), and United Nations (UN) sanctions at the time.^{92, 93}
⁹⁴ This may have been a breach of the UN sanctions.⁹⁵

Secret deal to supply fuel to the army

- Trinity Energy used the Afreximbank trade finance facility to supply diesel and gasoline worth millions of dollars to the South Sudanese army at a time when government forces were involved in ongoing civil conflict.^{96, 97} The deal was not made public, thereby evading checks and balances on government spending, including parliamentary oversight. South Sudan's army has been accused of war crimes and human rights abuses.⁹⁸

Black market money exchange

- Trinity Energy used a local travel company called Moonlight Travel and Tours to exchange US dollars for South Sudanese pounds on the black market in Juba, generating millions of dollars in foreign exchange profits and breaking South Sudanese law.^{99, 100, 101, 102, 103, 104, 105, 106, 107}

Red flags for breaches of procurement and competition law

- Government guarantees to award crude cargoes worth hundreds of millions of dollars to Trinity Energy may have broken laws on procurement, competition, and transparency.^{108, 109, 110}

Key recommendations

- **The United States, European Union, United Kingdom, Canada, and Australia** should investigate and, if appropriate, sanction individuals and entities involved in corrupt oil deals. South Sudan's oil sector, rife with opaque deals and a lack of accountability, remains a cash cow for the ruling elite and their transnational networks. Targeted network sanctions have the potential to disrupt the illicit money flows derived from the theft of South Sudan's main natural resource. This report uncovers red flags for corruption and evidence of support to those undermining peace in South Sudan, including the use of a trade finance agreement to finance army spending and the supply of fuel to a UN-sanctioned general, who is now the chief of staff. The identified conduct is consistent with sanctions designation criteria under the relevant anti-corruption and South Sudan-specific sanctions authorities.
- **Global and regional financial institutions** should take measures to identify accounts held or beneficially owned by those with business dealings in South Sudan's oil sector and senior South Sudanese



PEPs, carry out a comprehensive assessment to identify their broader international networks, and determine measures needed to mitigate the risks involved in such accounts and customer relationships. Financial institutions should also undertake increased screening, enhanced ongoing monitoring, and transaction reviews to identify, investigate, and report potentially suspicious financial activity related to South Sudan, especially with respect to international networks profiting from such activity. Additionally, financial institutions should carry out enhanced due diligence on high-value letters of credit or similar instruments issued to companies beneficially owned or controlled by South Sudanese PEPs, influential public officials, military officers, their families, and their business associates, as well as on all parties to a transaction. This should include ongoing monitoring of the transaction through to completion.

- **Afreximbank** should initiate an independent investigation into its relationships and transactions with Trinity Energy and the government of South Sudan. The investigation should include a review of whether the initiation and execution of the trade finance facility described in this report complied with Afreximbank's policies, in particular its anti-bribery and -corruption (ABC) and anti-money laundering (AML) policies.^{111, 112} The investigation should also probe how the financing provided to Trinity Energy was utilized and whether Trinity Energy breached any representations or warranties set out in the financing agreement.
- **The UN Panel of Experts on South Sudan** should investigate Trinity Energy's support—via monetary payments and fuel supplies—for political and military leaders and entities. Notably, Trinity Energy's provision of diesel supplies to UN-sanctioned General Santino Deng Wol should be investigated. Trinity Energy provided support to military elements during a precarious time in South Sudan's peace process, and the supplies may have perpetuated violence and stalled efforts toward the implementation of the peace agreement. If appropriate, the UN Panel of Experts should recommend the imposition of additional sanctions and other accountability measures.
- **Kenya and Uganda** should investigate and prosecute illicit money flows. Authorities in Kenya and Uganda should investigate the transactions identified in this report in which money sent to company accounts in the two countries raised red flags for trade-based money laundering. Uganda particularly should investigate the trades identified in this report for which no physical trade was recorded, a classic red flag for trade-based money laundering. Kenya should investigate the finances of Kenyan national Ann Kathure Rutere to ascertain whether any dubious or illegal payments or deposits have been made into her accounts. Where appropriate, Kenya and Uganda should launch criminal proceedings to repatriate assets.
- **South Sudan** should ratify and implement the African Union Convention on Preventing and Combating Corruption, which South Sudan signed in 2013. The country should also implement Chapter IV of the Revitalised Agreement on the Resolution of the Conflict in the Republic of South Sudan (R-ARCSS) to address the crippling cycle of debt, economic mismanagement, and corruption undermining economic prosperity and fueling conflict.¹¹³ In accordance with Chapter IV, the government of South Sudan must reorient its priorities to make sustainable development, sound fiscal management, transparency, accountability, and the wellbeing of its citizens central pillars of economic policy. The government of South Sudan should also conduct a rigorous investigation into the 2018 trade finance facility between Afreximbank and Trinity Energy Limited, as well as its implementation, to identify breaches of the laws of South Sudan and prosecute transgressors.



Loans Against Oil*

South Sudan's crude oil is exceptionally precious. At production levels of around 170,000 barrels per day,¹¹⁴ the country's known oil reserves will last just 13 years, according to the Ministry of Petroleum.¹¹⁵ South Sudan is overwhelmingly dependent on this one resource, which contributes 99% of export income, 86% of government revenue, and 62% of gross domestic product (GDP), according to the International Monetary Fund (IMF).¹¹⁶ This makes the good management of crude oil the single most important factor in the current and future prosperity of the country and the wellbeing of its citizens.

Since South Sudan's creation in July 2011, the government has spectacularly mismanaged its oil revenues, plunging the country into crippling debt and mortgaging future oil production just to keep government finances afloat.¹¹⁷ Following a 15-month shutdown in crude production in January 2012 and the onset of civil war in December 2013, the government took to financing ever-increasing spending levels with future crude output.^{118, 119} This mortgaging of oil production has locked the country in a spiral of debt. In September 2020, South Sudan's finance minister said the government had no money to pay government workers their salaries, which were several months in arrears.¹²⁰ The country's debt—before further interest is accrued—is equivalent to more than 18 years of government salaries.¹²¹

The use of crude oil as collateral for loans has been widely condemned for the damaging impact it has on economic prosperity, debt sustainability, and fiscal transparency,¹²² especially in countries lacking good governance.^{123, 124, 125} South Sudan's own laws guard against unsustainable debt. The Public Financial Management and Accountability Act prohibits the government from either taking on or guaranteeing debt at a non-concessionary rate,¹²⁶ and it includes clear rules on the budget process,¹²⁷ budget ceilings,¹²⁸ debt management,¹²⁹ and transparency.¹³⁰

Despite all this, in April 2018, faced with an economic crisis and ongoing civil conflict, the government of South Sudan participated in a loan deal that was guaranteed by the Bank of South Sudan and in which payments for diesel and gasoline imports were linked to contracts awarded by the government to export crude oil.^{131, 132, 133} The loans were not transparent, and they were not at a concessionary rate.^{134, 135}

On the face of it, the arrangement aimed to address South Sudan's absence of refining capacity and shortage of hard currency with which to import petroleum products. In practice, the two-year deal created an income stream that was vulnerable to manipulation for illicit gain and a clandestine way to provide fuel to the army. The deal allowed the government to both delay spending on petroleum products and move it off budget, papering over fiscal cracks resulting from a history of economic mismanagement and almost five years of civil war and enabling the government to divert treasury resources to other priorities, particularly the military.

**Reports by The Sentry are based on interviews, documentary research, and, where relevant, financial forensic analysis. In some cases, sources speak to The Sentry on the condition that their names not be revealed, out of concern for their safety or other potential retaliatory action. The Sentry establishes the authoritativeness and credibility of information derived from those interviews through independent sources, such as expert commentary, financial data, original documentation, and press reports. The Sentry endeavors to contact the persons and entities discussed in its reports and afford them an opportunity to comment and provide further information.*



At the time, salaries for government employees were four months in arrears, and central government transfers to state budgets were six months in arrears.¹³⁶ But the government's focus was squarely on its armed forces. South Sudan's government had signed a peace deal in August 2015, but three years later it had still failed to quell widespread violence in the country,^{137, 138} and an attempt to revive the deal in 2018 also failed to deliver peace.^{139, 140} The government stated in its 2018/19 budget that expenditure would be "largely skewed towards defence at the expense of poverty reduction,"¹⁴¹ and it still overspent. The government spent 34.2 billion South Sudanese pounds (SSP) (\$228 million) on defense in the first three months of 2019,¹⁴² almost four times the budgeted defense spending for the entire 2018/19 financial year.¹⁴³ Defense spending in those three months was greater than the entire annual budget for any government department in the 2018/19 financial year.¹⁴⁴

Trade finance deal

The imports deal hinged on a loan agreement between African Export-Import Bank (Afreximbank), a supranational financial institution based in Cairo, and Trinity Energy, a South Sudan-registered company. Trinity Energy is 99% owned by Trinity Holdings, with 1% held by South Sudanese citizen Akol Emmanuel Ayii Madut.¹⁴⁵ At the time the deal was arranged and implemented, Ayii had a 90% share in Trinity Holdings, with 10% owned by his wife,¹⁴⁶ Kenyan citizen Ann Kathure Rutere.^{147, 148, 149} Rutere's 10% stake was acquired by Indian national Richard Thadeus Raja in 2021.¹⁵⁰ Ayii, Rutere, and Raja were the three directors of Trinity Energy at the time the deal was arranged and implemented,¹⁵¹ with Ayii in the position of chair and Rutere as executive director.^{152, 153}

Under the deal, Afrximbank agreed to issue a revolving trade finance facility worth \$30 million to Trinity Energy,¹⁵⁴ each installment of which was repayable after three months.¹⁵⁵ Trinity was able to draw letters of credit (LCs) under that loan facility to buy diesel and petroleum from fuel products company KenolKobil in Kenya,¹⁵⁶ which it then imported to sell in South Sudan.^{157, 158, 159, 160, 161}

As part of the arrangement, South Sudan's Ministry of Petroleum committed to award contracts to Trinity Energy for cargoes of South Sudanese crude oil.¹⁶² Trinity Energy sold these cargoes to Glencore Singapore Pte Ltd,¹⁶³ designated in the agreement as the "original offtaker," or crude oil buyer.^{164, 165} Glencore Singapore Pte is 100% owned by Switzerland-based oil trader Glencore PLC.^{166, 167}

Trinity Energy traded at least 4.2 million barrels of crude in the June 2018 to May 2019 financial year—more than a third of all the crude tendered by the government.¹⁶⁸ A marketing report from the Ministry of Petroleum, published in February 2020, states that the government awarded seven crude cargoes to Trinity Energy from June 2018 to May 2019.¹⁶⁹ Glencore, which purchased crude from Trinity Energy and shipped it from Port Sudan in Sudan, bought 6.4 million barrels of South Sudanese crude in 2018 at an average price of \$66.76 per barrel and 6.3 million barrels in 2019 at an average price of \$59.72 per barrel, according to data made public by the company.^{170, 171} Glencore's shipments were worth a combined \$801 million over the two years.^{172, 173} All of these shipments were of crude cargoes awarded by the government to Trinity Energy, according to Glencore's emailed response to The Sentry's questions.¹⁷⁴ Based on the average price paid to Trinity Energy by Glencore and a typical cargo size of 600,000 barrels,¹⁷⁵ each cargo sold by Trinity was worth at least \$37.8 million. By early 2020, the trade finance deal between Trinity Energy and Afrximbank had been extended.¹⁷⁶

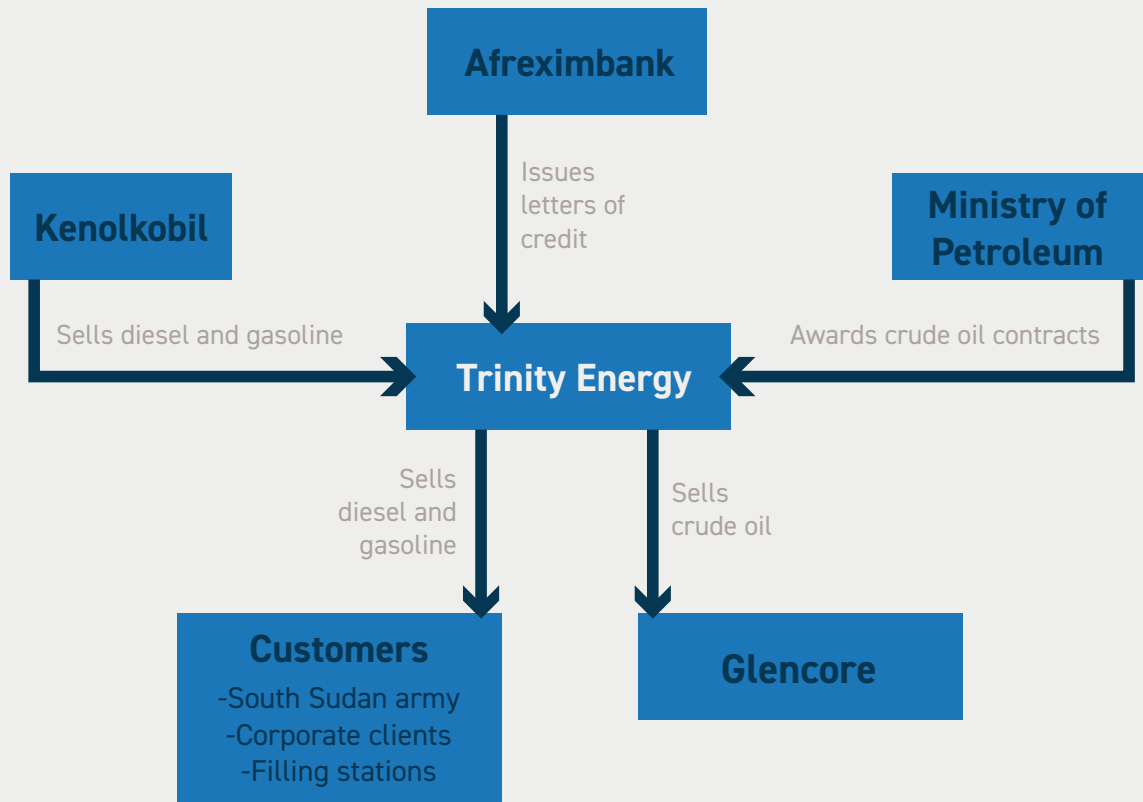


Trade Finance With a Twist

Trinity Energy's 2018 trade finance deal enabled the off-book provision of fuel to the army and the awarding of cargoes of crude oil to Trinity Energy by the South Sudan government.



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Red Flags for Bribery

The Sentry's investigation found that many of Trinity Energy's business practices were consistent with behaviors identified by Transparency International as red flags for bribery, including: the provision of "excessive or lavish" corporate hospitality;¹⁷⁷ facilitation payments;¹⁷⁸ in-kind benefits;¹⁷⁹ lobbying;¹⁸⁰ rebates and discounts;¹⁸¹ and false or inflated invoicing and product pricing, which are also red flags for fraud.¹⁸²

Trinity Energy's \$6.5M spend

Trinity Energy spent \$6.5 million to secure the Afreximbank trade finance facility and arrange the first two LCs under the deal, an internal company document seen by The Sentry reveals.¹⁸³ The \$6.5 million outlay is equivalent to 11% of the combined \$60 million value of the first two LCs. The magnitude and nature of that spending raises numerous red flags for bribery.¹⁸⁴ Of the total \$6.5 million, Trinity spent \$2.5 million on fees associated with the Afreximbank facility, a further \$2.5 million on what the document describes as "visits, meetings, [and] travel involving stakeholders," and another \$1.5 million on what are labeled "lobbyist fees and facilitation fees."¹⁸⁵ To put this expenditure into context, the \$6.5 million that Trinity Energy spent to set up the Afreximbank deal was more than half the government's 2018/19 health budget.¹⁸⁶

Ann Kathure Rutere, Trinity Energy's executive director at the time the deal was arranged and implemented,^{187, 188} told The Sentry, "During my tenure the company conducted business in a very transparent manner and at no point did we engage in bribes."¹⁸⁹ But Rutere also said that she does not speak for the company and that she was "not involved in the negotiations" for the Afreximbank deal, "not involved in Trinity Energy operations relating to exportation of crude oil cargoes," and "not involved in the actual enforcement or performance relating to the Afreximbank instruments."¹⁹⁰ Rutere signed off on the Afreximbank deal, she told The Sentry,¹⁹¹ but said that she was "preparing to exit" the company, a process that was ultimately to take "about a year."¹⁹² The Sentry contacted Akol Emmanuel Ayii Madut and Richard Thadeus Raja, both directors of Trinity Energy when the 2018 trade finance deal was agreed and implemented, for comment, but neither responded.

Business acquisition and facilitation

The \$1.5 million spend on "lobbyist fees and facilitation fees" is particularly concerning, as both lobbying and facilitation payments are red flags for bribery.¹⁹³ Facilitation payments, according to Transparency International, are "small bribes ... made to secure or speed up a routine or necessary process to which the payer is entitled anyway."¹⁹⁴

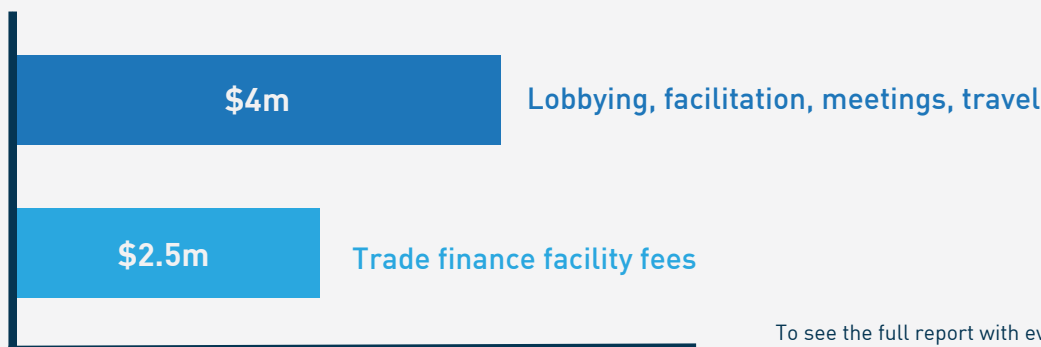
Payments to government officials to speed up routine services are outlawed in many countries around the world.¹⁹⁵ "Facilitation payments" are among the offenses included in the UK Bribery Act (2010),¹⁹⁶ while the Organisation for Economic Co-operation and Development describes such payments as "corrosive," particularly to "sustainable economic development and the rule of law."¹⁹⁷ The African Union Convention on Preventing and Combating Corruption, which South Sudan signed in 2013 but has not yet ratified,¹⁹⁸ states that "acts of corruption" include the offering to public officials, or the acceptance by public officials, "of any goods of monetary value, or other benefit ... in exchange for any act or omission in the performance of his or her public functions."¹⁹⁹



Red Flags For Bribery



In arranging the Afreximbank trade finance facility and the first two letters of credit, Trinity Energy spent \$2.5 million on visits, meetings, and travel involving stakeholders, and \$1.5 million on lobbying and facilitation. This combined \$4 million far exceeded the \$2.5 million spent on fees directly associated with the deal.



To see the full report with evidence, visit TheSentry.org/reports/CrudeDealings

A Trinity Energy memo reviewed by The Sentry reveals specific details of payments made by Trinity Energy in order to secure the Afreximbank deal.²⁰⁰ The memo, which lists the company's costs associated with the first two LCs, records payment of a check for 18.7 million SSP (\$125,000) with the reference "Business acquisition Fees-Technical Loan Committee Members Payments."²⁰¹ Biswick Kaswaswa, Trinity Energy's finance manager from June to October 2018, told The Sentry that the government's Technical Loan Committee, whose role was to review and approve Trinity Energy's loan arrangement with Afreximbank, included senior officials from the Bank of South Sudan, the Ministry of Finance and Economic Planning, and the Ministry of Petroleum.^{202, 203}

According to a report on corruption in neighboring Uganda by Transparency International, "Business Acquisition Cost" is a code name for a bribe paid to "enhance the company's business."²⁰⁴ Kaswaswa believes that the \$125,000 paid to the Technical Loan Committee by Trinity Energy was a bribe.²⁰⁵ "In this schedule, anything to do with business acquisition fees is to do with the dubious transactions they [Trinity Energy] were doing," he said, referring to the Trinity Energy memo seen by The Sentry.²⁰⁶ "I had a lot of meetings where I was told that we could not do any business without bribing government officials," said Kaswaswa.²⁰⁷ "The term they used for this was 'business acquisition.'"²⁰⁸

The money paid to the Technical Loan Committee members was just part of Trinity Energy's expenditure on business acquisition and facilitation. The firm's parent company, Trinity Holdings, loaned Trinity Energy \$6 million to spend on business acquisition, Kaswaswa told The Sentry.^{209, 210} When Trinity Energy spent funds on business acquisition, it accounted for them as repayments to Trinity Holdings against the \$6 million loan, he said.²¹¹ "This was to conceal an audit trail of bribes and payments to government officials," Kaswaswa alleged.²¹² "Business acquisition was a term used for all the bribes to the government officials. It was an expense which was recorded as a loan payable and receivable in the books of the accounts of both entities, Trinity Holdings and Trinity Energy. It was a way to hide bribes to government."²¹³



Kaswaswa's account of the convoluted way in which Trinity Energy accounted for its spending on business acquisition is corroborated by internal Trinity Energy documents seen by The Sentry.^{214, 215} In a four-month period from May to August 2018, the company spent 62.7 million SSP (\$418,000) on "business acquisition fees" related to the first and second LCs under the trade finance facility, according to an internal memo seen by The Sentry.²¹⁶ The outlay was made just after the Afreximbank deal was signed in April 2018 and coincided with Trinity Energy shipping the first two cargoes of South Sudanese crude.^{217, 218}

Two of these "business acquisition" transactions—a payment of 3 million SSP (\$20,000) in July 2018 and a payment of 25 million SSP (\$167,000) the following month—were authorized in "special board resolutions" by Trinity Energy's three directors at the time—Ayii, Rutere, and Raja.^{219, 220} The funds dispensed by Trinity Energy for both payments were to be "released to Trinity Holdings Ltd" and "adjusted against Business Acquisition fees due to Trinity Energy," according to minutes from two board meetings seen by The Sentry.^{221, 222} Rutere claimed that "the money was to clear accrued bills which the business was unable to settle while struggling," adding that she is "confident that money went to bills and not to bribery."²²³ Yet Rutere did not mention any debts or unpaid bills to Kaswaswa, despite his position as finance manager at the time and despite him requesting opening balances for the company's accounts, he told The Sentry.²²⁴ Ayii and Raja did not respond to requests for comment from The Sentry.

Accounting for spending on business acquisition as a loan repayment to Trinity Holdings meant that Trinity Energy could disguise a large number of cash expenses, itself a red flag for bribery.²²⁵ Staff and senior executives at Trinity Energy made large cash withdrawals from company bank accounts for business acquisition without providing receipts, according to Kaswaswa.^{226, 227} Company rules restricting employee expenses and stipulating that they be receipted were routinely broken, he said.²²⁸

Accounting for spending on business acquisition as a loan repayment to Trinity Holdings meant that Trinity Energy could disguise a large number of cash expenses, itself a red flag for bribery.

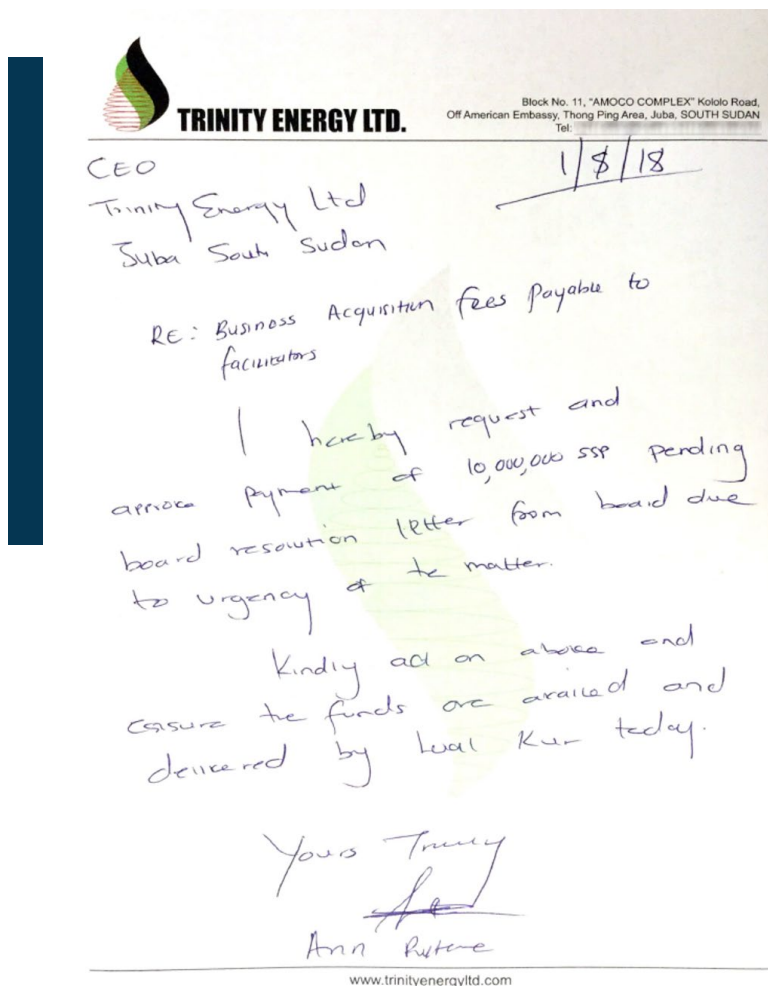
On August 1, 2018, Rutere wrote to CEO Robert Mdeza requesting 10 million SSP (\$67,000) to cover "Business acquisition fees payable to facilitators."²²⁹ In the letter, Rutere approved her own request, declaring that the funds would be "availed and delivered by Lual Kur today."²³⁰ Lual Kur refers to Lual Kur Wiir, Trinity Energy's human resources (HR) and procurement manager at the time.²³¹ The internal Trinity Energy memo confirms that 10 million SSP was paid in cash to Rutere via Kur Wiir.²³² Kaswaswa was told by senior executives at the firm that the money released to Rutere was for payments to the "Minister of Finance

and his team."²³³ The money, Kaswaswa contends, was a "bribe" for the minister's "involvement in supporting Trinity to secure the LC."²³⁴ Rutere did not return any funds to Trinity Energy,²³⁵ and her spending was not receipted. "We never received any receipts when we made these payments," said Kaswaswa.²³⁶ "Ann [Rutere] and her team were refusing to make sure there was supporting documentation for these transactions."²³⁷ The Sentry made numerous attempts to contact the minister of finance at the time, Salvatore Garang Mabiordit, for comment, but was unsuccessful.

Despite writing the letter, Rutere told The Sentry that she was "not involved in the day to day operations at Trinity Energy" and that she was "not aware that the referenced money was used for bribery."²³⁸ Rutere later



claimed that the money she received was used to “clear outstanding accrued bills of 2016 to 2018,” most of which, she said, were “directly known to me since I was the one fully in charge of [the] company’s prior day to day operations.”²³⁹ According to Rutere, “Cash was used to acquire land for Trinity Energy retail outlets [filling stations] and to offset some bills accrued by Trinity during the period that business was bad and the company suffered significant financial burdens. Most of the payment[s] executed during my tenure were largely related to arrears incurred between 2016-18 for outstanding accounts and/or for the acquisition of retail outlets.”²⁴⁰ Kaswaswa rejects this explanation: “If they were paying off debts, why did they not disclose the debts to us? We were not told about any debts.”²⁴¹ According to Kaswaswa, “most of the payments” for the acquisition of filling stations “were done in a proper way – paying a cheque and being clear what the payment was for. It doesn’t make any sense to disguise transactions that were for filling stations,” he told The Sentry.²⁴²



A handwritten note by Trinity Energy's then-director Ann Kathure Rutere requesting and approving her withdrawal of 10 million SSP for “business acquisition.” The term “business acquisition” can be code for bribery, according to Transparency International. Source: The Sentry.

Trinity Energy staff were regularly instructed by the company’s directors to withdraw cash from Trinity Energy accounts to distribute to government officials, Kaswaswa alleged.²⁴³ “Government officials were never signing any document acknowledging receipt of the said funds,” he said.²⁴⁴ “However, I met a number of



government officials who were collecting the cash from Trinity and I was assigned a number of duties to make similar payments.”²⁴⁵

In September 2018, Kaswaswa was instructed by Trinity Energy’s chairman, Ayii,²⁴⁶ to distribute \$15,000 in cash to government officials.²⁴⁷ A bank statement seen by The Sentry shows that Kaswaswa withdrew the money from a Trinity Energy US dollar account at KCB Bank on September 12, 2018.²⁴⁸ Kaswaswa told The Sentry that at the Trinity Energy head office in Juba the following day—in the presence of Ayii, Trinity Energy’s director of sales Malual Garang Mamer Dau, and Trinity Holdings group finance manager Srawan Kumar Pandey—he handed over payslip envelopes of cash to three officials from the Ministry of Petroleum and distributed money to Ayii and Mamer Dau.²⁴⁹ Later that day, at a Trinity Energy office in the Malakia district of Juba, Kaswaswa made a further cash payment on behalf of Trinity Energy to an official from the Bank of South Sudan, he said.²⁵⁰ All the payments, Ayii told Kaswaswa, were to cover expenses for a trade fair in Kenya.²⁵¹ “There was no trade fair in Kenya on the said date and period when this payment was done,” claimed Kaswaswa.²⁵² Either way, cash payments to government officials are a red flag for bribery.²⁵³ Ayii, Pandey, Mamer Dau, and the then-minister of petroleum were contacted by The Sentry for comment but did not respond. The Sentry’s attempts to reach the Bank of South Sudan and the bank’s then-governor were unsuccessful.

Trinity Energy bank statements seen by The Sentry show that several other employees of the company drew sums of money from the business that far exceeded their salaries for reasons that are not explained.²⁵⁴ Kur Wiir, who earned a monthly salary of 6,000 SSP (\$40),²⁵⁵ received \$96,054 from Trinity Energy accounts between May and October 2018.^{256, 257, 258, 259} Mamer Dau received \$6,000 between May 18 and June 6, 2018,^{260, 261} despite having a salary of only 25,000 SSP (\$167) per month.²⁶² In a five-day period between June 5 and June 9, 2018, Ayii Wol Wol Akol, a “procurement trainee” with a monthly salary of 4,000 SSP (\$27) who is also the nephew of Trinity Energy owner Ayii,^{263, 264} received payments of \$33,741.²⁶⁵ Ramendra Prasad Yadav, an “account officer” with a monthly salary of \$2,500,²⁶⁶ received \$76,830 in payments from Trinity Energy over a nine-day period from May 7 to May 15, 2018.²⁶⁷ Robert Stephen, who is not on Trinity Energy’s payroll but who worked for other companies owned by Ayii,²⁶⁸ received payments totaling \$30,554 from Trinity Energy between June and August 2018.^{269, 270, 271} The main motivation for releasing money to these individuals was to create cash funds that could be used for business facilitation, said Kaswaswa.²⁷² The Sentry contacted Kur Wiir, Mamer Dau, and Yadav for comment but received no response; attempts to reach Stephen and Wol Akol were unsuccessful.

Rutere told The Sentry that she was “aware that Trinity Energy employees had at one time accumulated salary arrears” that would “later be paid over a period with usual salaries being exceeded by top ups to wipe out the arrears.”²⁷³ If this was indeed the explanation for the payments, those to Yadav and Mamer Dau would have paid their salaries for about three years, those to Wol Akol would have paid his salary for 104 years, and those to Kur Wiir would have covered his salary for 200 years.

Lobbying and hospitality

Business facilitation and acquisition fees are not the only aspects of Trinity Energy’s documented \$6.5 million spend that raise concerns over illicit practices. There are also indications that the company spent a significant amount of money on lobbying and corporate hospitality, both of which are red flags for bribery.²⁷⁴



Trinity Energy's \$2.5 million spend on "visits, meetings, [and] travel involving stakeholders" far exceeds what would be expected given the proximity of the company headquarters in Juba to the South Sudan government—in the same city—and to Afreximbank's headquarters in Cairo. Perhaps Trinity Energy executives were traveling in lavish style, but, even in January 2023, a return business class flight from Juba to Cairo,²⁷⁵ four nights in the Presidential Suite in a five-star hotel near the Afreximbank office,²⁷⁶ and \$250 a day in expenses comes to less than \$6,000 per person. For \$2.5 million, this trip could be accomplished 420 times.

The reference to "stakeholders" in the company's description of the expenses suggests that part of the spend may have been on corporate hospitality. This is a standard part of business relationships across the globe, but when spending on hospitality is excessive, it becomes a red flag for bribery.²⁷⁷ Hospitality can "easily cross the line from an acceptable business practice into an illegal bribe," says Transparency International.²⁷⁸ Afreximbank did not respond to questions from The Sentry about the trade finance facility with Trinity Energy, but the bank's head of client relations, Mohamed Sayed, told The Sentry that the bank has a "strict gift and entertainment policy" and that there are "strict criteria of how much you're able to accept and how much you're able to give."²⁷⁹ These limits are "pretty much in line with global standards," he said, and are "pretty minimal."²⁸⁰

The lobbying aspect of the \$1.5 million Trinity Energy spent on "lobbyist fees and facilitation fees" is also problematic. The most common form of lobbying, says Transparency International, is "when individuals, businesses, or other special interest groups find a way to 'donate' large amounts of money to a political party or an election campaign. In return, the politician(s) are expected to promote the interests of whoever made the contribution, potentially in violation of their official duties."²⁸¹ As the South Sudan government was responsible for approving Trinity Energy's trade finance deal, it may have been the target of lobbying by Trinity Energy.

In September 2018, Raja demanded \$25,000 in cash to fund expenses for a trip to UN headquarters in New York City to petition for a contract being tendered by the UN Interim Security Force for Abyei, Kaswaswa told The Sentry.^{282, 283} At Raja's instruction, Kaswaswa withdrew \$25,000 in cash for the director to take on the trip.²⁸⁴ "I wrote a letter to KCB Bank on September 6 requesting payment of \$25,000 in hard cash," Kaswaswa told The Sentry.²⁸⁵ The withdrawal is corroborated by a statement for a Trinity Energy account at KCB Bank.²⁸⁶ The funds released to Raja were not necessarily used for lobbying: his \$25,000 withdrawal was self-authorized, and the expenses were not receipted, so their purpose is not clear.²⁸⁷ Raja traveled to New York alone and was away for less than three weeks, according to Kaswaswa.²⁸⁸ If the funds were for the director's own costs, this would have amounted to a personal expense budget of more than \$1,000 per day. Raja did not return any unspent funds to the company, said Kaswaswa.²⁸⁹

South Sudan does not have a specific law governing lobbying, which means that individuals and companies may spend what they like to secure a deal without ever having to make their donations public. The absence of a lobbying law is problematic. But whether it is covered by specific legislation or not, lobbying to secure undue benefits can be considered a form of bribery.²⁹⁰ Documents seen by The Sentry and Kaswaswa's account reinforce the idea that Trinity Energy received such benefits.^{291, 292, 293, 294, 295, 296}



Silencing the Whistleblower

Over a period of almost three years beginning in April 2020, The Sentry conducted a series of in-depth interviews with Biswick Kaswaswa, Trinity Energy's former finance manager.

Kaswaswa worked for Trinity Energy at a crucial time in the evolution of the Afreximbank trade finance facility. The period of his employment, between June and October 2018, coincided with the implementation of the deal, which was agreed upon by Trinity Energy and Afreximbank in April 2018.²⁹⁷ The first two LCs from Afreximbank were issued to Trinity Energy between May and July 2018,^{298, 299} and the company was awarded contracts for crude oil cargoes by the government of South Sudan in July, August, and September 2018.³⁰⁰

As finance manager, Kaswaswa was closely involved in the implementation of the trade finance facility. During his time at the company, he had access to detailed information about the Afreximbank deal that has not been made public by the bank, Trinity Energy, or the government of South Sudan. Kaswaswa was responsible for collating information on income and expenditure associated with the deal and sharing it with the company's directors and senior management. His role also gave him unique insight into the ways in which Trinity Energy conducted its day-to-day business in the crucial months of 2018 when the trade finance facility was being implemented.

Trinity Energy, with the involvement of the government of South Sudan and state security forces, went to great lengths to try to ensure that Kaswaswa, a Malawian national, did not speak out against the firm. In October 2018, Kaswaswa was forced out of Trinity Energy by Ann Kathure Rutere, he told The Sentry.^{301, 302, 303} When Kaswaswa left South Sudan shortly thereafter, he was extradited back to the country from Rwanda, imprisoned for 17 months, threatened, and tortured.^{304, 305}

Trinity Energy brought two court cases against Kaswaswa—in Kigali, Rwanda, and Juba, South Sudan—for alleged criminal offenses. He was provisionally released by a court in Kigali,³⁰⁶ but he was extradited to Juba before the completion of the investigation.^{307, 308} Juba County Court dismissed the case for lack of evidence.³⁰⁹ An extensive review by The Sentry of court files and documentation relating to the cases corroborates Kaswaswa's story, which has also been highlighted by human rights organization Amnesty International as an example of arbitrary arrest and detention.³¹⁰

Cash for discounts

Trinity Energy's trade deal helped turn the company into a dominant force in two strategic sectors of South Sudan's economy: exports of crude oil and imports of petroleum products.^{311, 312} But the value of the arrangement to Trinity went much further than the terms of the deal. Documents reviewed by The Sentry reveal that the company enjoyed financial benefits beyond those that it could expect from a conventional business relationship and that it may have breached South Sudanese law.

Trinity benefited from a 50% discount on South Sudan import license fees for fuel, according to documents reviewed by The Sentry.^{313, 314, 315} Such discounts can be indicative of bribery, according to Transparency



International: “Rebates and discounts are commonly used as incentive schemes in business, particularly when they are linked to a customer increasing the quantities it purchases. However, rebates and discounts may also be diverted to the individuals who are responsible for procurement decisions, thus becoming a kickback to the vendor, and a bribe in order to secure a contract.”³¹⁶ According to Kaswaswa, the discount to import license fees enjoyed by Trinity was a privilege for which the company paid cash to senior government officials.³¹⁷

Both the 2017/18 and 2019/20 Financial Acts published by the Ministry of Finance and Planning state that import license fees for petroleum products are set at 3 SSP (\$0.02) per liter.^{318, 319} Internal Trinity Energy documents seen by The Sentry show that the company was paying only 1.5 SSP per liter in import license fees, half the official price,³²⁰ and this was confirmed by Kaswaswa.³²¹

The savings from the tax break could amount to a substantial sum. “Within the period that I was there [from June to October 2018], Trinity imported more than 60 million liters of fuel, worth more than \$60 million,” said Kaswaswa.^{322, 323} “At 3 SSP per liter, the import license fee would be 180 million SSP [\$1.2 million]. The government was paid only half of this.”³²⁴ Based on Kaswaswa’s figures, at the official exchange rate the cost to the public treasury—and the savings for Trinity Energy—would be more than \$600,000 in just five months.

Kaswaswa was directly involved in facilitating cash payments totaling 3.5 million SSP (\$23,334) from Trinity Energy to a government official in exchange for the discount, according to documents seen by The Sentry and Kaswaswa’s own account.^{325, 326, 327, 328, 329} On October 6, Kaswaswa and a second Trinity Energy staff member handed 3.5 million SSP “in a sack” to a Ministry of Petroleum representative waiting in the lounge of a KCB Bank branch in Juba, Kaswaswa told The Sentry.^{330, 331} Documents seen by The Sentry show the withdrawal of 1 million SSP (\$6,667) in cash from a Trinity Energy bank account at KCB Bank on September 25, 2018,³³² and a check for 2.5 million SSP (\$16,667) made out to Kaswaswa by Trinity Energy executives, also from a KCB Bank account, which was cashed on October 6.^{333, 334}

According to Kaswaswa, Trinity Energy’s discount on import license fees was negotiated directly with the Ministry of Petroleum official by three executives at the company: CEO Mdeza, HR and procurement manager Kur Wiir, and owner and chairman Ayii.³³⁵ Both the withdrawal of the money and its delivery to the Ministry of Petroleum official were done at the instruction of senior Trinity Energy executives, Kaswaswa told The Sentry.^{336, 337} Documents seen by The Sentry show that the check for 2.5 million SSP was signed by Mdeza and Kur Wiir, and the 1 million SSP debit slip was signed by Ayii and fellow director Raja.^{338, 339} The Sentry contacted Mdeza, Kur Wiir, Ayii, and Raja for comment, but none responded.

Unfit accounting

The preponderance of unreceipted cash payments in Trinity Energy’s business dealings meant that—whether intentionally or not—the company avoided effective scrutiny of its accounts and therefore of its compliance with South Sudanese law and the terms of its trade finance deal with Afreximbank. These issues were compounded by Trinity Energy’s unsound accounting practices.

Internal memos and interviews with Kaswaswa indicate that Trinity Energy’s accounting practices were not fit for purpose. When Kaswaswa arrived in Juba in June 2018 to take up his position as Trinity Energy’s finance manager, “there was no accounting system on the ground,” he told The Sentry.³⁴⁰ “There were no policies. There was no paper process on the ground. There were no board meetings. There were procedures laid



down, but they were not properly documented. The Trinity system was such that you could not get a clear picture of what they were doing on the ground.”³⁴¹ When Kaswaswa requested opening balances for the company’s accounts from Trinity Energy executives, “they didn’t know anything,” he said.³⁴²

Rutere told The Sentry that Trinity Energy “has auditors and is audited quarterly,”³⁴³ but according to Kaswaswa, accounting practices at a corporate level failed to meet basic professional standards.³⁴⁴ By the time Kaswaswa left the company in October 2018, Trinity Energy had “never been audited by a reputable auditing firm,” he told The Sentry.³⁴⁵ A planned audit by international accounting firm KPMG was suspended in July 2016 and never completed, said Kaswaswa.³⁴⁶ Rutere confirmed that the planned audit “stalled due to war in 2016.”³⁴⁷ According to Rutere, KPMG Uganda audited the accounts of Trinity Energy from 2012 to 2016.³⁴⁸ A representative of KPMG Uganda told The Sentry that they had no record of the firm carrying out an audit of Trinity Energy.³⁴⁹

A report by Kaswaswa shared with senior executives at the company in June 2018 concluded that the company’s operational cash controls were “unacceptable.”³⁵⁰ But Kaswaswa’s efforts to improve the company’s accounting procedures and documentation met with resistance, he said.³⁵¹ “I explained [to Trinity executives] that we need a complete paper trail,” he told The Sentry.³⁵² “The company didn’t have proper financial controls. I had to set some up. But when I did, I didn’t know I was stepping on snakes in the organization. Any decision to employ anyone at the company is in the hands of Ann Kathure Rutere. If you try to do clear and transparent accounting you cross her path.”³⁵³ Kaswaswa was fired by Trinity Energy in October 2018 on Rutere’s instruction, he told The Sentry.³⁵⁴

Rutere claimed that “to the best of [her] knowledge,” Trinity Energy practiced “sound financial management including keeping and auditing of accounts,” but she declined to provide further details.³⁵⁵ Raja, Rutere’s fellow director at the time, took a different view, complaining in an email to CEO Mdeza on September 24, 2018, copying Rutere and Ayii, that “it is six months since you have taken over and none of our day accounts are being punched into any standard accounting package. What we are getting are Excel Sheets ... which is what school students use in their classes.”³⁵⁶ According to Raja, Trinity Energy was not compliant with international best practices for accounting or for customer service.³⁵⁷



Secret Deal to Supply the Army

A major benefit for the government of South Sudan of the trade finance facility was that it took a substantial portion of government spending off the books. In an arrangement worth more than \$1 million per month, Trinity Energy supplied fuel to the army at an inflated price.^{358, 359} It was a pact that was carefully kept away from public scrutiny.

Between June 7, 2018, and October 1, 2018, Trinity Energy supplied the Ministry of Defence with close to 3 million liters of diesel and gasoline at a total cost of \$4.2 million.³⁶⁰ Trinity charged the Ministry of Defence \$1.40 per liter for the fuel.^{361, 362} This is 26% more than the average price Trinity Energy charged its nine other clients during the same period, all of whom paid between \$1.11 and \$1.17 per liter.³⁶³ The markup in prices generated more than \$300,000 a month in additional profits for the company.^{364, 365, 366} A former Sudan People's Liberation Army (SPLA) officer told The Sentry that he was instructed by Minister of Defence Kuol Manyang Juuk to purchase petroleum from Trinity Energy at inflated prices.³⁶⁷ When the officer protested that the price quoted by Trinity Energy was too high, he was overruled.³⁶⁸

At the time, government procurement was governed by the Interim Public Procurement and Disposal Regulation of 2006 that, among other objectives, sought to ensure that “public procurement is conducted in a transparent and efficient manner so as to achieve value for money,” that “contracts are awarded in a structured and collective manner and not in a discretionary manner,” and that “all eligible tenders are given equal opportunity to provide goods, works and services via public contracts.”³⁶⁹

There is little to suggest that the government's procurement of fuel supplies for the army from Trinity Energy was done in a transparent manner. “During my tenure, the contract for ministry of defense was signed by three parties: ministry of finance, ministry of defense and ministry of justice,” Ann Kathure Rutere told The Sentry.³⁷⁰ But there is no information about fuel supplies from Trinity Energy to the South Sudanese army in either the government's 2018/19 or 2019/20 budget.^{371, 372} Trinity Energy's website is vague about its customers, saying that it “supplies automobile gasoline and diesel fuel to large consumers, downstream oil marketing companies and retail filling stations.”³⁷³ South Sudan's Ministry of Defence and Veterans Affairs states on its website that evaluation and shortlisting of service providers and suppliers is handled by Executive Ventures Ltd, a procurement and supply company based in Uganda.^{374, 375} The Executive Ventures Ltd website offers no details about its clients.³⁷⁶ The Sentry contacted Trinity Energy's current shareholders for further information, but they did not respond; attempts to reach the Ministry of Defence and Executive Ventures for comment were unsuccessful.

A major benefit for the government of South Sudan of the trade finance facility was that it took a substantial portion of government spending off the books.

According to Biswick Kaswaswa, the involvement of Trinity Energy in supplying fuel to the South Sudanese army was deliberately kept secret.³⁷⁷ Trinity Energy's owner and director Akol Emmanuel Ayii Madut instructed Kaswaswa “not to tell anyone” that Trinity was supplying the army, Kaswaswa told The Sentry.³⁷⁸ The delivery of goods by Trinity to the army was also concealed, Kaswaswa alleged.³⁷⁹ Ayii did not respond to The Sentry's request for comment.



Trinity Energy's deal to supply fuel to the army was subject to neither open tendering nor competition, according to Kaswaswa. "There was no competition for the fuel supply contract to the government," he told The Sentry.³⁸⁰ "The awarding of contracts was done in boardrooms, there was no proper procurement process, no proper evaluation, no system to ensure the contracts were fair. It was a team of people giving out the contracts. There was no fair competition on the market."³⁸¹ Rutere argues that "single sourcing for security or military needs is normal practice all over the world due to [the] nature of engagement."³⁸² South Sudan's procurement regulations at the time allowed single source procurement in cases where "the Procuring Entity determines concerns of national security, and determines that single-source procurement is the most appropriate method of procurement."³⁸³ Such cases must be approved by the Procurement Policy Unit at the Ministry of Finance.³⁸⁴

The premium in the price paid for the supply of fuel to the South Sudanese army raises questions over whether public funds were being used in an "efficient manner so as to achieve value for money," as outlined in the country's procurement rules.³⁸⁵ The overpayment is also a red flag for kickbacks, a form of bribery in which part of the overpaid amount is diverted to a decision-maker at the organization awarding the contract.³⁸⁶ The instruction by Manyang Juuk to award Trinity Energy the contract at such an uncompetitive price, against the advice of an SPLA officer,³⁸⁷ raises questions over who would ultimately benefit from the additional profits generated.

Kaswaswa's explanation is that the fuel supply deal was deliberately set up to create surplus profits that could be shared among parties to the deal.³⁸⁸ Rutere contends that "to the best of [her] knowledge, it is normal practice for private business to put a premium on merchandise sold to government on open account due to the length of time it takes to settle invoices / accounts."³⁸⁹ The contract signed during her tenure as director of Trinity Energy "was priced appropriately," and "no bribery was paid," said Rutere.³⁹⁰ "We paid only 2% legal fees paid to ministry of justice for contract signing," which is "receipted by government of South Sudan as revenue," she told The Sentry.³⁹¹ By the time Rutere's involvement with Trinity Energy ceased, the government was yet to pay Trinity Energy for the fuel, she claims.³⁹²

Although a peace agreement had been signed in 2015 and renewed in 2018,^{393, 394} Trinity Energy was supplying fuel to the South Sudanese army at a time when the country was still in civil conflict.^{395, 396} The US Department of the Treasury's Office of Foreign Assets Control (OFAC) said in December 2019—more than a year after the peace deal was renewed—that it had "yet to see concrete steps by the GoSS [Government of South Sudan] to create the political and security conditions conducive to formation of a unity government and adequate implementation of the peace deal."³⁹⁷

Manyang Juuk was designated by OFAC in December 2019 for perpetuating conflict in South Sudan; he "failed to remove military forces from the battlefield as agreed, fomented violence with rival tribes, and oversaw the training of tribal militias to prepare for the possibility of renewed violence," said OFAC in its statement on the designation.³⁹⁸ Manyang Juuk and Minister of Cabinet Affairs Martin Elia Lomuro, who was also designated in the announcement, "perpetuated the conflict to cement the political status quo, fueling South Sudan's war economy," said OFAC.³⁹⁹



Regime Connections

According to Trinity Energy's former director, Ann Kathure Rutere, the company does not "do business with politically exposed individuals due to the risk they carry."⁴⁰⁰ But The Sentry's investigation found that the company's shareholders and directors had ties to several politically exposed persons (PEPs), often in the very areas in which the company was operating. These connections included two former ministers of finance in the South Sudan government, two colonels in the state security service, the head of the customs authority, a senior general in the South Sudan army, and President Salva Kiir.

The company's regime connections were crucial to its ability to do business in South Sudan, according to several sources who spoke to The Sentry.^{401, 402, 403} Trinity Energy is a "cover up" for a "government company," Olympio Attipoe, former head of South Sudan's National Revenue Authority (NRA), alleged in an interview with The Sentry.⁴⁰⁴ Attipoe was commissioner-general of the NRA, the government body responsible for collecting taxes, from February 2018 to August 2019,^{405, 406} during which time Trinity Energy's trade finance deal was agreed upon and implemented.

Government money was pushed to Trinity Energy to benefit a "gang from the Bahr al Ghazal, especially the president," claimed Attipoe, who began an investigation into Trinity Energy while serving as the head of the NRA.⁴⁰⁷ "It's just their company. The managing director [Akol Emmanuel Ayii Madut] is a brother to the current customs commissioner [Akol Ayii Madut], a cousin to Salvatore [former minister of finance Salvatore Garang Mabiordit]," said Attipoe.⁴⁰⁸ Kiir, Mabiordit, and the Madut family are all from western Warrap in the historic Bahr al Ghazal region in the northwest of South Sudan. "They are all from the same place, and they are running that company," claimed Attipoe.⁴⁰⁹

Ministers of finance

Trinity Energy shareholders have had business links with two former ministers of finance, Mabiordit and David Deng Athorbei, each of whom held the post at an important time in the development of Trinity Energy's business. Mabiordit and Ayii are both members of the Kuac community, of which Ayii's father, Emmanuel Akol Ayii Madut, was a chief.^{410, 411} Two sources told The Sentry that Ayii and Mabiordit are related;^{412, 413} according to one of the sources, the two men are cousins.⁴¹⁴ Mabiordit, like Kiir, is from Gogrial in western Warrap,⁴¹⁵ about 30 miles from Ayii's birthplace, Kuajok.⁴¹⁶

Mabiordit was minister of finance when Trinity Energy's trade finance deal was signed in April 2018,^{417, 418, 419} having previously served as undersecretary at the ministry from 2008 to 2017 and as an advisor at the Ministry of Trade, Industry and Investment from 2017 to 2018.^{420, 421} Mabiordit had business ties with Ayii through AMOCO Construction Group, which was responsible for projects to build a head office, fuel depot, and filling station for Trinity Energy.^{422, 423} Mabiordit and Ayii were among AMOCO'S four founding shareholders on June 1, 2010.^{424, 425} Trinity Energy director Rutere took a 10% share in AMOCO in February 2011, which she still holds,⁴²⁶ and Trinity Energy director Richard Raja later also took shares in the company.⁴²⁷

Ayii also shared business interests with Apar Deng Athorbei, son of former finance minister David Deng Athorbei.⁴²⁸ Apar Athorbei was a founding shareholder in Southern Sudan Clearing and Forwarding alongside Itang Group, a company in which Ayii held shares.^{429, 430} Itang Group was incorporated on June 3, 2011, just six days before the registration of Southern Sudan Clearing and Forwarding.^{431, 432} Apar Athorbei and



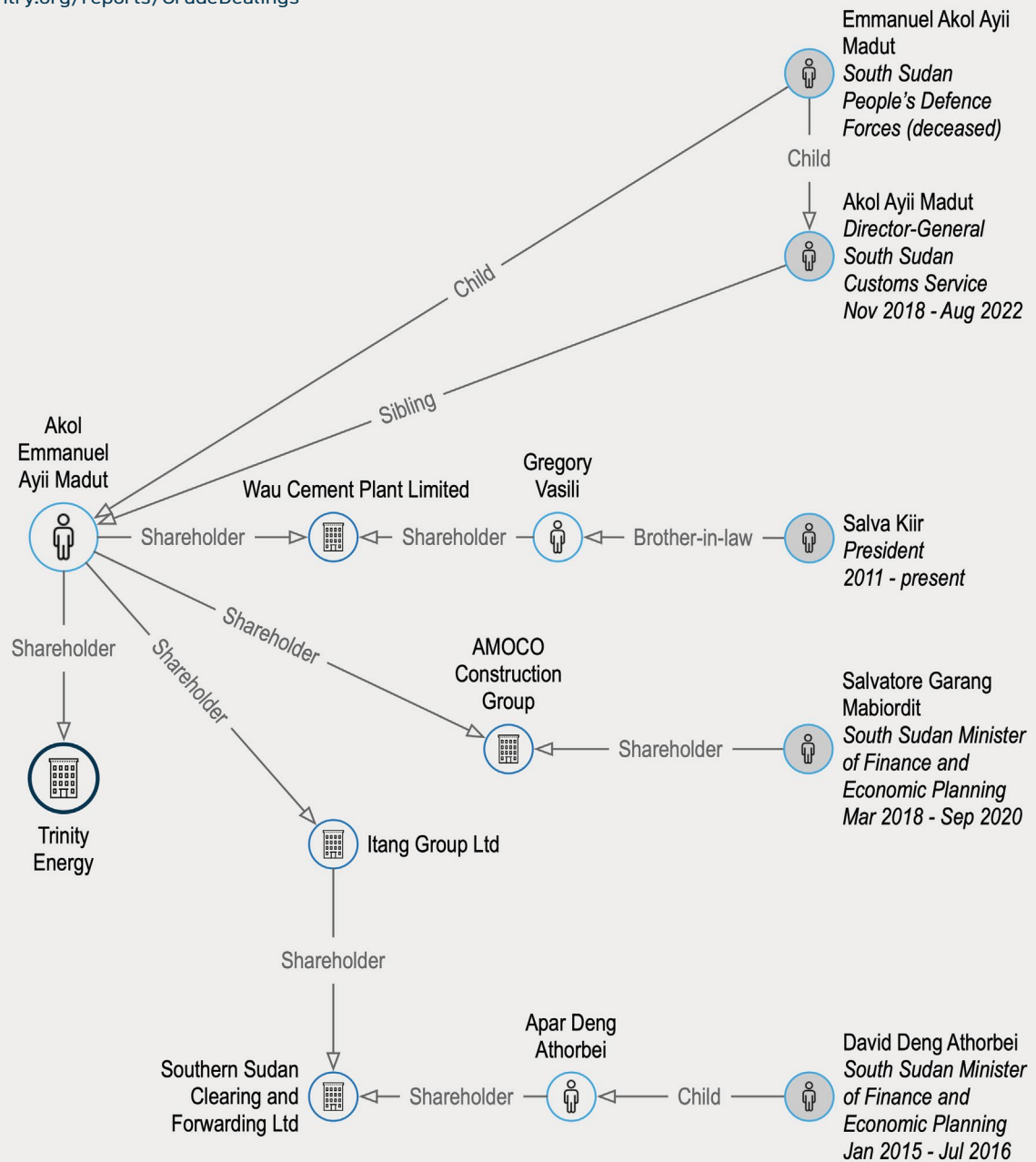
Trinity Energy's Regime Connections



THE SENTRY

According to incorporation records on file with the Ministry of Justice, The Sentry's interviews with sources, and publicly available information, Trinity Energy shareholders have at various times enjoyed close connections with several senior government officials, often those working in the very business areas in which the company was operating.

To see the full report with evidence, visit TheSentry.org/reports/CrudeDealings



The Ministry of Justice was unable to confirm the current shareholding of Wau Cement Plant Limited or Itang Group Ltd, but it confirmed that, as of February 2021, Itang Group and Apar Deng Athorbei were still shareholders in Southern Sudan Clearing & Forwarding and that Akol Emmanuel Ayii Madut and his wife Ann Rutere were still among the shareholders of AMOCO Construction Group. Mabiordit and Ayii were founding shareholders in AMOCO Construction Group, according to incorporation documents on file with the Ministry of Justice, although by 2021 Mabiordit was no longer a shareholder.



Itang Group were still among the registered shareholders of Southern Sudan Clearing and Forwarding as of February 2021.⁴³³ David Athorbei was minister of finance from January 2015 to July 2016,^{434, 435} a period during which shareholders in Trinity Energy founded at least six new companies in South Sudan.⁴³⁶

The Sentry made numerous attempts to reach Mabiordit, David Athorbei, and Apar Athorbei, but was unsuccessful.

Customs Service

Ayii's older brother, Akol Ayii Madut, was director-general of the South Sudan Customs Service from November 2018 to August 2022, when he was fired by Kiir.⁴³⁷ Two years before, in August 2020, the government's Economic Crisis Management Committee (ECMC) recommended the suspension of Akol Ayii Madut, and an ECMC subcommittee recommended the closure of "illegal" bank accounts opened by the Customs Service, according to a statement by Minister of Petroleum Puot Kang Chuol.⁴³⁸ The subcommittee also "found out that a lot of exemptions have been issued and the money we have been losing is more than what we collect," said Kang Chuol.⁴³⁹

It is reasonable to believe that the Customs Service, which is responsible for import taxes, was important to Trinity Energy, a company whose business relies on trading goods across international borders. Akol Ayii Madut also had influence with other senior officials who were important to Trinity Energy's business, including those at the Ministry of Petroleum at the time, according to Biswick Kaswaswa.⁴⁴⁰ There is evidence that the brothers were close: Ayii gifted his older brother a Toyota Land Cruiser V8, a high-end luxury vehicle that retails in South Sudan for about \$125,000,⁴⁴¹ according to a media report in September 2020.⁴⁴² The Sentry contacted Akol Ayii Madut for comment, but he did not respond.

Army and security services

Family connections may have played a role in helping to facilitate Trinity Energy's business dealings with the national army. Emmanuel Akol Ayii Madut, the late father of Trinity owner Akol Emmanuel Ayii Madut, was a general in the South Sudanese army. Trinity Energy supplied fuel to the army at a premium price using letters of credit issued under the Afreximbank trade finance facility.^{443, 444} Akol Emmanuel Ayii Madut's brother, Akol Ayii Madut, is also a ranking officer in the South Sudanese army.^{445, 446}

The Sentry's investigation found several links between Trinity Energy shareholders and two officers in the National Security Service (NSS): Joseph Anyak Lual and Akot Lual Arech.^{447, 448, 449, 450, 451, 452} In a presidential decree dated August 2, 2018, Kiir promoted Arech from the rank of colonel to that of brigadier general in the NSS Internal Security Bureau.⁴⁵³ In the same decree, Lual was promoted from lieutenant colonel to colonel in the NSS General Intelligence Bureau.⁴⁵⁴ Arech had been promoted to colonel in May 2014, and Lual had been promoted to lieutenant colonel in December 2015, according to the document.⁴⁵⁵ Arech downplayed his involvement with the NSS, claiming that the organisation had not trained him, paid him, or given him assignments.⁴⁵⁶ "My name and the rest of my team around the president were included in the list of NSS because of virtue being around the president," he told The Sentry.⁴⁵⁷ Lual confirmed that he is a member of the NSS, but claimed that he had "no association with Trinity Energy."⁴⁵⁸

Lual, like Kiir and Mabiordit, is from Gogrial,⁴⁵⁹ although not the same community as the two government men, he told The Sentry.⁴⁶⁰ Lual had shares in AMOCO Construction Group, alongside Ayii, Mabiordit, and



Rutere, a fact that was confirmed by both Lual and Rutere.^{461, 462} Lual contends that he is still a shareholder in AMOCO Construction Group.⁴⁶³ “To the best of my knowledge I have never transferred or sold [my share] to anyone else,” he told The Sentry.⁴⁶⁴ This is contradicted by documents from the Ministry of Justice that state, as of February 2021, that Lual was no longer a shareholder in the company.^{465, 466}

Lual and Ayii were both registered shareholders in Itang Group Limited,⁴⁶⁷ the company that founded Southern Sudan Clearing and Forwarding alongside Apar Athorbei.⁴⁶⁸ Lual told The Sentry, “To the best of my knowledge I do not own any shares in Itang Group Limited,” and he stated that he has “never been a shareholder.”⁴⁶⁹ The company’s memorandum and articles of association, held on file by the Ministry of Justice and

stamped by a local law firm, state that upon the incorporation of Itang Group in June 2011, Lual owned a 20% stake in the company.⁴⁷⁰ Lual claims that the signature on these documents is not his.⁴⁷¹

The Sentry’s investigation found several links between Trinity Energy shareholders and two officers in the National Security Service (NSS).

Lual and Ayii are also registered shareholders in Kenssud Hardware and Automarts. Lual claims that “to the best of [his] knowledge” he has “never been a shareholder” in Kenssud,⁴⁷² but incorporation documents, on file with the Ministry of Justice and stamped by a local law firm, state that Lual owned a 15% stake.⁴⁷³ Lual claims that the signature on the

documents is not his.⁴⁷⁴ “In South Sudan it is not unique for one’s name to be incorporated in a company / companies without the said individual’s knowledge,” claimed Lual in written responses to The Sentry.⁴⁷⁵ “This is done with the assumption that the said name would offer better business prospects / opportunities.”⁴⁷⁶

Rutere told The Sentry that Lual was involved with Kenssud Hardware but that he was “obliged to exit the moment we realized that he was with NSS.”⁴⁷⁷ The company “never operated due to ownership issues” and “was shelved permanently,” said Rutere.⁴⁷⁸ According to the Ministry of Justice, Lual still held a 15% share in the company as of May 2022.⁴⁷⁹ Rutere has an indirect share in Kenssud through a 60% interest in another company, Renaissance International. Renaissance, founded just eight days before Kenssud, is a 25% shareholder in Kenssud.^{480, 481, 482} According to Rutere, Renaissance “operated for a while, but became and remains dormant.”⁴⁸³

Lual is registered as the largest shareholder in Joint Group Merchandise Ltd, alongside Ayii and Rutere,^{484, 485} and was also a registered shareholder in Akol & Associates Company, in which Ayii’s late father, Emmanuel Akol Ayii Madut, was a majority shareholder.⁴⁸⁶ Lual told The Sentry he is “not aware of any company” by either of those names, “neither [is he] a shareholder in such a company.”⁴⁸⁷ The Ministry of Justice has a memorandum of association on file for Akol & Associates, created on October 1, 2007, that states Lual had a 10% share in the company.⁴⁸⁸ The document, which was renewed in 2008 and 2009, is stamped by a local law firm.⁴⁸⁹ Incorporation documents for Joint Group Merchandise held by the Ministry of Justice and stamped by a local law firm state that Lual had a 40% share in the company.⁴⁹⁰ Lual still had a 40% share in the company as of May 2022, according to the Ministry of Justice.⁴⁹¹ “Joint Group Merchandise Limited never operated,” Rutere told The Sentry.⁴⁹² “It was an idea that was still born, so to speak.”⁴⁹³

Arech is registered as a shareholder alongside Ayii in Alok Forex Bureau.^{494, 495} Arech confirmed that he was a shareholder of Alok Forex when it was established but claimed that he “did not pay capital” into the



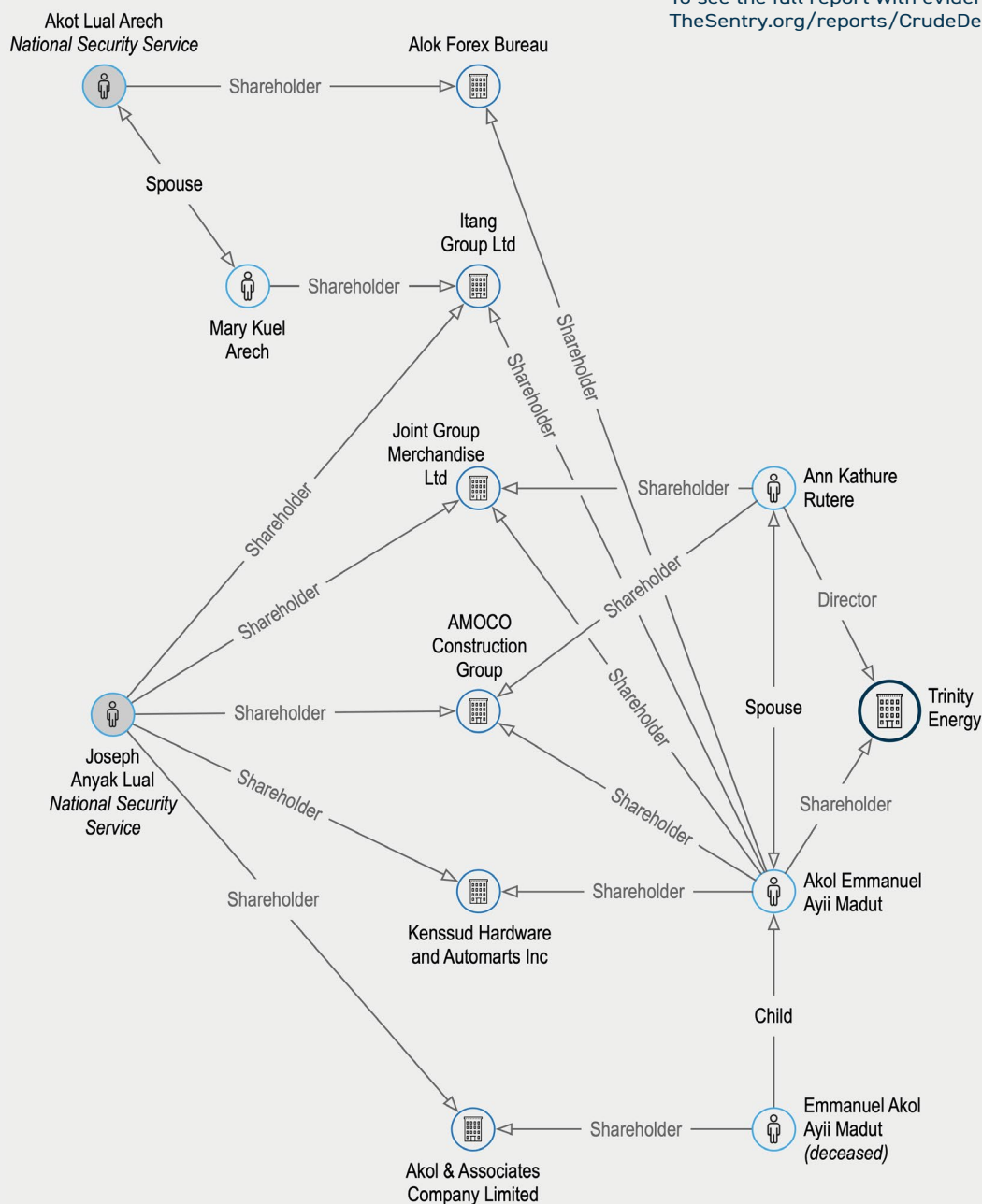
Trinity Energy's NSS Connections



THE SENTRY

According to incorporation records on file with the Ministry of Justice, Trinity Energy's shareholders and directors have at various times owned shares in several companies in which NSS officers also held shares.

To see the full report with evidence, visit TheSentry.org/reports/CrudeDealings



Lual claims that he has not owned shares in Itang Group, Akol & Associates Company, Joint Group Merchandise, or Kenssud Hardware and Automarts, but incorporation documents on file at the South Sudan Ministry of Justice for all four companies bear his name as a shareholder, and Rutere confirmed that he had been a shareholder in Kenssud Hardware and Automarts. Akot Arech claims that his wife, Mary Arech, knows nothing of a shareholding in Itang Group, but incorporation documents on file at the South Sudan Ministry of Justice bear her name as a shareholder. Rutere is no longer a director in Trinity Energy.



company and believes it to be defunct.⁴⁹⁶ According to the Ministry of Justice, Arech was still registered as a 15% shareholder in the company as of January 2023.⁴⁹⁷

Arech's wife, Mary Kuel Arech, was a registered shareholder in Itang Group alongside Lual and Ayii.⁴⁹⁸ Mary Kuel Arech did not respond to The Sentry's request for comment, but her husband told The Sentry that she is a "house wife" and that she does not know the people alongside whom she is alleged to have owned shares in Itang Group.⁴⁹⁹ The memorandum and articles of association for Itang Group, drawn up and stamped by a local law firm, include signatures for Mary Kuel Arech and a copy of her passport.⁵⁰⁰ Arech alleges that the signatures purporting to be those of his wife are "not hers."⁵⁰¹

Government security personnel were on Trinity Energy's staff while the trade finance facility was in place, according to internal company documents seen by The Sentry.^{502, 503} According to a Trinity Energy payroll document for June 2018, Trinity Energy's staff included seven NSS personnel, 14 people from the army, and six policemen.⁵⁰⁴ Trinity Energy's July 2018 payroll included 26 NSS staff, two people from the army, and five policemen.⁵⁰⁵

Rutere told The Sentry that it is "normal practice" for the South Sudan government to assign security personnel to private businesses as "a matter of national security" and that "all entities operated in South Sudan" are required to accept these individuals.⁵⁰⁶ "The security service officials did not exert influence over Trinity Energy," she said.⁵⁰⁷ "Most of those officials had no role in business management."⁵⁰⁸ Police staff were "normally supplied by Achieng Security," said Rutere.^{509, 510} "You cannot conduct business effectively without police to help maintain law and order. This is a service from a private company and not government and most businesses in South Sudan engage such services to avoid robbery and daylight looting."⁵¹¹

Cyer Maror Ayuel Rehan, a driver listed by Trinity Energy as a "casual employee," was a uniformed NSS member deployed to Trinity, according to Kaswaswa.⁵¹² Rutere confirmed that Rehan was a Trinity Energy employee "assigned by government" along with other security staff.⁵¹³ Bank statements seen by The Sentry include payments to Rehan from Trinity Energy that vastly exceed recorded compensation for his labor. Rehan is listed in Trinity Energy payroll documentation as being paid 7,000 SSP (\$47) for a month's work in June 2018,⁵¹⁴ but between May 15 and June 6, 2018, he received payments totaling \$8,000 from Trinity Energy bank accounts.^{515, 516}

According to Rutere, the payments were made by Trinity Holdings to another person of the same name "who had leased his property to Trinity Holdings for which he received a lump sum payment pursuant to a lease."⁵¹⁷ The Sentry confirmed that Trinity Holdings did sign a lease agreement with a Cyer Maror Rehan Nuer.^{518, 519} But if the payments identified by The Sentry were to this landlord, there are several discrepancies: the payments made were from accounts held not by Trinity Holdings, but by Trinity Energy,^{520, 521} the payments in question were not a "lump sum," as Rutere suggests, but were two payments three weeks apart from two different bank accounts;^{522, 523} the payments were made more than five months after the lease agreement was signed,^{524, 525} contrary to the terms of the lease, in which Trinity Holdings committed to pay the \$30,000 "immediately after signing this agreement;"⁵²⁶ and the lease agreement states that Trinity Holdings agreed to pay \$30,000, considerably more than the transactions totaling \$8,000 identified by The Sentry.



Salva Kiir

President Salva Kiir and his family are connected to Trinity Energy through business, family, and community ties. Emmanuel Akol Ayii Madut, the late father of Trinity owner and director Akol Emmanuel Ayii Madut, took Kiir into his home when Kiir was growing up, two sources told The Sentry.^{527, 528} Although there is a substantial age gap between Kiir and Ayii, they are “effectively brothers,” said one of the sources, who worked closely with senior officials in South Sudan for many years and knew Ayii personally.⁵²⁹ Kiir was born in Gogrial but attended elementary school about 30 miles away in Kuajok,⁵³⁰ Ayii’s birthplace.⁵³¹ The Sentry was unsuccessful in its attempts to reach Salva Kiir for comment.

Kiir is not a shareholder in Trinity Energy, but three sources told The Sentry that they believe the president to be a beneficiary of the company.^{532, 533, 534} Ayii and the family of the president have a history of business relationships. In October 2011, Ayii founded a company called Wau Cement Plant Ltd with Kiir’s brother-in-law, Gregory Vasili.⁵³⁵ The two NSS colonels who owned businesses with Ayii both have ties to Kiir. Joseph Anyak Lual, a registered shareholder alongside Ayii in four companies and Ayii’s late father in a fifth, delivered cash in US dollars to the president and his family at the president’s property in Nairobi and managed payments to staff linked to the home, according to a Kenyan security official with direct knowledge of the Kiir family’s activities and business holdings in the city.⁵³⁶ Lual confirmed that he worked in South Sudan’s Liaison Office in Nairobi from 2005 to 2011 and that “the President’s residence in Nairobi was placed under the care and supervision of the Liaison Office due to security reasons,” but insisted he has “never delivered any money to President Salva Kiir or his residence.”⁵³⁷

Akot Lual Arech, a registered shareholder in Alok Forex Bureau alongside Ayii and the husband of Mary Kuel Arech,^{538, 539} a registered shareholder in Itang Group alongside Ayii,^{540, 541, 542} was Kiir’s private secretary and personal assistant from November 2005 to August 2011.⁵⁴³ Kiir and Arech are also from the same clan.⁵⁴⁴ Kiir “calls me uncle,” Arech told The Sentry.⁵⁴⁵

Arech is also a registered shareholder alongside Vasili in Falcon Logistics Solution Ltd.⁵⁴⁶ Arech told The Sentry that he has never worked at or owned shares in a company with Vasili and has “no idea” about Falcon Logistics.⁵⁴⁷ His name and signature are on incorporation documents filed at the Ministry of Justice by a local law firm and stamped by both entities, and they attest to Arech and Vasili each having a 33% shareholding in Falcon Logistics.⁵⁴⁸ The Ministry of Justice confirmed in July 2022 that Arech and Vasili each still own a 33% share in Falcon Logistics Solution Ltd.⁵⁴⁹

Documents seen by The Sentry show that Arech was also a business partner of Kiir’s daughter, Adut Salva Kiir Mayardit, and later Kiir’s granddaughter in Conex Energy Company Ltd.^{550, 551} Arech told The Sentry that he was a shareholder in Conex Energy, which was incorporated in June 2012,⁵⁵² “for a few months,” but that the company “fell apart because I did not pay my capital share” and “never took off.”⁵⁵³ According to the Ministry of Justice, however, Arech was still a 45% shareholder in Conex Energy as of July 2022.⁵⁵⁴ The Sentry found several LinkedIn profiles of people who said that they are currently employed by the company.⁵⁵⁵ The Sentry also found that Arech’s name and signature are on several documents on file with the Ministry of Justice, dating from November 2013 to February 2015, in connection with his shareholding in Conex Energy Ltd.^{556, 557, 558, 559} His name and signature are also on documents as a “representative” of Conex Energy in the creation of another company, Caltec Corporation, in November 2013.⁵⁶⁰



Favors for Government Officials

The Sentry's investigation found that the relationship between the government of South Sudan and Trinity Energy went far beyond the scope of any written agreement. Not only did Trinity Energy benefit from privileged access to crude oil contracts and South Sudan's fuel market, but it was also given discretionary benefits by the government of South Sudan, including a discount on import license fees and a premium for sales of fuel to the South Sudanese army.

The Sentry's investigation found that the government also enjoyed unwritten benefits from its relationship with Trinity Energy, at one time using it for ad hoc fuel supplies to the army and at other times calling on it for injections of emergency cash. According to Olympio Attipoe, it was standard practice for Trinity Energy to supply the government with money in times of need. "Any time government is broke, that company give out money for government to use," Attipoe told The Sentry.⁵⁶¹

The mutual exchange of favors is a type of bribery, says Transparency International: "Favours are often secured with reciprocal favours and money does not necessarily change hands."⁵⁶² Similarly, clientelism and patronage are types of bribery "in which there is a systematised exchange of favours between a 'patron' and his/her 'clients,' dependents or protégés."⁵⁶³ Rutere told The Sentry that, to the best of her knowledge, "Trinity Energy was not in the business of soliciting or accepting favours from government."⁵⁶⁴

Cash for Taban Deng Gai

In October 2018, six months after signing the trade finance facility, Trinity Energy made a cash loan of \$400,000 to the Office of the First Vice President, according to documents reviewed by The Sentry and communication with the company's former finance manager, Biswick Kaswaswa.^{565, 566, 567} The loan was for expenses and allowances for an overseas government delegation headed by First Vice President Taban Deng Gai, Kaswaswa was told.^{568, 569} Trinity Energy did not have a business relationship with the Office of the First Vice President.

On October 4, at Akol Emmanuel Ayii Madut's instruction, Kaswaswa cashed two checks totaling \$150,000 before he and a second Trinity Energy employee handed a total of \$400,000 in cash to a representative of the Office of the First Vice President.^{570, 571, 572, 573} According to Kaswaswa, the delegation's Kenya Airways flight was held on the tarmac at Juba airport while the money was collected.⁵⁷⁴ In an internal Trinity Energy accounting memo dated October 5, 2018, a debit of \$400,000 is made against the entry "Loan to Government – Ministry of Finance."⁵⁷⁵ The memo, seen by The Sentry, was sent by Kaswaswa to Trinity Energy chairman Ayii and to the company's CEO Robert Mdeza.⁵⁷⁶

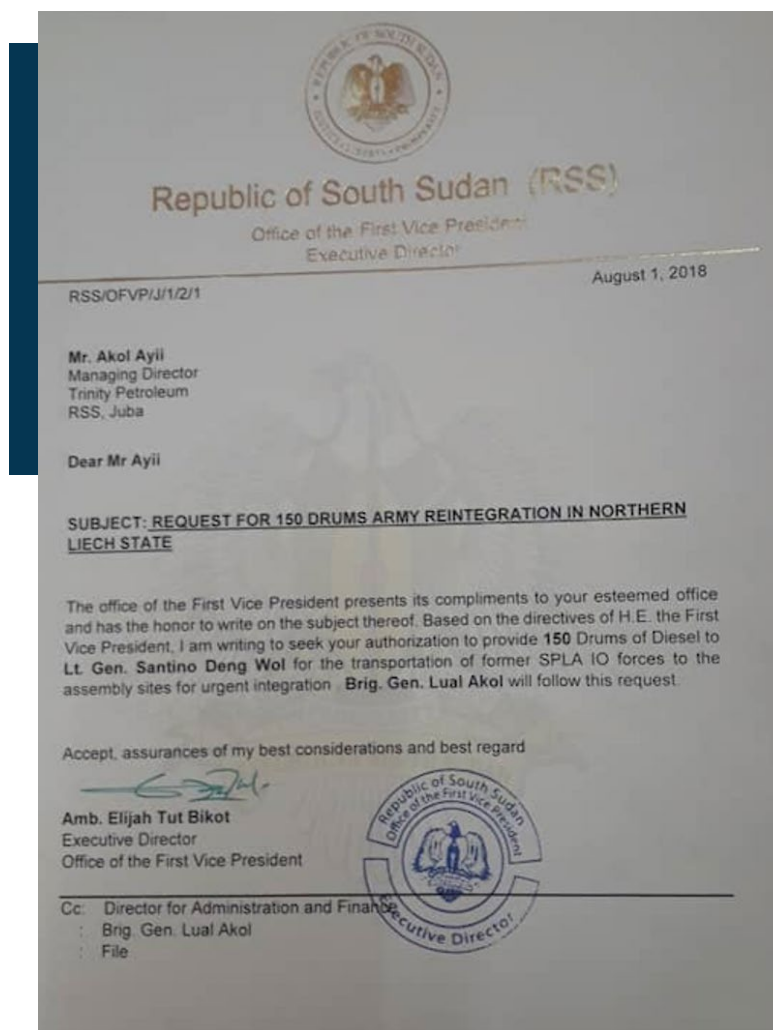
Trinity's loan to Deng Gai's office was not repaid while Kaswaswa was the firm's finance manager,⁵⁷⁷ a role that he left on October 25, 2018. Even if the loan was repaid at a later date, the unusual nature of the transaction suggests it may be part of a pattern of favors between Trinity Energy and the government of South Sudan that is indicative of bribery.⁵⁷⁸ According to Kaswaswa, Ayii had a privileged relationship with Deng Gai. Two weeks before Trinity Energy loaned \$400,000 to Deng Gai's office, Ayii accompanied the first vice president at the 73rd session of the UN General Assembly in New York,⁵⁷⁹ Kaswaswa told The Sentry.⁵⁸⁰



Deng Gai was sanctioned by OFAC on January 8, 2020.⁵⁸¹ Although the sanctions were imposed 15 months after Trinity Energy's \$400,000 loan, they related to Deng Gai's involvement in "serious human rights abuse" during and prior to the period in which Trinity Energy was engaged by his office.⁵⁸² "Deng was sanctioned for his involvement in the disappearance and reported deaths of two human rights activists in 2017," said the US Department of State in a statement.⁵⁸³ "Deng has acted on South Sudanese President Salva Kiir's behalf to divide and sow distrust, extend the conflict in South Sudan, and impede the reconciliation and peace process."⁵⁸⁴ Deng Gai did not respond to The Sentry's request for comment.

Fuel for a sanctioned general

Two months before Trinity Energy made a \$400,000 loan to Deng Gai's office, the Office of the First Vice President called on the company to provide diesel supplies to Santino Deng Wol,⁵⁸⁵ a sanctioned general in the South Sudanese army.^{586, 587, 588} In a letter dated August 1, 2018, Ambassador Elijah Tut Bikot, executive director of the Office of the First Vice President, wrote to Ayii "to seek your authorization to provide 150 Drums of Diesel to Lt. Gen. Santino Deng Wol."⁵⁸⁹ The request, he said, was made on the "directives of H.E. the First Vice President [Deng Gai]."⁵⁹⁰ Fuel supplies to the Office of the First Vice President were not covered by Trinity Energy's arrangement to supply the army, according to Kaswaswa.⁵⁹¹



In August 2018, the Office of the First Vice President requested 150 drums of diesel from Trinity Energy for Santino Deng Wol, a sanctioned general in the South Sudanese army. Source: The Sentry.



An internal Trinity Energy communication seen by The Sentry shows that the company's director of sales, Malual Garang Mamer Dau, directed that the request be fulfilled and "charged to Trinity Energy Limited."⁵⁹² The communication also confirms that the company actioned the supply of 30,000 liters of diesel to the army.^{593, 594} Based on the \$1.40 per liter price at which Trinity Energy supplied the army, the delivery was worth approximately \$42,000. The letter from the Office of the First Vice President makes no mention of whether or how Trinity would be paid for the fuel.⁵⁹⁵ Whether or not the Office of the First Vice President reimbursed Trinity Energy, the loan fits a pattern of an exchange of favors between Trinity Energy and the South Sudan government that is indicative of bribery.⁵⁹⁶

The proposed recipient of the fuel, Deng Wol, was under UN sanctions at the time. The UN imposed a travel ban and asset freeze on Deng Wol following his designation under Resolution 2206 (2015) on July 1, 2015, for being responsible for or complicit in "actions or policies that threaten the peace, security and stability of South Sudan."^{597, 598} In May 2015, "forces under his command killed children, women and old men, burned property, and stole livestock as they advanced through Unity State towards Thorjath oil field," the UN said.⁵⁹⁹

The UN resolution states that member nations must ensure that no "funds, financial assets or economic resources are made available, directly or indirectly" for the benefit of sanctioned individuals "by their nationals or by persons within their territory."⁶⁰⁰ As the fuel delivered to Deng Wol is an economic resource and South Sudan is a UN member, the deliveries may have violated the UN asset freeze. In April 2021, Deng Wol was promoted to the head of the South Sudanese army.⁶⁰¹ As of January 2023, he was still designated.⁶⁰² The Sentry's attempts to reach Deng Wol for comment were unsuccessful.

Ad hoc loan request from the Ministry of Petroleum

On July 10, 2020, Minister of Petroleum Awow Daniel Chuang wrote to Ayii requesting "an urgent loan" of 100 million SSP (\$621,118) "to support pressing field operational expenses and other projects of the Ministry of Petroleum" (see Annex).⁶⁰³ Chuang's request came a few months after Afreximbank renewed Trinity Energy's trade finance facility, which, like its predecessor, involved the award of crude export contracts to Trinity Energy by the government of South Sudan.⁶⁰⁴

Providing an injection of capital to the Ministry of Petroleum was beyond the bounds of Trinity Energy's business: Trinity Energy's crude and fuel trading arrangements with the government do not include any involvement in the upstream oil sector, and oil field operations are the responsibility of the companies that run the fields.⁶⁰⁵ The letter from the Minister of Petroleum did not itemize the operational expenses for which the proposed loan was intended or define what was meant by "other projects."⁶⁰⁶ No schedule was proposed for the repayment of the loan.⁶⁰⁷ Whether or not Trinity Energy made the loan to the ministry, the request itself suggests a relationship between the two parties in which favors were routinely sought and granted. Chuang did not respond to The Sentry's request for comment.



A Tax-Free Enterprise?

The flip side of the extracontractual favors that the government sought from its relationship with Trinity Energy was the leeway that the company was apparently given when it came to its tax obligations and government scrutiny of its business practices. The Sentry's investigation found that Trinity Energy enjoyed broad exemptions from taxes, while its operations appear to have skirted with illegality, seemingly free from consequence.

Trinity's government connections were such that the company was granted tax exemptions without even officially applying, Olympio Attipoe, the head of the government's tax collection body when Trinity Energy signed and implemented its trade finance agreement, told The Sentry.⁶⁰⁸ "They have a lot of exemptions," he said.⁶⁰⁹ The company is "getting something for everything. It's a family business."⁶¹⁰ The relationships that Trinity Energy enjoyed with senior regime members ensured that the company was not subject to financial scrutiny, said Attipoe.⁶¹¹ Companies with government connections in South Sudan "don't account for money for anything," he told The Sentry.⁶¹² "That company don't pay taxes. You don't account for money to the government."⁶¹³

Attipoe also confirmed that Trinity Energy enjoyed tax breaks on its imports of fuel to South Sudan. "They are not giving the fuel on a subsidized price with the government," he told The Sentry.⁶¹⁴ "So why are we giving them exemption? The government is subsidizing the fuel. That's the only government subsidized fuel. It's a very crazy environment."⁶¹⁵

When Attipoe took up his post as the head of the National Revenue Authority (NRA), tax exemptions were granted not by the NRA but rather—in contravention of the National Revenue Authority Act (2016)—by the Ministry of Finance, which granted exemptions to companies that reached deals with the government, Attipoe told The Sentry.^{616, 617} The minister of finance when Trinity Energy signed and implemented the trade finance deal was Salvatore Garang Mabiordit, a man with whom the company enjoyed both business and personal connections.^{618, 619, 620} "There's no accountability," said Attipoe.⁶²¹ "The revenue they generate, nobody knows. They don't pay tax at all. Everything they do is exempted."⁶²²

"There were no tax exemptions extended to Trinity Energy in 2018 that I am aware of," claimed Ann Kathure Rutere, at the time one of the company's three directors.⁶²³ But Attipoe's account of Trinity Energy's tax exemptions is corroborated by the company's former finance manager, Biswick Kaswaswa. "We never paid any income tax to the government—although the company was making a lot of money," Kaswaswa told The Sentry, "No income tax or corporation tax was paid to the government."⁶²⁴ There was no compliance with VAT [value added tax]. We were supposed to submit payments of VAT and receipts of VAT so we could settle the difference with the government. This was never done."⁶²⁵

Despite being the company's finance manager, Kaswaswa was given no access to invoices from Glencore to Trinity Energy for the purchase of crude cargoes, he said.⁶²⁶ Kaswaswa alleges that the company was "hiding these transactions" and that the proceeds were not declared to the tax authorities.⁶²⁷ "There are no

The Sentry's investigation found that Trinity Energy enjoyed broad exemptions from taxes, while its operations appear to have skirted with illegality, seemingly free from consequence.



emails about Glencore,” he told The Sentry.⁶²⁸ “It was only phone calls. It was only when I was arrested that I knew something was wrong.”⁶²⁹

The tax exemptions enjoyed by Trinity Energy are symptomatic of a wider problem, said Attipoe. Companies “know the system is weak,” he told The Sentry.⁶³⁰ “There is nothing like tax auditing, there is nothing like investigation of tax fraud, and they know very well that nobody knows what they are doing.”⁶³¹ They are also colluding with public officials to act in their interests, alleged Attipoe: “They are not paying [tax] because they are grabbing the people in the relevant ministry. The Ministry of Petroleum would not allow the tax officers or National Revenue Authority to even visit those companies’ premises to carry on any investigation.”⁶³²

Red flags for tax evasion

Although Trinity Energy seems to have enjoyed broad exemptions from taxes, there was still some tax that it was apparently expected to pay. South Sudan’s 2009 Taxation Act mandates that all employers deduct tax from employee salaries and remit it directly to the government, a practice known as withholding tax.⁶³³ The 2016 Taxation Amendment Act states that monthly incomes between 601 SSP (\$4) and 5,000 SSP (\$33) are taxed at 10%, while incomes of 5,001 SSP and above are taxed at 15%.⁶³⁴

Internal company documents reviewed by The Sentry show that Trinity Energy prepared false payroll documentation, suggesting the company may have sought to underpay withholding tax. The salaries recorded by Trinity Energy were sometimes a small fraction of employees’ actual earnings. Payroll documents for June, July, and August 2018 include entries for the tax payable on each salary recorded, suggesting the company’s intent to submit the incorrect figures to tax authorities.^{635, 636, 637} “There was no compliance with withholding tax,” Kaswaswa told The Sentry.⁶³⁸

The company’s August 2018 payroll summary states that HR and procurement manager Lual Kur Wiir was paid a monthly salary of 6,000 SSP (about \$40 per month).⁶³⁹ However, on August 29, 2018, an internal Trinity Energy document recorded a \$17,449 cash payment to Kur Wiir, more than 400 times his declared monthly salary.⁶⁴⁰ The description for the payment was “Salary of TEL [Trinity Energy Limited] for the month of August, 2018.”⁶⁴¹

On September 14, 2018, Amaresh Kumar Yadav, a Trinity Energy filling station manager, received a cash payment of \$2,000 for his “Salary for the month of August, 2018,” according to internal Trinity Energy documentation.⁶⁴² Trinity Energy’s August payroll summary does not record any payment to Yadav.⁶⁴³ The company’s June 2018 payroll summary states that Yadav’s monthly salary was \$1,500.⁶⁴⁴

According to his contract of employment, Kaswaswa was paid a basic salary of \$7,000 per month.⁶⁴⁵ But Trinity Energy payroll documents for June and August 2018 state that Kaswaswa’s salary was \$3,500 per month—half the true figure.^{646, 647} Payroll documents for July 2018 do not mention any salary for Kaswaswa, although he confirmed he was paid.^{648, 649}

If these reduced salary figures were submitted to the government, the result would be an underpayment of withholding tax. In its August payroll, Trinity stated the tax payable on Kur Wiir’s salary for that month to be 497 SSP,⁶⁵⁰ equivalent to just over \$3, compared to the \$2,612 that would be due on an income of \$17,449.⁶⁵¹ Unless these savings were passed on to Trinity Energy employees, the cumulative impact of these discrepancies could have allowed Trinity Energy to make significant illegal tax savings throughout the year.




Kaswaswa claims that the savings were not passed on to the company's employees: "They were withholding personal income tax for the whole salaries, but when they were submitting to the government they were only submitting half of what they withheld."⁶⁵²

ANNEXURE 2

1	Basic Salary	US \$ 7,000 (US Dollars Seven Thousand Only) per month to be paid in the legal currency for the time being of the United States of America. As required by law, the Company will make tax, social security or other related deductions from the Basic Salary or other payments to Employee as applicable.
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An annex of Kaswaswa's contract of employment (top), signed in June 2018, states that he will be paid \$7,000 per month, but Trinity Energy payroll documentation for June 2018 (bottom) lists Kaswaswa's salary as \$3,500 per month. Source: The Sentry.

 TRINITY ENERGY LTD.						
Sr. No.	Name of Employee	Station	Position	Daily Rate	Days Not Worked	Basic Salary (USD)
				30		
1						
2						
3						
4						
5						
6						
7						
8						
9	Biswick Tiya Malu Kaswaswa	Nesitu Depot	Finance Manager	116.66	-	3,500
10	Total					



Broken Laws?

The Sentry's findings suggest that the government of South Sudan went out of its way to facilitate the trade finance deal between Trinity Energy and Afreximbank. Not only did the government grant Trinity Energy tax exemptions, a reduction in import license fees, and a premium price for fuel sales to the army, but in supporting the deal's implementation, it may also have contravened legislation on fair competition, transparency, and the financing of debt.

Anti-competitive deal

At the time of Trinity's Afreximbank deal, government procurement rules stated that "in order to enhance the principles of economy, transparency and equal opportunity to tenders, all the contracts should, to the extent possible, be awarded on the basis of competition."^{653, 654} Government regulations stipulate that the preferred procurement method will be "Open Competitive Tendering" and that "no contract shall be awarded without an appropriate evaluation report and approval."^{655, 656} The Petroleum Act of 2012 states that "petroleum agreements shall be entered into following an open, transparent, non-discriminatory and competitive tender process."⁶⁵⁷ The guiding principles of the oil and gas sector, according to the Transitional Constitution, which has yet to be superseded, include "promoting fair competition to increase productivity and efficiency in the petroleum and gas sector."⁶⁵⁸

Against the backdrop of this legislation, the uncompetitive nature of the arrangements made between Trinity Energy, Afreximbank, the government of South Sudan, and Glencore is striking. Trinity Energy's trade finance facility from Afreximbank relied on a commitment from the government to award contracts to purchase South Sudanese crude oil to Trinity Energy, no matter which company submitted the most competitive bid for the cargo.⁶⁵⁹ The South Sudanese government tenders crude oil in monthly bid rounds at which oil traders compete for the contracts to buy cargoes of crude. Two international oil executives told The Sentry how their companies had submitted the best bids for crude cargoes in government tender rounds, only for the cargoes to be awarded to Trinity Energy.⁶⁶⁰

The trade finance facility also gave Trinity Energy privileged access to South Sudan's diesel and gasoline market.⁶⁶¹ The supply of US dollars via the Afreximbank agreement was expressly designed to enable Trinity Energy to fund its purchases of Kenyan petroleum products,⁶⁶² which were priced in US dollars.⁶⁶³ An international executive told The Sentry that without access to US dollars, his company had found it impossible to operate in South Sudan's fuel supply market.⁶⁶⁴ Likewise, Trinity's agreement to supply the South Sudan army with fuel at a premium price gave it market access not available to all companies.⁶⁶⁵ In the words of an international oil executive working in South Sudan, Trinity Energy has the South Sudan petroleum products market "sewn up."⁶⁶⁶

The Afreximbank deal also gave crude trader Glencore privileged access to crude contracts.⁶⁶⁷ Although in theory the trade finance facility allowed Trinity Energy to use any trader approved by the parties to the deal, only Glencore was named in the deal, and it was the only company used to ship the crude awarded by the government to Trinity Energy under the 2018 agreement.⁶⁶⁸



Glencore: A Much-Scrutinized Partner

Trinity Energy's trade finance facility with Afreximbank, agreed upon in April 2018, names Glencore Singapore Pte Ltd as the "original offtaker" of crude oil under the deal.⁶⁶⁹ This means that the company was responsible for shipping the crude oil cargoes awarded by the government of South Sudan to Trinity Energy under the trade finance deal with Afreximbank. Glencore Singapore Pte is wholly owned by Geneva-based oil trader Glencore PLC.^{670, 671}

Glencore and its subsidiaries have been the focus of numerous corruption probes in recent years. On November 3, 2022, a UK court ordered Glencore Energy UK Ltd to pay \$281 million after it pleaded guilty in June to seven charges of bribery brought against it by the UK's Serious Fraud Office (SFO) under the UK Bribery Act (2010).^{672, 673, 674, 675} The presiding judge found "not only significant criminality but sophisticated devices to disguise it," and he said the offenses were sustained "over prolonged periods of time."⁶⁷⁶ Glencore "admitted to multiple counts of paying bribes to secure access to oil and generate illicit profit."⁶⁷⁷

The SFO investigation found that Glencore Energy employees and agents paid bribes of over \$28 million to maximize its oil trading profits through preferential access to oil in South Sudan, Nigeria, Cameroon, Ivory Coast, and Equatorial Guinea.^{678, 679} Beginning in August 2011, Glencore executives paid more than \$1 million in cash to officials in South Sudan's newly established government via a local agent, the SFO found.⁶⁸⁰

"For years and across the globe, Glencore pursued profits to the detriment of national governments in some of the poorest countries in the world," said SFO director Lisa Osofsky. "The company's ruthless greed and criminality have been rightfully exposed."⁶⁸¹ Kalidas Madhavpeddi, chairman of Glencore, described the conduct as "inexcusable" and expressed a commitment to "operating transparently under a well-defined set of values, with openness and integrity at the forefront."⁶⁸²

The UK court ruling followed Glencore's announcement in May 2022 that it had agreed to pay more than \$1 billion to resolve investigations in the US and Brazil into bribery and a separate US investigation related to market manipulation.⁶⁸³ Glencore International AG pleaded guilty to conspiracy to violate the US Foreign Corrupt Practices Act,⁶⁸⁴ reaching an agreement with the US Department of Justice to pay penalties of more than \$700 million to resolve bribery investigations related to the group's past activities in certain overseas territories.^{685, 686, 687} Glencore International also agreed to pay \$39.6 million under a resolution with the Brazilian Federal Prosecutor's Office to resolve an investigation into Glencore affiliates in relation to bribery allegations concerning Brazil's state oil company, Petrobras.⁶⁸⁸

Glencore Ltd, a US branch of the company,⁶⁸⁹ agreed to pay \$485.6 million to resolve market manipulation investigations by the Justice Department and the Commodity Futures Trading Commission (CFTC).^{690, 691} It pleaded guilty to conspiracy to commit commodity price manipulation related to "market conduct in certain US fuel oil markets."⁶⁹² Both agreements with the Justice Department provided for the appointment of an independent compliance monitor for three years to "assess and monitor" the company's compliance with the agreement and to "evaluate the effectiveness of its compliance programme and internal controls."⁶⁹³



Glencore International, Glencore Ltd, and Glencore subsidiary Chemoil Corporation agreed to pay more than \$330 million to resolve an investigation by the CFTC over civil violations of the Commodity Exchange Act and CFTC regulations in connection with “market conduct in certain US fuel oil markets” and “corrupt practices in certain overseas jurisdictions.”^{694, 695}

Glencore announced in June 2020 that Glencore International was being investigated for alleged corruption in the Democratic Republic of Congo (DRC) by the Office of the Attorney General of Switzerland.⁶⁹⁶ Glencore “continues to cooperate” with this and “an investigation of similar scope by the Dutch Public Prosecution Service,” it said in a statement.⁶⁹⁷

The company was cited in the 2016 Panama Papers and the 2017 Paradise Papers, which exposed its connection to Israeli businessman Dan Gertler.^{698, 699} The Paradise Papers showed that Glencore had loaned tens of millions of dollars to Gertler,⁷⁰⁰ who had close ties with Joseph Kabila, president of the DRC until January 2019.⁷⁰¹ Glencore declined to comment on its relationship with Gertler.⁷⁰²

Glencore was also involved in the provision of loans against future oil production in Chad and the Republic of the Congo that left both countries with debilitating debts and stalled relief from the IMF.⁷⁰³ According to Glencore, the company “restructured” the loan to the Republic of the Congo in 2022, paving the way for the country to receive new disbursements from the IMF.⁷⁰⁴ Glencore has also restructured 2015 and 2018 prepayments to Chad, and it told The Sentry that it continues a “good faith engagement” with the Chadian authorities and the national oil company, Societe Des Hydrocarbures Du Tchad, that it hopes will yield a “positive outcome.”⁷⁰⁵

Off-budget spending

The government’s participation in the trade finance facility agreed upon by Trinity Energy and Afreximbank failed to meet the basic standards of transparency, accountability, and economic governance delineated in South Sudanese law.

The arrangement, which allowed the government of South Sudan to buy fuel from Trinity Energy and in return award crude oil cargoes to the company, enabled the government to bypass the budget process.⁷⁰⁶ In doing so, it circumvented not only laws on budget ceilings and cash limits designed to control government spending and enforce accountability but also laws on debt management, which stipulate that the government cannot increase borrowing without parliamentary approval.^{707, 708} Revenues that would typically accrue to government accounts from crude oil sales were moved off budget, rendering ineffectual economic governance measures such as the duty of the Ministry of Finance to maintain individual accounts for each revenue item.⁷⁰⁹

By taking spending and revenue streams off budget, transparency and public accountability measures were also avoided. South Sudanese law stipulates that the budget must be made publicly available, along with an annual report detailing “past, current, and projected fiscal activity, major fiscal risks, Government’s debt,



significant financial and natural resource assets and non-debt liabilities, and contingent liabilities.”⁷¹⁰ The allocation of crude oil cargoes to pay for fuel was not included in government budgets for 2018/19 or 2019/20.^{711, 712}

This lack of transparency and public scrutiny enabled the government of South Sudan to pursue policies that were not in the best interests of the economy. On June 28, 2019, the government acknowledged the damaging impact of agreeing to sell future crude production in a practice known as pre-financing, or pre-sales contracts, and decided to suspend all such contracts.⁷¹³ “These pre-sales contracts are not healthy and they are actually destroying the economy,” Michael Makuei Lueth, the information minister, said on announcing the government’s decision.⁷¹⁴ In the 2019/20 budget, the Ministry of Finance admitted that “although collateralization of the oil in the ground or future revenue stream may reduce the costs of borrowing in the short-term, evidence from other countries have [sic] shown that the long-term economic consequences tend to be significant.”⁷¹⁵

Costly funds

The government’s participation in the Afreximbank deal may also contravene South Sudanese legislation preventing the use of non-concessionary loans. The deal was guaranteed by the Bank of South Sudan,⁷¹⁶ which is wholly owned by the government of South Sudan,⁷¹⁷ and the deal stipulated that LCs issued by Afreximbank to Trinity Energy were to be matched against specific cargoes of Dar Blend crude,⁷¹⁸ based on an “irrevocable lifting programme” issued by the Ministry of Petroleum “in favour of Trinity.”⁷¹⁹ In other words, Trinity Energy’s ability to repay the Afreximbank LCs was dependent on oil cargoes allocated to the company by the Ministry of Petroleum.

South Sudan’s 2011 Public Financial Management and Accountability Act states that “the Government shall only borrow and/or guarantee foreign loans that are on strictly concessional terms.”⁷²⁰ Concessional loans are those whose terms are more generous than market loans, usually through lower interest rates, grace periods, or both.⁷²¹ The Afreximbank financing was not on concessional terms. Afreximbank declined to answer specific questions about the trade finance facility with Trinity Energy, but the bank’s head of client relations Mohamed Sayed told The Sentry: “We don’t do concessionary financing. Ours is based on commercial terms.”⁷²²

According to internal Trinity Energy documents seen by The Sentry, the margin on the first \$30 million LC was \$1.5 million, or 5%.⁷²³ Further charges on the facility included “establishment fees” of \$525,000; “LC charges” of \$300,000; legal fees of \$80,000; “LC Confirmation charges” of \$75,000; and “Collecting Bank’s fees,” at \$25,000 per year.⁷²⁴ This all comes to \$2.5 million, more than 8% of the value of the first LC.⁷²⁵ By comparison, the 2018 average for three-month loans at the London Interbank Offered Rate, a benchmark interest rate at which major global banks lend to one another,⁷²⁶ was 2.3%.⁷²⁷ The IMF’s Rapid Credit Facility, a concessional finance program for low-income countries of which South Sudan is a beneficiary,⁷²⁸ has a zero interest rate and a grace period of five and a half years.⁷²⁹



Trinity's Questionable Business Practices

The potential breaches of legislation by the South Sudanese government are not the only legal questions arising from Trinity Energy's business operations in the country. Ann Kathure Rutere, a former director of Trinity Energy, told The Sentry, "To the best of my knowledge, Trinity Energy has, since inception, adhered to the law."⁷³⁰ But The Sentry's investigation found that, in addition to preparing potentially fraudulent payroll documents, Trinity Energy breached national legislation on currency exchange and paid fraudulent invoices for cross-border deals used to disguise illicit foreign exchange transactions. The investigation also uncovered red flags for illicit business practices including trade-based money laundering, transfer pricing, and breaches of the arm's length principle.

Black market currency deals

Trinity Energy used a local travel company to exchange US dollars for South Sudanese pounds on the black market, according to first-hand accounts, bank statements, and internal company communications seen by The Sentry. Trinity Energy is far from unique in seeking to profit from the disparity between South Sudan's official exchange rate and that on the black market, but the company took a practice common among individual citizens and local businesses and deployed it on a grand scale, generating illicit profits worth millions of dollars.

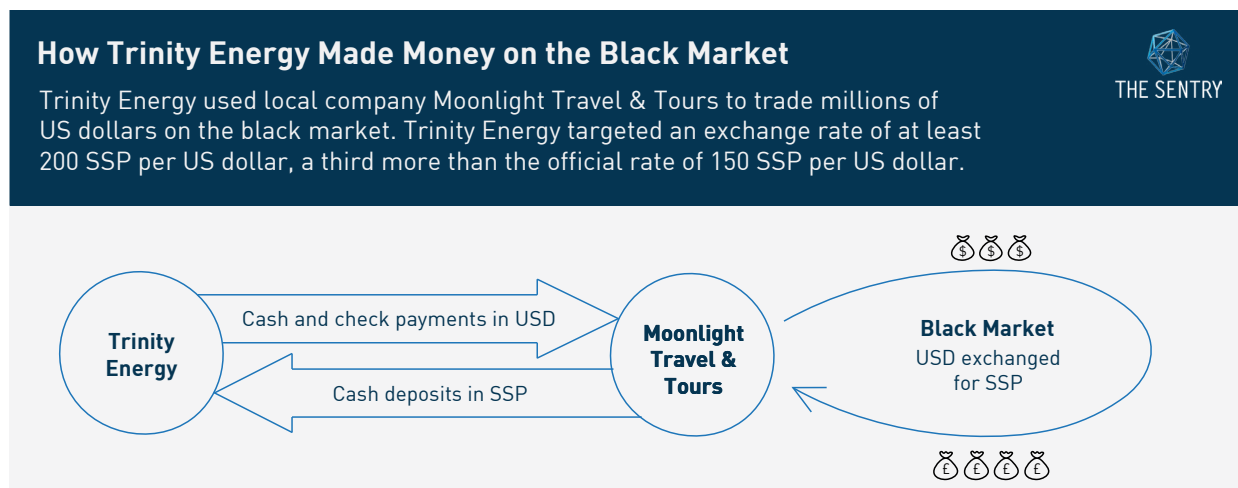
In late 2018, Trinity Energy was racing to raise South Sudanese pounds to meet a November 15 deadline to repay a 4.2 billion SSP (\$28 million) debt to the government of South Sudan.⁷³¹ The cargoes of crude oil the company sold to Glencore Singapore Pte Ltd were priced in US dollars; and, in a country where hard currency is highly prized, Trinity should have had no problem exchanging its dollars for South Sudanese pounds at a licensed bank. The black market, though, offered a lucrative alternative. The official exchange rate was around 150 SSP per US dollar,⁷³² but internal Trinity Energy documents show that the company planned to exchange its dollars at a rate of 200 to 210 SSP per US dollar—at least a third more than the official rate.⁷³³

The task of changing Trinity's dollars was entrusted to Iraqi-born Juba resident Muhammad Oglah, the managing director of a local company, Moonlight Travel & Tours.^{734, 735, 736} Trinity Energy gave Oglah cash and paid checks to Moonlight from Trinity Energy accounts at Equity Bank, according to documents seen by The Sentry.^{737, 738, 739} Oglah and his associates exchanged the dollars on the black market in Juba and paid the resulting South Sudanese pounds into a separate Trinity Energy account at KCB Bank.^{740, 741, 742, 743, 744, 745, 746, 747} Trinity Energy's use of the black market to exchange foreign currency in 2018, and the involvement of Moonlight Travel & Tours, was confirmed by Ann Kathure Rutere, one of Trinity Energy's directors at the time.⁷⁴⁸ "The sourcing of US dollars and SSP from the informal market is normal practice in South Sudan where the availability of exchange currency is often low," she told The Sentry.⁷⁴⁹ "After war of 2016, [the] banking industry collapsed and you could not transact either SSP or USD," she said.⁷⁵⁰

According to Rutere, exchanges such as those between Trinity Energy and Moonlight Travel & Tours were done "over the table in an open and lawful manner through the banks."⁷⁵¹ But the practice of exchanging foreign currency on the black market is illegal under South Sudanese law. A 2012 regulation on the licensing and supervision of foreign exchange bureaus states: "The foreign currency business in South Sudan may only be engaged in, apart from a bank licensed in accordance with the Bank of South Sudan Act, 2011, by an enterprise licensed as a foreign exchange bureau by the Bank in accordance with this regulation."⁷⁵²



The Sentry found no official record that Moonlight Travel & Tours was licensed as a foreign exchange bureau in 2018.⁷⁵³ Even if Moonlight were a licensed foreign exchange bureau, black market foreign exchange transactions with unlicensed counterparties would still be illegal. The Sentry contacted both Oglah and Moonlight Travel & Tours for comment, but they did not respond.



Trinity Energy's black market trading strategy was overseen by the company's top executives.^{754, 755, 756, 757, 758} All the "senior members of the organization were aware of where the dollars were being allocated to Muhammad [Oglah] and [of] the SSP" being paid into Trinity accounts, Biswick Kaswaswa told The Sentry.⁷⁵⁹ Once the money was handed over to Oglah, Kaswaswa's role was to "update management on the US dollars given to Muhammad and cross-check with money deposited by Muhammad in the SSP account."⁷⁶⁰

The sums involved were substantial. An internal company memo from mid-October 2018 shows that Trinity's target at the time was to convert \$7.5 million to 1.5 billion SSP at an exchange rate of 200 SSP per dollar.⁷⁶¹ This would generate 375 million SSP (\$2.5 million) more in funds for Trinity Energy than exchanging the money at the official rate. At the same rate of exchange, Trinity Energy could pay off its 4.2 billion SSP debt to the government for \$21 million,⁷⁶² a \$7 million saving on the \$28 million value of the debt at the official exchange rate.

The Sentry reviewed bank statements and internal company communications that show the Moonlight strategy in action.^{763, 764, 765} In a 10-week period between August 14 and October 26, 2018, Trinity Energy gave Moonlight Travel & Tours more than \$560,000 in cash to convert to South Sudanese pounds on the black market, an internal accounting summary seen by The Sentry reveals.⁷⁶⁶ At the official exchange rate, this money would be worth 84 million SSP, but at Trinity Energy's target black market rate, it would be worth 115 million SSP—a premium of 31 million SSP (\$207,000).⁷⁶⁷

Other foreign exchange transactions were based on bank transfers. Between October 5 and October 16, 2018, Oglah and his associates paid more than 500 million SSP into Trinity Energy's accounts,⁷⁶⁸ while Trinity Energy transferred more than \$1 million to Oglah in US dollars.⁷⁶⁹ At the official exchange rate, the



500 million SSP deposited with Trinity Energy would have cost the company \$3.3 million, but at the company's target exchange rate it would have cost just \$2.4 million to \$2.5 million.⁷⁷⁰

Fake invoices

Trinity's foreign exchange abuses were not limited to Juba. The company also disguised the illicit exchange of hundreds of thousands of US dollars by using a Ugandan company to issue invoices for goods that were never delivered, according to a witness account and documents and trading data seen by The Sentry.^{771, 772, 773, 774, 775}

On October 11, 2018, Uganda-registered Welldone Suppliers invoiced Trinity Energy for \$200,000 for the delivery of 301,659 liters of "Energy."^{776, 777} Five days later, on October 16, the same company invoiced Trinity a further \$250,000 for the delivery of another 452,488.7 liters of "Energy."⁷⁷⁸ Both invoices were used to disguise bank transfers from Trinity to Welldone Suppliers that were used "to provide US dollars to exchange in the black market," alleges Kaswaswa.^{779, 780} "They are fake invoices for black market exchange. No fuel is delivered. No fuel changed hands."⁷⁸¹ We were collecting SSPs using any possible means."⁷⁸²

In both instances, payment of US dollars to Welldone Suppliers was made from a Trinity Energy account at Stanbic Bank.⁷⁸³ According to Kaswaswa, Welldone Suppliers then transferred the money to Moonlight, which was orchestrating the exchange of US dollars on the black market in Juba on behalf of Trinity Energy and paying the proceeds into a separate Trinity Energy account.^{784, 785} Internal Trinity Energy emails seen by The Sentry show that it was Moonlight's managing director, Oglah, who forwarded both Welldone Suppliers invoices to Trinity.^{786, 787} Kaswaswa believes that Trinity Energy chose not to pay Moonlight directly in order to conceal evidence of the transaction.⁷⁸⁸

An internal Trinity Energy document supports the assertion that the invoices from Welldone Suppliers were being used to disguise the exchange of hundreds of thousands of US dollars on the black market in Juba. The document, entitled "Conversion Schedule with Moonlight as of 16th October 2018," lists deposits of South Sudanese pounds made by Moonlight to Trinity Energy between October 5 and October 16, 2018, and payments of US dollars made by Trinity Energy to Moonlight over the same period.⁷⁸⁹ Under the heading "US\$ cash submitted to Moonlight" are two payments by Trinity Energy from an account at Stanbic Bank for the same amounts that were invoiced by Welldone Suppliers.⁷⁹⁰

The contention that the invoices from Welldone Suppliers were for illicit purposes is supported by internal Trinity Energy email communications seen by The Sentry. On October 11, the day that Trinity Energy received the first invoice, an email was circulated to company executives—including Akol Emmanuel Ayii Madut and Robert Mdeza—with the subject line "Invoice for \$200,000.00 – For Payment."⁷⁹¹ The email stated: "The SSP equivalent has been deposited in our KCB account."⁷⁹²

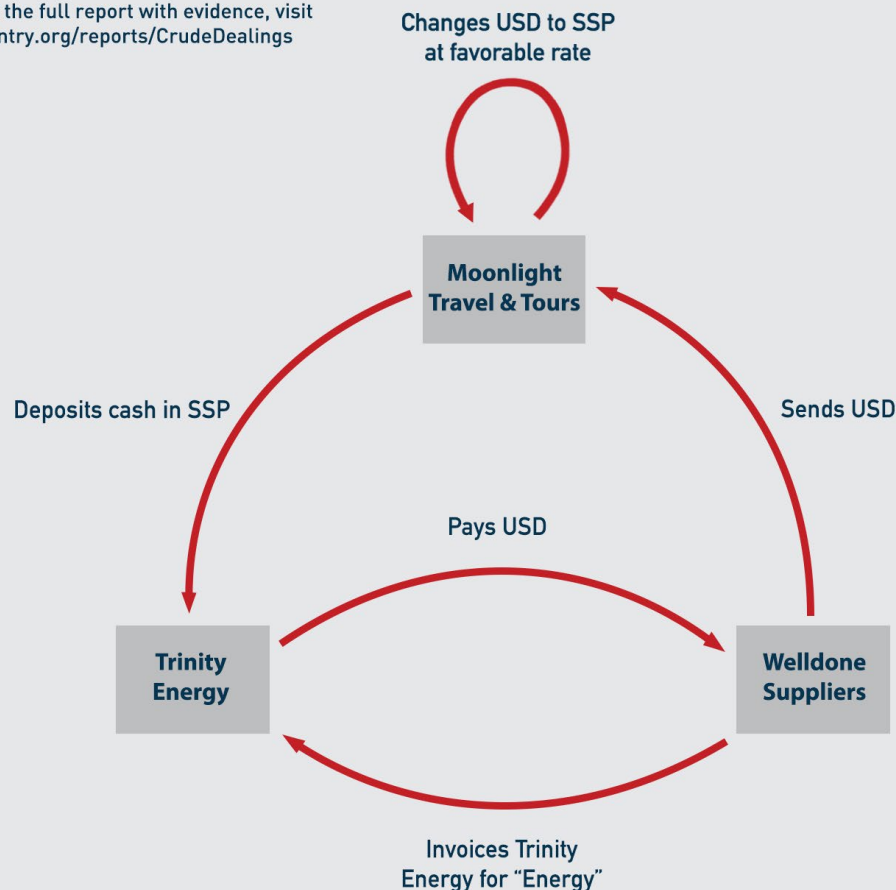
A chain of internal company emails circulated to Trinity Energy executives, including Ayii and Mdeza, shows that payment of the October 16 invoice was actioned the following day from a Trinity Energy account at Stanbic Bank.⁷⁹³ Kaswaswa confirmed that the invoice was paid.⁷⁹⁴ Welldone Suppliers' financial data shared with The Sentry showed the receipt of funds matching the invoices sent to Trinity Energy.⁷⁹⁵ Ayii and Mdeza did not reply to The Sentry's requests for comment. The Sentry's attempts to reach Welldone Suppliers for comment were unsuccessful.



Fake Invoices Cover Illicit Currency Transfers

In October 2018, Ugandan company Welldone Suppliers invoiced Trinity Energy a total of \$450,000 for the supply of “Energy.” Trinity Energy paid \$450,000 to Welldone Suppliers, but instead of shipping energy, Welldone Suppliers apparently sent the money on to Moonlight Travel & Tours in exchange for South Sudanese pounds sent by Moonlight to Trinity Energy.

To see the full report with evidence, visit
TheSentry.org/reports/CrudeDealings



According to bank statements seen by The Sentry, three individuals and one company paid a combined total of more than 44 million SSP (\$293,000) into a Trinity Energy account at KCB Bank between September 10 and October 6, 2018.^{796, 797, 798} The three individuals and the company were all identified by Kaswaswa as black-market traders deployed by Oglah to change money on behalf of Trinity Energy.⁷⁹⁹

The Trinity Energy document detailing its schedule for converting US dollars to South Sudanese pounds also reveals the margin that Trinity aimed to generate by using the black market rather than the official exchange rate.⁸⁰⁰ The two Trinity Energy payments from Stanbic Bank—\$200,000 and \$250,000—were to be exchanged into South Sudanese pounds at a rate of 200 SSP to the US dollar, according to the document.⁸⁰¹ Combined, this would generate 90 million SSP, compared to 67.5 million SSP at the official exchange rate—a profit of 23.5 million SSP (\$150,000).



Trinity Energy's need for a Uganda-based supplier of "energy" is also dubious. The company had an established pipeline of fuel products from state-owned fuel company KenolKobil in Kenya,⁸⁰⁸ which was the "sole fuel supplier" to Trinity Energy, according to Kaswaswa.⁸⁰⁹ The use of the vague term "energy" on the two invoices is also concerning. The units are stated as "litres," but unlike other Trinity Energy documentation seen by The Sentry,⁸¹⁰ the invoices do not specify what type of fuel is being supplied. Among the risk indicators for trade-based money laundering identified by the FATF and the Egmont Group are instances where "contracts, invoices, or other trade documents have vague descriptions of the traded commodities."⁸¹¹

Fake invoices can disguise a multitude of crimes. "Fake or inflated invoices provide a common veneer of legitimacy to conceal bribery," according to Transparency International.⁸¹² "An inflated invoice can be generated by a supplier, which covers both the fees legitimately due, and an additional amount to be used as a bribe. An invoice can also be entirely false, and represent no legitimate service whatsoever."⁸¹³ Fake invoices are "fraud. Plain and simple," says Transparency International.⁸¹⁴ They are also a red flag for trade-based money laundering. "The movement of value using methods such as false documentation and declaration of traded goods and services" is one of three main methods identified by the FATF through which "criminal organisations and terrorist financiers move money for the purpose of disguising its origins and integrating it back into the formal economy."⁸¹⁵

Sweetened deal?

Between May and June 2018, Trinity Energy made four bank transfers totaling \$450,000 to Uganda-based T&L Family, according to bank statements seen by The Sentry.^{816, 817, 818} All four transactions between Trinity Energy and T&L Family were in multiples of \$50,000.^{819, 820} One of these transfers was described as being for the purchase of more than 5,000 bags of sugar.⁸²¹ Official trading data seen by The Sentry shows no record of any trades between the two companies matching these dates or at any time in 2018 or 2019.⁸²²

These transactions are indicative of trade misinvoicing and raise several red flags for trade-based money laundering,⁸²³ including: the large round numbers of the transactions;⁸²⁴ the lack of trade documentation to support the transactions;⁸²⁵ the involvement in trade activity that is "inconsistent with the stated line of business of the entities involved";⁸²⁶ pricing that is inconsistent with market value;⁸²⁷ and the similarity of T&L's name to that of Tate & Lyle, a UK-based global corporation that made its name in the sugar refining business.^{828, 829}

On May 22, 2018, Trinity Energy made a \$200,000 payment to T&L Family from a US dollar account at Stanbic Bank.⁸³⁰ The payment was described on the relevant Trinity Energy bank statement as being for the "purchase of 5,714 bags of sugar."⁸³¹ It would be difficult to argue that sugar trading is consistent with Trinity Energy's business, which focused on the import and sale of petroleum products and the purchase and sale of crude oil.⁸³² The company "had no reason to buy sugar," said Kaswaswa.⁸³³

Even if Trinity were involved in sugar trading, the price of the recorded sugar purchase does not appear to be in line with commercial considerations or consistent with market value.⁸³⁴ It would be reasonable to expect T&L's enormous sugar sale to Trinity to leverage significant economies of scale. The Sentry's analysis of official data for sugar trades between Uganda and South Sudan in 2018 and 2019 shows that sugar was typically traded in 50 kilogram (kg) bags.⁸³⁵ Assuming Trinity Energy's shipment was also in 50 kg bags, each kilogram cost the firm \$0.70, four times the price paid by other firms for much smaller consignments of sugar shipped from Uganda to South Sudan in mid-2018.⁸³⁶ In addition, the total size of the 5,714-bag



consignment would be 286 tons. Even if South Sudan had the highest sugar consumption in the world, that would be enough sugar to supply every one of South Sudan's 11 million citizens for two and a half months.^{837, 838}

TRINITY ENERGY LTD TRINITY ENERGY LTD P.O. BOX PRIVATE BAG JUBA,		Customer No. : Account No. : Acct. Name : TRINITY ENERGY LTD Acct. Title : TRINITY ENERGY LTD Currency : USD Statement No. : 1 Statement Period : 01 MAY 18 to 27 JUN 18 Statement Date : 27 JUN 2018 Page 6 of 7				
Date	Transaction Description	Value Date	Debit	Credit	Ledger Balance	Available Balance
	BALANCE BROUGHT FORWARD				387,242.42CR	387,242.42CR
22 MAY 18						
22 MAY 18	Outward SWIFT Fee T AND L FAMILY T PURCHASE OF 5 714 BA GS OF SUGAR Commission USD52.4	22 MAY 18	57.64		384,184.78CR	384,184.78CR
22 MAY 18	Outward SWIFT Payment T AND L FAMILY T PURCHASE OF 5 714 BA GS OF SUGAR	22 MAY 18	200,000.00		184,184.78CR	184,184.78CR
22 MAY 18						

Trinity Energy bank statement showing a \$200,000 transfer to T&L Family in May 2018 for the purchase of "5,714 bags of sugar." Trade data shows no record of any shipment of goods from T&L Family to Trinity Energy in 2018 or 2019. Source: The Sentry.

The multitude of red flags related to this transaction raises doubts over whether the trade actually took place. If it didn't, Trinity Energy paid \$200,000 for goods that it did not receive. The company also paid T&L Family \$100,000 on May 8, 2018; \$100,000 on May 11, 2018; and \$50,000 on June 4, 2018, according to a Trinity Energy bank statement seen by The Sentry.⁸³⁹ The Sentry tried to contact T&L Family for comment but received no response.

The Sentry's investigation has indicated that Trinity Energy used fake invoices from another Uganda-based company, Welldone Suppliers, to disguise foreign exchange transactions that enabled it to move \$450,000 out of the country in return for South Sudanese pounds. Rutere indicated that the company's payments to T&L were motivated by the same end.⁸⁴⁰ "Exchange of dollars and pounds was, as between Trinity Energy and T&L is, done over the table in an open and lawful manner through the banks," she said in emailed comments to The Sentry.⁸⁴¹ "The company banked SSP in Trinity accounts."⁸⁴²



Payments to directors' companies

Moonlight Travel & Tours, Welldone Suppliers, and T&L Family were not the only companies to which Trinity Energy made questionable currency transfers. The Sentry's investigation found that over a period of five months in 2018, Trinity Energy made payments to at least four companies in which the company's directors, Ayii and Rutere, were shareholders.^{843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855}

The overlapping interests in these companies make such payments vulnerable to transfer pricing.⁸⁵⁶ International best practice dictates that to ensure transactions are based on a fair market price, they must be carried out in a manner consistent with the arm's length principle,⁸⁵⁷ which states that "transactions between associated enterprises should not be distorted by the special relationship that exists between the parties."⁸⁵⁸ Evidence reviewed by The Sentry suggests that some of the transactions between Trinity Energy and companies in which its directors owned shares may have breached the arm's length principle. Some also raise red flags for fraud and trade-based money laundering.^{859, 860}

The large number of companies in which Ayii and Rutere have had shareholdings is a structural risk indicator for trade-based money laundering.⁸⁶¹ The Sentry found that Ayii and Rutere have held shares in at least 30 companies in South Sudan and Kenya, and that at least eight have been registered in the name of their daughter.⁸⁶² Their daughter was registered as a shareholder in seven companies—in five of which she was named a director and in one a managing director—while under two years old.⁸⁶³ According to Rutere, several of the companies set up by her and her husband have never operated, while others operated for a time and have since ceased to do business.^{864, 865} The registering of their daughter as a shareholder was done "out of natural love and affection," she said.⁸⁶⁶ Rutere said she was not aware that her daughter had been appointed to several director positions,^{867, 868} despite having signed two of the documents concerned.⁸⁶⁹ Ayii did not respond to requests for comment on his interests in any of the companies identified by The Sentry.

RAK Kenya

Between May 2 and June 28, 2018, Trinity Energy made payments totaling more than \$70,000 to RAK Kenya, a Nairobi-based company in which Rutere owned a 90% share,^{870, 871} according to bank statements reviewed by The Sentry.^{872, 873} Related-party transactions such as these, in which one business or corporate group operates both the import and export ends of a trade transaction, can create opportunities for fraudulent trading and trade-based money laundering.⁸⁷⁴

RAK Kenya, Rutere told The Sentry, was founded with a strategy of expanding the operations of RAK Media, another company in which Rutere owned a majority share,⁸⁷⁵ to Kenya "to reduce risk associated with doing business in South Sudan having suffered huge losses due to the 2013 war."⁸⁷⁶ According to Rutere, the money paid by Trinity Energy to RAK Kenya was "an intercompany loan to pay vendors in Kenya who supplied various goods used in our press business in South Sudan,"⁸⁷⁷ including "inks, papers and promotional materials."⁸⁷⁸ This is contradicted by bank statements that show that money was transferred from three separate bank accounts at two different banks over a two-month period and that two of the transactions—totaling \$9,900—were dedicated to the "purchase of fuel."^{879, 880}

The labeling of these transactions as being for the purchase of fuel from RAK Kenya raises further questions. Trinity Energy already had a deal in place with KenolKobil for the provision of the fuel imported by Trinity Energy to South Sudan,⁸⁸¹ and, according to Kaswaswa, "it was only KenolKobil" that supplied fuel

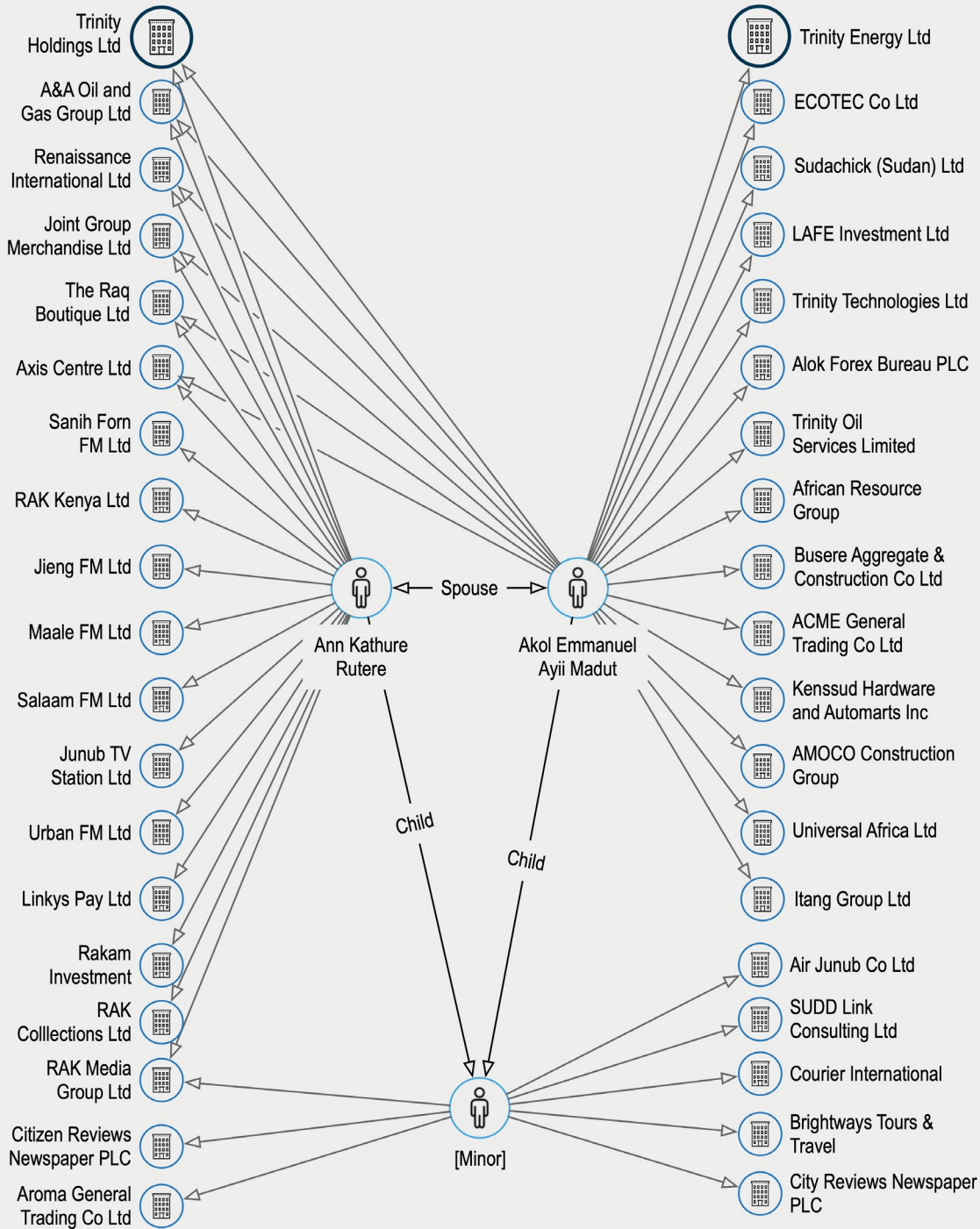


Casting a Web



THE SENTRY

According to incorporation records on file with the Ministry of Justice, Akol Emmanuel Ayii Madut and Ann Kathure Rutere have held shares in at least 30 companies in South Sudan and Kenya, and at least eight have been registered in the name of their daughter. Their daughter was registered as a shareholder in seven companies while under two years old.



Ann Rutere disputes that Citizen Reviews Newspaper PLC was ever established, but a copy of the memorandum and articles of association for the company, dated August 20, 2014, is on file with the South Sudan Ministry of Justice.



to Trinity.⁸⁸² It is possible that RAK Kenya did not in fact supply fuel to Trinity Energy, which would raise red flags for trade misinvoicing.^{883, 884} “All they are doing is moving funds from South Sudan,” said Kaswaswa,⁸⁸⁵ who contends that the directors of Trinity Energy “set up a number of companies in Kenya to transfer money to Kenya.”⁸⁸⁶ Rutere told The Sentry that she is a “law abiding citizen” who does not engage in “any illegal trade.”⁸⁸⁷

Wayshire

Trinity Energy made payments to at least one other Kenya-based company in which its directors had an interest. Wayshire Company Limited was responsible for transporting from Kenya to South Sudan the fuel that Trinity Energy purchased with LCs from Afreximbank.⁸⁸⁸ The agreement between Wayshire and Trinity Energy was signed on May 3, 2018,⁸⁸⁹ and renewed on May 13, 2020.⁸⁹⁰

The majority shareholder in Wayshire is Rakam Investment,^{891, 892} a company 100% owned by Rutere,⁸⁹³ making her the ultimate beneficial owner of Wayshire.⁸⁹⁴ Ayii and Rutere are listed as the sole directors of Rakam Investment, meaning that they jointly control Wayshire.^{895, 896, 897} Rutere is also a director of Wayshire.⁸⁹⁸ The Sentry also found indications that Ayii may exert control over Wayshire through a Mauritius registered company, African Equatorial Ventures.⁸⁹⁹ Ayii is a director of African Equatorial Ventures,⁹⁰⁰ which in turn is a registered director of Wayshire.⁹⁰¹ The opaque nature of company records in Mauritius means that The Sentry was not able to rule out the possibility that Ayii is also a shareholder in African Equatorial Ventures. Srawan Kumar Pandey, group finance manager for Trinity Holdings, is also among Wayshire’s shareholders.⁹⁰²

The involvement of Rutere and Ayii in both Trinity Energy and Wayshire makes the deal for Wayshire to transport fuel for Trinity Energy vulnerable to transfer pricing.⁹⁰³ Such transactions open the door to fraud, trade-based money laundering,⁹⁰⁴ and possible breaches of the arm’s length principle.⁹⁰⁵ Rutere contends that Wayshire was “not privy to the agreement between Trinity Energy and Afreximbank”⁹⁰⁶ and that “the arm’s length principle was maintained during all contractual negotiations and transactions” between Wayshire and Trinity Energy, although she also claims to have not been involved in the operational details of Trinity Energy’s Afreximbank agreement.⁹⁰⁷ “Any transaction from May 2018 onwards I was busy handing over and preparing new CEO for his duties and role,” said Rutere.⁹⁰⁸

The registration of African Equatorial Ventures in Mauritius is in itself concerning. Mauritius offers low individual and corporate tax rates and allows companies to avoid paying capital gains tax.^{909, 910} This is not illegal, but the impact can be damaging. A sophisticated financial system on the island “is designed to divert tax revenue from poor nations back to the coffers of Western corporations and African oligarchs,” found an investigation by the International Consortium of Investigative Journalists.⁹¹¹ Mauritius is one of the most complicit jurisdictions in the world in helping multinational corporations underpay corporate income tax, according to an index compiled by UK-based Tax Justice Network.⁹¹²

The taxation benefits offered by Mauritius have for decades made it attractive to shell corporations—companies that don’t have active business operations or significant assets in their country of registration.^{913, 914} The Sentry found indications that African Equatorial Ventures may be a shell corporation. Not only is it registered in Mauritius, a country in which the company’s directors have no apparent reason to do business, but it also does not have a web page, and its physical address is listed as care of another company, Ocorian Corporate Services.^{915, 916} Ocorian is listed in corporate registry documents as the “management company” and “secretary” for African Equatorial Ventures.⁹¹⁷ In May 2018, Trinity Energy made two payments of \$9,500 to



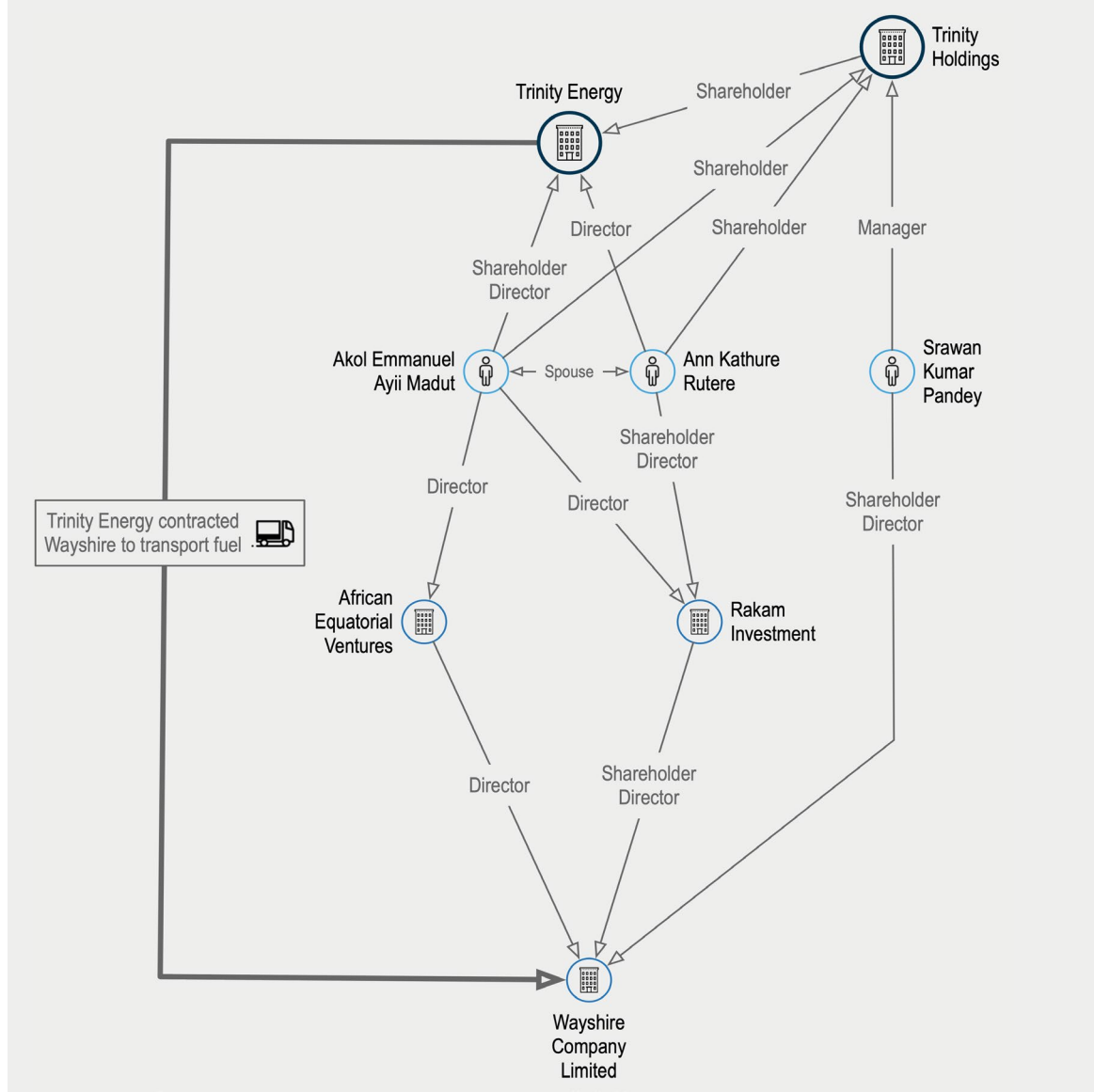
Ocorian, then known as Abax Corporate Services,⁹¹⁸ from two separate bank accounts, according to bank statements reviewed by The Sentry.^{919, 920} One of the payments was to an account with Abu Dhabi Islamic Bank in the United Arab Emirates.⁹²¹ The fact that payments were made by Trinity Energy to Ocorian—a company acting on behalf of a company that is a director of the company that is transporting fuel products to Trinity—seems convoluted and also suggests a potential conflict of interest.

Conflicts of Interest?



THE SENTRY

Ann Kathure Rutere is the ultimate beneficial owner of Wayshire, the company that Trinity Energy paid to transport fuel to South Sudan from Kenya. At the time of the 2018 trade finance deal, Rutere was a director of Trinity Energy and a shareholder in its parent company, Trinity Holdings. Rutere's husband, Akol Emmanuel Ayii Madut, the chairman of Trinity Energy and a shareholder in Trinity Energy and Trinity Holdings, may also exert control over Wayshire via Rakam Investment and Mauritius-registered African Equatorial Ventures.



RAK Media

Between May 8 and September 4, 2018, Trinity Energy made five bank transfers worth a total of more than \$140,000 to RAK Media, a printing and advertising company registered in South Sudan that was founded by Rutere and Ayii and in which their then-four-year-old daughter held a 40% share.^{922, 923, 924, 925, 926, 927} The transfers are all consistent with risk indicators for trade-based money laundering highlighted by the FATF and the Egmont Group, being payments “sent or received in large round amounts for trade in sectors where this is deemed as unusual.”⁹²⁸ The three payments made in US dollars from Trinity Energy to RAK Media were all round thousands, including one for exactly \$100,000.⁹²⁹ The two South Sudanese pound payments were for precisely 1 million SSP and 2.5 million SSP.^{930, 931}

The sums of money transferred by Trinity Energy were not consistent with the value of services delivered by RAK Media, according to former Trinity Energy finance manager Kaswaswa. The company “did not spend more than \$300 per month on advertising,”⁹³² Kaswaswa told The Sentry. The main printing cost, he said, was to produce coupons used by gas filling station customers.⁹³³

According to Rutere, the money paid to RAK Media by Trinity Energy was “an intercompany loan to offset accrued invoices associated with services and products delivered to Trinity Energy during the period of 2016 to 2018 when the company was unable to meet its financial obligations.”⁹³⁴ This explanation—that money was transferred from Trinity Energy to RAK Media in a single transaction to offset debts—is not consistent with bank statements that show five separate payments made in two currencies over a four-month period.^{935, 936, 937}

Rutere shared with The Sentry a summary document listing invoices totaling more than \$320,000 from RAK Media to Trinity Energy between January 1, 2016, and March 17, 2017.⁹³⁸ The details of some of these charges are themselves red flags for trade misinvoicing and trade-based money laundering,⁹³⁹ specifically pricing that is not consistent with market value.⁹⁴⁰ According to the document provided by Rutere, on January 12, 2015, RAK Media charged Trinity Energy \$3,235 for “printing charges of 200 letter heads,” or more than \$16 per letterhead.⁹⁴¹ Six days later, RAK Media charged Trinity Energy another \$4,852 for “Printing of letter heads on cream yellow.”⁹⁴² Between January 2015 and March 2016, RAK Media invoiced Trinity Energy more than \$16,000 for letterhead alone.⁹⁴³

RAK Media’s charges for printing staff ID cards and business cards also seem to be inconsistent with the market value of such services. On February 3, 2016, the company charged Trinity Energy \$26,800 to print staff ID cards; eight days later, it charged Trinity another \$3,235 to print business cards for one individual, according to the ledger shared by Rutere.⁹⁴⁴ On May 12, 2016, RAK Media charged Trinity Energy another \$10,243 for “printing of ID cards and business cards.”⁹⁴⁵ Between February 2015 and May 2016, the company invoiced Trinity Energy more than \$50,000 to print ID cards and business cards.

In the context of the small number of people employed by Trinity Energy, the figures are hard to explain. Even in July 2018, when the company was implementing the Afreximbank agreement to trade fuel and sell crude oil, the company listed only 85 staff on its payroll, including security staff.⁹⁴⁶ During his time at the company in 2018, Kaswaswa was not aware of any staff having ID cards, he told The Sentry, and “even business cards were only for senior people.”⁹⁴⁷ Moreover, the period of work for which RAK Media charged Trinity Energy more than \$320,000 was one of negligible business activity for Trinity, according to both Rutere and Kaswaswa. “The company was not [in] operation from 2016 to late 2017 due to war and fuel



subsidy created then by the government,” Rutere told The Sentry.⁹⁴⁸ “The company was in intensive care. During that time [the] government imposed [a] fuel subsidy [and] making money for private player[s] was next to impossible.”⁹⁴⁹ Following the outbreak of fighting in July 2016 “there was a total close down of business in Juba,” said Kaswaswa.⁹⁵⁰

AMOCO Construction

The relationship between Trinity Energy, RAK Media, and AMOCO Construction also raises red flags for possible breaches of the arm’s length principle.

AMOCO describes itself as a “subsidiary of Trinity Holdings,”⁹⁵¹ which is also the parent company of Trinity Energy.⁹⁵² AMOCO lists both Trinity Energy and RAK Media among its clients, and in a company brochure,⁹⁵³ it claims responsibility for projects including a Trinity Energy filling station, the Trinity Energy head office, and the Trinity Energy fuel depot.^{954, 955} AMOCO’s founding shareholders include Ayii, who is a shareholder in both Trinity Holdings and Trinity Energy.^{956, 957, 958} As of February 2021, both Ayii and Rutere, his co-owner in Trinity Holdings at the time, held shares in the construction company.⁹⁵⁹ Rutere told The Sentry in August 2022 that she is a “director in Amoco Construction Group with 10% shareholding.”⁹⁶⁰ Rutere has a 60% share in RAK Media; both Ayii and the daughter of Rutere and Ayii held the 40% balance of the shares at different times.⁹⁶¹

The common ownership of Trinity Energy, RAK Media, and AMOCO Construction creates a potential conflict of interest in their business dealings. There are also indications of an overlap in staffing between the organizations. Amaresh Yadav, a Trinity Energy filling station manager listed in the company’s payroll documentation,⁹⁶² is also listed as a senior accountant for AMOCO Construction by online corporate data platform DataLead.⁹⁶³ Yadav did not respond to The Sentry’s request for comment.

Rutere confirmed that “AMOCO Construction was contracted by Trinity Energy to project manage the development of a fuel depot and head office,” but she played down the company’s construction activities.⁹⁶⁴ Construction of the fuel depot was subcontracted to NICAAD Construction and Management Limited, while Trinity Energy’s filling stations were “purchased ready made and leased,” she told The Sentry.⁹⁶⁵ According to Rutere, “the arm’s length principle was maintained during all contractual negotiations and/or any transactions with Trinity Energy.”⁹⁶⁶



Damaging Consequences

Taken at face value, the trade finance facility provided by Afreximbank was a temporary fix for a dire economic situation resulting from years of conflict and economic mismanagement. The Sentry's investigation found that, in practice, the deal perpetuated a damaging reliance on future oil production to finance current spending and facilitated the creation of an off-budget system that skirted legislation on oversight, transparency, and competition and helped enrich those who were party to the deal.

The government's promise to award future oil cargoes to Trinity Energy as part of the company's trade finance deal with Afreximbank, and the way in which this arrangement was implemented, exacerbated the country's indebtedness rather than resolving it. Trinity Energy's business should have been a rich source of revenue for the government, but instead the company was paid a substantial premium for its fuel supplies to the army, it was allowed to skirt taxes, and it enjoyed a hefty discount on import license fees. When the 2019/20 budget was presented to Parliament in June 2019, payments to civil servants were four months in arrears, just as they were a year earlier when the government began awarding crude cargoes to Trinity Energy under the Afreximbank arrangement.^{967, 968}

The government's strategy of mortgaging future production is both costly and unsustainable. South Sudan's oil is running out. Crude production peaked in 2013 and, in the absence of field optimization, 2021 was expected to be the last year in which outputs from fields in production at the time exceeded 100,000 barrels per day, according to the Ministry of Petroleum's latest published figures.⁹⁶⁹ Plans to attract new upstream investment have been stymied by years of war and by the financial and reputational risks of doing business in a country that has been destabilized by conflict and is perceived to be the most corrupt in the world.⁹⁷⁰

The trade finance deal facilitated the creation of a parallel revenue source and avenues for off-book spending that avoid public scrutiny and are vulnerable to capture by self-interested individuals and elites. In its June 2019 assessment of South Sudan's economy, the IMF stated that "non-transparent oil advances, oil-backed loans and off-budget transactions are undermining fiscal discipline and budgetary integrity, which have led to high corruption vulnerabilities."⁹⁷¹

When proper oversight of petroleum revenues breaks down, so too do the mechanisms that ensure that the population as a whole benefits from the country's most important resource, both now and in the future. According to the Transitional Constitution,⁹⁷² "Ownership of petroleum and gas shall be vested in the people of South Sudan and shall be developed and managed by the National Government on behalf of and for the benefit of the people."⁹⁷³ The guiding principles for the management of oil and gas include "creating lasting benefits for society," "using oil revenues to develop other sectors of the economy, especially agriculture," and "ensuring transparency and accountability."⁹⁷⁴ The parties to the 2018 Revitalised Peace Agreement committed to ensuring "that all revenues due to the government derived from petroleum and other natural resources" are "managed and spent responsibly and in accordance with the laws of South Sudan using predictable, auditable processes for the benefit of the people."⁹⁷⁵

These objectives cannot be protected if government finances are beyond oversight. Off-budget revenues and spending also complicate compliance with specific laws that stipulate the sharing of petroleum revenue with oil-producing states and local governments, and the transfer of a portion of oil income into an "Oil Revenue Stabilization Account" designed to create savings to cushion the economy against oil price volatility



and a “Future Generation Fund” aimed at providing long-term savings to “support the welfare of future generations.”⁹⁷⁶

The lack of transparency in the implementation of Trinity Energy’s trade finance deal with Afreximbank makes it impossible to know whether the deal—and the parties to it—operated according to the agreed terms. Trinity Energy’s widespread use of cash, failure to properly document transactions, use of multiple bank accounts at several different banks,⁹⁷⁷ questionable accounting standards, and potential noncompliance with tax laws are all hallmarks of a company operating, at best, in a gray space.

Afreximbank declined to answer specific questions about its agreement with Trinity Energy on the basis of confidentiality, and it did not respond to The Sentry’s request for comment on details included in this report. In an interview with The Sentry on March 16, 2021, head of client relations Mohamed Sayed said that as a general practice, the bank is “very strict” in terms of compliance and screening.⁹⁷⁸ “We’ve got a full compliance team and they comply with all the Wolfsberg, all the KYC [know your customer]” global standards, he said.⁹⁷⁹

Glencore declined to answer questions about whether it took steps to ensure that the Afreximbank agreement was compliant with South Sudanese law; whether the flow of funds for the purchase of crude cargoes was compliant with the Afreximbank agreement; and whether the company’s crude oil vendor, Trinity Energy, was compliant with South Sudanese law and with international standards on corruption, anti-money laundering, and countering the financing of terrorism.⁹⁸⁰ Glencore told The Sentry that although it was designated in the agreement as the “original offtaker,”⁹⁸¹ it was “not party to” the Afreximbank agreement.⁹⁸² The firm did, however, volunteer that it “did not take delivery of any RSS [Republic of South Sudan] origin Crude Oil in 2021 and have not taken delivery of any RSS origin Crude Oil to date in 2022.”⁹⁸³

The way the trade finance deal was implemented shows how, without proper scrutiny, such arrangements can create space for mismanagement and corruption. Illicit business practices were allowed to flourish, and the network of personal and professional ties linking Trinity Energy to the government and the security establishment suggests that their business dealings may have been manipulated to enable individuals in positions of authority and power to personally benefit from business worth hundreds of millions of dollars. The bodies that were supposed to have oversight—Parliament, the National Revenue Authority, the Anti-Corruption Commission, the National Audit Chamber, and the Public Accounts Committee—were either avoided or proved ineffective.⁹⁸⁴

Failure to properly manage South Sudan’s most valuable resource has a direct impact on the wellbeing of a population that is among the poorest in the world and risks perpetuating both poverty and instability. The implementation of effective mechanisms to improve transparency, monitor compliance, uphold the law, and ensure that the benefits of oil revenue are shared with the wider population is crucial to building national unity and removing the incentives for conflict that arise from competition for national resources.



Recommendations

United States, European Union, United Kingdom, Canada, and Australia

Investigate and, if appropriate, sanction individuals and entities involved in corrupt oil deals. South Sudan's oil sector, rife with opaque deals and a lack of accountability, remains a cash cow for the ruling elite and their transnational networks. Targeted network sanctions have the potential to disrupt the illicit money flows derived from the theft of South Sudan's main natural resource. This report uncovers many red flags for corruption and evidence of support to those undermining peace in South Sudan, including the use of a trade finance agreement to finance army spending and the supply of fuel to a UN-sanctioned general, who is now the chief of staff. The identified conduct is consistent with sanctions designation criteria under the relevant anti-corruption and South Sudan-specific sanctions authorities.

United States

Investigate illicit money flows. The US Department of the Treasury's Financial Crimes Enforcement Network (FinCEN) should investigate the ways in which the proceeds of corruption in South Sudan's oil sector are laundered outside the country. Most financial transactions in this context, including many of the transactions identified in this report, involve the use of US dollars. FinCEN should issue a section 314b under the Bank Secrecy Act to compel financial institutions and their foreign counterparts to identify related transactions and submit suspicious activity reports when there is suspicion of laundering the proceeds of corruption. This information can form the basis for potential further action.

Expand the Export Administration Regulations (EAR) Entity List. In 2018, the US Department of Commerce's Bureau of Industry and Security (BIS) added South Sudan's Ministry of Petroleum and several other entities involved in the country's oil sector to the EAR Entity List, which imposes "specific license requirements for the export, reexport and/or transfer (in-country) of specified items."⁹⁸⁵ This action highlighted the entrenched corruption in South Sudan's oil dealings, cut off the named entities' access to US-origin goods and technology, and alerted the private sector to the high risk of doing business with them. BIS should investigate and consider adding more companies operating in South Sudan's oil sector to the list, including those named in this report.

European Union

Issue risk-based guidance on trade-based money laundering. The European Banking Authority or its soon-to-be successor, the EU Anti-Money Laundering Authority (AMLA), should consider issuing risk-based guidance for managing trade-based money laundering risks to banks, particularly when dealing with suppliers in high-risk countries or countries on the Financial Action Task Force (FATF) "grey list."⁹⁸⁶ This should include a requirement to carry out transactional due diligence.

Financial institutions

Carry out enhanced measures on FATF grey-listed South Sudan. South Sudan has been added to the FATF "grey list" due to anti-money laundering and countering the financing of terrorism (AML/CFT) deficiencies.⁹⁸⁷ This means that obliged businesses must implement enhanced measures on all businesses



and transactions incorporated in or beneficially owned or controlled by persons in South Sudan. Global and regional financial institutions should take measures to identify accounts held or beneficially owned by those with business dealings in South Sudan's oil sector and senior South Sudanese politically exposed persons (PEPs), carry out a comprehensive assessment to identify their broader international networks, and determine measures needed to mitigate the risks involved in such accounts and customer relationships. Financial institutions should also undertake increased screening, enhanced ongoing monitoring, and transaction reviews to identify, investigate, and report potentially suspicious financial activity related to South Sudan, especially with respect to international networks profiting from such activity.

Carry out enhanced due diligence on PEPs and higher-risk products linked to South Sudan. Financial institutions should carry out enhanced due diligence on accounts, transactions, and products such as high-value letters of credit or similar instruments issued to companies beneficially owned or controlled by South Sudanese PEPs, influential public officials, military officers, their families, and their business associates, as well as on all parties to a transaction. This should include ongoing monitoring of the transaction through to completion.

Know your client's business. Commodity banks should work closely with clients who have interests in oil or mining or who source oil and other natural resources from South Sudan, particularly when offering open account credit, to manage the risks of illicit financial activity involved in these sectors. Banks should understand their clients' end-to-end supply chains in order to identify potential risks associated with money laundering or laundering the proceeds of corruption.

Build capacity and work with partner banks in Uganda and Kenya. International financial institutions should work with their banking partners in Kenya and Uganda to build capacity in AML/CFT and to help them ensure that their systems and controls are reasonably designed to identify and mitigate the risks from transfers involving illicit funds with connections to South Sudan. International financial institutions should also work with their branches and respondent banks in the region to provide facilities and financial services to legitimate South Sudanese businesses and transactions. The banks can proceed in line with their risk appetites and policies while protecting the integrity of the global financial system against illicit finance.

Afreximbank

Investigate dealings with Trinity Energy and the South Sudanese government. The board of directors of Afreximbank should initiate an independent investigation into its relationships and transactions with Trinity Energy and the government of South Sudan. The investigation should include a review of whether the initiation and execution of the trade finance facility described in this report complied with Afreximbank's policies, in particular its anti-bribery and -corruption (ABC) and anti-money laundering (AML) policies,^{988, 989} including identifying and verifying beneficial owners of parties to the transaction, and its gifts and entertainment disclosure measures. The investigation should also review whether the agreement complied with international commercial trade finance standards, including the International Chamber of Commerce's Uniform Customs and Practice for Documentary Credits (UCP). The investigation should also probe how the financing provided to Trinity Energy was utilized and whether Trinity Energy breached any representations or warranties set out in the financing agreement. The results of the investigation should be made public or, at a minimum, shared with the South Sudanese, Kenyan, and Ugandan governments.



Ensure compliance with AML/CFT, ABC, and international trade finance standards and best practices. Afreximbank should undertake a review against AML/CFT international best practices and carry out an assessment of the effectiveness of its AML/CFT and ABC control frameworks, as well as its international trade finance standards. This should include an assessment of its independent testing and audit functions and of its AML/CFT training program. The assessment should be carried out to ensure compliance with international standards and to identify whether Afreximbank meets global best practices as part of the bank's commitment to preventing and deterring money laundering.⁹⁹⁰ In particular, Afreximbank should enhance oversight of high-risk trade financing transactions.

UN Panel of Experts on South Sudan

Investigate Trinity Energy's support for the military and sanctioned entities. The UN Panel of Experts on South Sudan should investigate Trinity Energy's support—via monetary payments and fuel supplies—for political and military leaders and entities. Notably, Trinity's provision of diesel supplies to UN-sanctioned General Santino Deng Wol should be investigated. Trinity provided support to military elements during a precarious time in South Sudan's peace process, and the supplies may have perpetuated violence and stalled efforts toward the implementation of the peace agreement. If appropriate, the UN Panel of Experts should recommend the imposition of additional sanctions and other accountability measures.

World Bank and the International Monetary Fund

Assess government institutions and corruption risks in South Sudan. The International Monetary Fund (IMF) should work with South Sudan to realize a dramatic improvement in governance, including by strengthening institutions and accountability mechanisms. In addition, the IMF should utilize its suite of fiscal governance assessment tools—for instance, its Public Investment Management Assessment (PIMA) and Fiscal Transparency Evaluation (FTE)—to evaluate progress in improving accountability and governance shortcomings in South Sudan. These steps should be a critical component for accessing external financial support from development partners. The World Bank and IMF should also condition future technical and financial assistance on a credible reform of the country's institutions of accountability.

Kenya and Uganda

Investigate and prosecute illicit money flows. Authorities in Kenya and Uganda should investigate the transactions identified in this report in which money sent to company accounts in the two countries raised red flags for trade-based money laundering. Uganda particularly should investigate the trades identified in this report for which no physical trade was recorded, a classic red flag for trade-based money laundering. Kenya should investigate the finances of Kenyan national Ann Kathure Rutere to ascertain whether any dubious or illegal payments or deposits have been made into her accounts. Where appropriate, Kenya and Uganda should launch criminal proceedings to repatriate assets.

Issue an advisory on the money laundering risks associated with South Sudanese corruption. The governments of Kenya and Uganda should issue an advisory warning of the money laundering risks of dealing with South Sudanese entities, especially those with connections to political elites and high-risk sectors such as natural resources and extractives. As The Sentry and others' reporting has repeatedly highlighted, South Sudanese corruption-related money flows have often found a home in or flowed through Kenya and Uganda. These illicit flows will continue to be a threat to the integrity of the countries' financial systems and



need to be urgently disrupted. This is particularly pertinent given Kenya's ongoing Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG) mutual evaluation of its AML/CFT framework and Uganda's ongoing efforts to end the country's "grey-listing" for shortcomings in its AML/CFT rules and regulations.

Commodities traders

Carry out corporate due diligence on supply chains. Commodities firms should ensure that they know their local agents and suppliers and understand the risks they are exposed to in their supply chain, especially when operating in higher risk countries. They should understand who it is they are doing business with, including the corporate structures and beneficial owners of in-country partners.

Carry out deal due diligence. Commodities firms should carry out deal due diligence on oil deals in higher risk countries. This should include gaining an understanding of parties involved in a large deal and how the deal was put together, carrying out risk assessments, and assessing how licenses linked to extractives were awarded and whether they complied with local laws and regulations.

Carry out more detailed external financial reporting, including country-specific reporting. Commodity traders should publish much more detailed financial reports, broken down specifically by country. This will allow for greater monitoring of financial flows in- and out-of-country, allowing for civil society to hold governments to account where bribery is suspected.

Other jurisdictions with connections to activities highlighted in this report

The government of Malawi should take steps to protect Malawian whistleblowers. Malawian authorities should urge South Sudan's government to declare a full pardon for Malawian whistleblower Biswick Kaswaswa following his unlawful detention and torture between 2018 and 2020.⁹⁹¹ Authorities should also urge the Rwandan government to investigate Kaswaswa's illegal extradition from Rwanda to South Sudan in 2018.

The government of India should investigate the potential role of an Indian national. Indian authorities should investigate whether Indian national Richard Raja, director of Trinity Energy, had a role in potential illegal activities including bribery, corruption, and trade-based money laundering activities, for which red flags are identified in this report. In particular, Indian authorities should investigate Raja's finances to ascertain whether any dubious or illegal payments or deposits have been made into his accounts.

South Sudan

Ratify and implement the African Union Convention on Preventing and Combating Corruption, which South Sudan signed in 2013.

Implement Chapter IV of the Revitalised Agreement on the Resolution of the Conflict in the Republic of South Sudan (R-ARCSS) to address the crippling cycle of debt, economic mismanagement, and corruption undermining economic prosperity and fueling conflict.⁹⁹² In accordance with Chapter IV, the government of South Sudan must reorient its priorities to make sustainable development, sound fiscal management, transparency, accountability, and the well-being of its citizens central pillars of economic policy. The gov-



ernment should implement specific provisions within the R-ARCSS that relate to the management of the oil sector. Specifically, it should:

- Ensure that all loans and contracts collateralized or guaranteed against oil are identified, checked, and recorded for the purposes of transparency and accountability. (Article 4.8.1.3)
- Ensure that the oil marketing system is open, transparent, and competitive and that any fraudulent dealings are checked and severely punished. (Article 4.8.1.7)
- Ensure transparent management of the oil industry and efficient and equitable distribution of oil wealth for the welfare of the people and the sustainable development of the country. (Article 4.8.1.14.1)
- Review and audit all oil revenues due to the national government and their allocation in the budget since 2011. (Article 4.8.1.14.10)
- Adopt strict measures to control borrowing and to ensure that all borrowing is in accordance with the law. (Article 4.12.1.3)
- Ensure that debts, arrears, and pre-payments are audited, fully accounted for, responsibly managed, and controlled. Ensure that new debt will be undertaken in an open, transparent, and responsible fashion and in accordance with the law. (Article 4.14.3)
- Identify, check, and make public all loans and contracts collateralized or guaranteed with oil. (Article 4.14.4)

Conduct a rigorous investigation into the 2018 trade finance facility between Afreximbank and Trinity Energy Limited, as well as its implementation, to identify breaches of the laws of South Sudan and prosecute transgressors.

Implement the policy, announced in June 2019, to ban sales of future oil production.⁹⁹³ The government launched an investigation of crude pre-sales in June 2019,⁹⁹⁴ but the investigation was closed without the publication of any results,⁹⁹⁵ and loans guaranteed against future crude sales have continued.⁹⁹⁶ The government should cease this costly practice, which mortgages the country's future prosperity.

Ensure that deals involving the sale of oil are submitted for approval by the National Legislative Assembly (NLA). Ensure that the Public Accounts Committee in the NLA is empowered to independently scrutinize the government's oil sector accounts.

Publish details of the tendering process by which petroleum products were purchased by the government of South Sudan from Trinity Energy, including the volumes procured and the prices paid. Publish the details of the tendering process by which cargoes of crude were awarded by the government of South Sudan to Trinity Energy Limited, along with the volumes sold and the prices paid by Trinity Energy, to ensure compliance with the 2012 Petroleum Act,⁹⁹⁷ the 2011 Transitional Constitution,⁹⁹⁸ the 2018 Revitalised Peace Agreement,⁹⁹⁹ the 2006 Interim Public Procurement and Disposal Regulation,¹⁰⁰⁰ and the 2018 Public Procurement and Disposal of Assets Act.¹⁰⁰¹



Carry out a thorough investigation into the taxes paid by Trinity Energy to the government of South Sudan to ensure that the company was in compliance with the 2009 Taxation Act.¹⁰⁰² Specifically, ensure that any taxes waived or discounted by the government of South Sudan were in compliance with the act and with the processes and regulations of the South Sudan National Revenue Authority.

Investigate the foreign exchange practices of Trinity Energy and Moonlight Travel & Tours, specifically whether they breached Regulation No. 7, 2012, on the licensing and supervision of foreign exchange bureaus,¹⁰⁰³ in particular section 3, which limits foreign exchange to licensed banks and licensed foreign exchange bureaus.¹⁰⁰⁴

Explicitly outlaw the use of the black market for foreign exchange transactions by corporations operating in South Sudan by amending Regulation No. 19, 2012, on the licensing and supervision of foreign exchange bureaus.

Introduce legislation to regulate lobbying to bring it in line with international best practice.¹⁰⁰⁵

Reconstitute and empower the National Petroleum and Gas Commission in accordance with the 2012 Petroleum Act so that the Commission can carry out its mandate to supervise petroleum resource management and ensure the government's compliance with the Petroleum Act.¹⁰⁰⁶

Create and staff the South Sudan Public Procurement and Disposal of Assets Authority in accordance with the Public Procurement and Disposal of Assets Act, 2018,¹⁰⁰⁷ and empower it to carry out its mandate. The Authority should be directed to investigate the process by which the South Sudanese army procured fuel from Trinity Energy and establish whether this process was compliant with the 2006 Interim Public Procurement and Disposal Regulation and the 2018 Public Procurement and Disposal of Assets Act.^{1008, 1009}

Strengthen the effectiveness of South Sudan's anti-money laundering and countering the financing of terrorism (AML/CFT) regime by working with the Financial Action Task Force (FATF) in accordance with the government of South Sudan's June 2021 political commitment.¹⁰¹⁰

Progress through parliament and sign into law the 2014 Anti-Corruption Bill to replace the 2009 Anti-Corruption Commission Act and give prosecutorial power to the Anti-Corruption Commission, as stipulated in the 2011 Transitional Constitution.¹⁰¹¹ Once the bill is law, take immediate steps to empower the Anti-Corruption Commission with prosecutorial privileges.

Fully fund and empower the Anti-Corruption Commission and the National Audit Chamber to carry out their responsibilities free from political pressure.

Drop all charges against Biswick Kaswaswa related to his detention in Juba between 2018 and 2020 and the failed prosecutions in Rwanda in 2018 and South Sudan in 2020; investigate the alleged mistreatment of Kaswaswa during his incarceration, with specific reference to Articles 18(6) and 19(6-7) of the 2011 Transitional Constitution of the Republic of South Sudan.¹⁰¹²

The South Sudan National Revenue Authority and the auditor general should investigate the red flags for bribery and trade-based money laundering identified in this report. In addition, they should ensure that Trinity Energy is compliant with all taxes to which it is subject under South Sudanese law, now



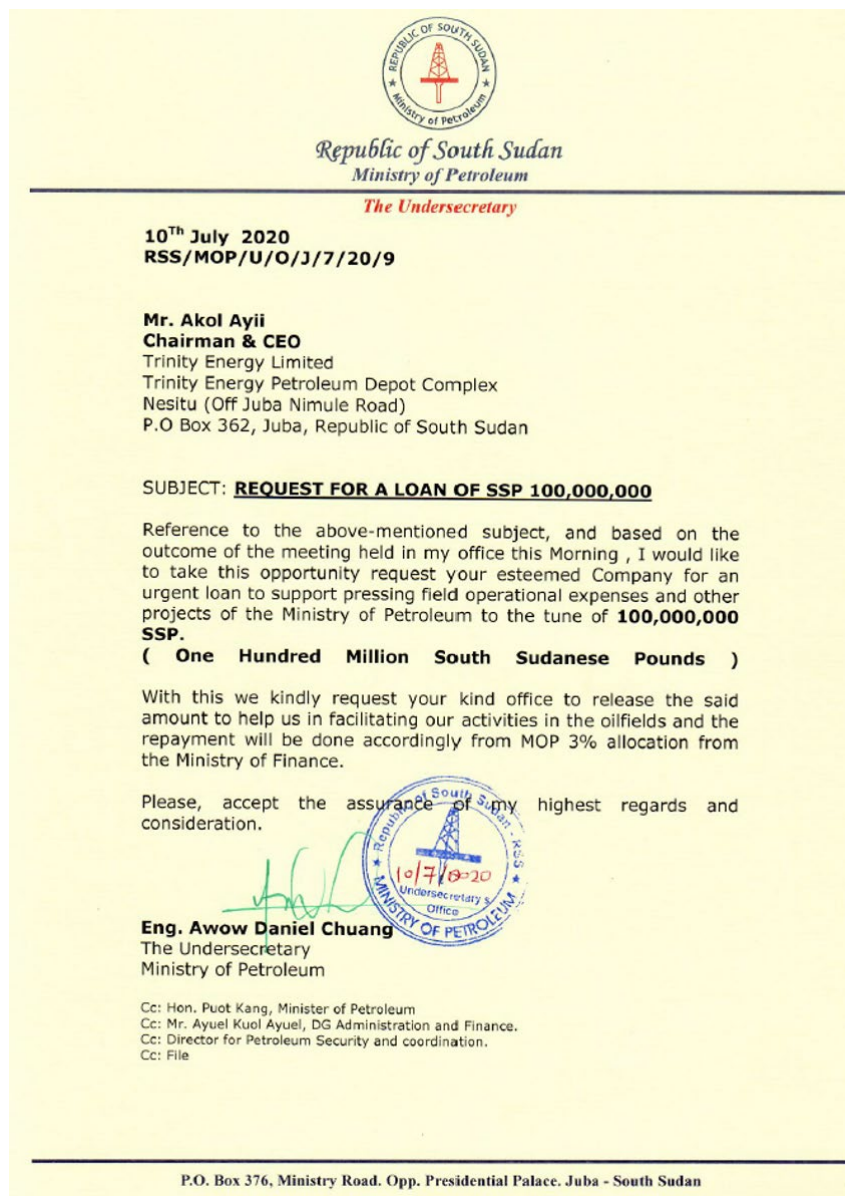
and in the future; carry out a thorough investigation into the processes by which tax discounts are given to corporations; and publish regular audit reports into government budgets, revenues, and spending, as stipulated in the 2011 Transitional Constitution.¹⁰¹³

The Anti-Corruption Commission should investigate the red flags for bribery and cronyism identified in this report, particularly those involving individuals in positions of authority, and prosecute those found guilty of transgressing the law.



Annex

In July 2020, the Ministry of Petroleum requested an “urgent loan” of 100 million SSP (\$621,118) from Trinity Energy for “pressing field operational expenses and other projects.”



Source: The Sentry.



Addendum: Comment From Trinity Energy, February 20, 2023

On July 28, 2022, The Sentry wrote to Trinity Energy shareholder and chairman Akol Emmanuel Ayii Madut, Trinity Energy director Richard Thadeus Raja, and Trinity Energy chief executive officer Robert Mdeza to share in detail the findings of this report, giving each of them an opportunity to respond to the findings by August 11, 2022. None of them responded. On February 20, 2023, the evening before this report was to be published, Robert Mdeza wrote to The Sentry on behalf of Trinity Energy to comment on the report for the first time.

Below is a summary of the matters raised by Mdeza:

- Trinity claims that there are “significant credibility issues” with the company’s former employee Biswick Kaswaswa.
- Trinity disputes The Sentry’s finding that Trinity spent \$1.5 million on “lobbyist fees and facilitation fees.” Mdeza states: “[O]ne of the Conditions Precedent (‘CPs’), to operationalize the \$30M Import Finance Facility with Afreximbank required TEL [Trinity Energy Limited] to deposit a five percent (5%) collateral cash margin to Afreximbank which is a fact documented in the context of the respective facility agreement. This 5% deposit equated to \$1.5 million a requirement for TEL to access the full facility value.” However, in the Trinity Energy document cited by The Sentry, “Cash Margin” and “Lobbyist fees and Facilitation Fees” are listed as two separate items, each of them costing \$1.5 million.
- In response to The Sentry’s finding that “Trinity Energy traded at least 4.2 million barrels of crude in the June 2018 to May 2019 financial year,” a figure based on a report published by the Ministry of Petroleum, Mdeza states that “in 2018 TEL sold 1,849,998 barrels of crude oil to Glencore and in 2019 TEL sold 6,022,153 barrels of crude oil to Glencore.”
- In response to questions raised in this report as to whether Trinity Energy was compliant with its tax obligations, Mdeza states that the company “paid over SSP 82,000,000 (\$630,000 USD) in taxes during the period of January 2017 through December 2020,” and that “[t]hese payments were audited by the Ministry of Finance and Economic Planning’s National Directorate of Taxation.”
- According to Mdeza, “Trinity has built a stellar reputation amongst its business partners, brought stability to the fuel market in South Sudan, maintained transparent records of each and every transaction under the Afreximbank facility, and contributed countless millions of dollars to the betterment of the South Sudanese people.”
- Mdeza contends that “[c]ontrary to the actions of other market participants, who effectively operate as a cartel in exploiting the resources of South Sudan, TEL has acted in a transparent and bona fide commercial manner in its dealings in the oil market.”
- In response to The Sentry’s findings that Trinity Energy used the black market to exchange US dollars into South Sudanese pounds, Mdeza states: “Despite the Report’s conclusions regarding TEL’s currency exchange practice, particularly by use of historic official exchange rates, the truth of the matter for any business operating in South Sudan during the period in question was that no



financial institution, not even the Central Bank of South Sudan itself, had sufficient hard currency reserves to facilitate the scale of exchange necessary to manage a credit facility the size of the Afreximbank facility – a facility that was critical to maintaining a supply of fuel to the country as a whole given that there exists no refining capacity in South Sudan for its own crude oil as feedstock.”



Endnotes

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