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United States Senate

COMMITTEE ON FINANCE

WASHINGTON, DC 20510-6200

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April 1, 2020

VIA ELECTRONIC TRANSMISSION

Deborah Connor, Chief
Money Laundering and Asset Recovery Section
United States Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Ms. Connor:

In 2014, the Isle of Jersey, a British dependency seized more than \$320 million laundered by the corrupt former dictator of Nigeria, General Sani Abacha. After a long legal battle, the Isle of Jersey and the United States have entered into an agreement to repatriate this money back to Nigeria in the coming months. Yet, according to a recent Bloomberg article, the current Nigerian government is refusing to help the U.S. Department of Justice (DOJ) finalize a second forfeiture action against a separate \$100 million in Abacha loot.¹ In addition to this lack of cooperation, if Nigeria did receive the second batch of funds, it intends to return the money to an official who DOJ says “was involved in corruption with Abacha.”²

Nigeria’s corrupt history, its plan to return stolen money to an official involved in the original corruption, and its refusal to assist the U.S. with an Abacha forfeiture action raise serious questions about how the Money Laundering and Asset Recovery Section (MLARS) is handling these matters. Particularly, it seems odd that the DOJ would help facilitate the payment of \$320 million to the Nigerian government without first insisting on proper safeguards to prevent the further misuse of funds, as well as full cooperation in other forfeiture actions related to the Abacha loot.

There are also serious human rights concerns. Under President Muhammadu Buhari’s government, Nigerians face violations undermining freedom of religion, freedom of speech, due process, and the rule of law. The persecution of Christians is especially alarming, as attacks have increased rapidly. According to Amnesty International, thousands of Nigerian Christians have been murdered in recent years. One report indicates that 350 Christians were killed since the beginning of 2020, and nearly 12,000 since the beginning of the Buhari government’s tenure.³ In late December, the U.S. State Department labelled Nigeria a “severe violator of religious freedom,” and put the country on a Special

¹ William Clowes, *U.S. Opposes Nigeria Plan to Hand Looted Funds to Governor*, BLOOMBERG (Feb. 20, 2020), <https://www.bloomberg.com/news/articles/2020-02-21/u-s-opposes-nigeria-plan-to-hand-looted-funds-to-state-governor>.

² *Id.*

³ *350 Christians Killed In 2020 In Nigeria -Rights Group*, THE TIDE (Mar. 9, 2020), <http://www.thetidenewsonline.com/2020/03/09/350-christians-killed-in-2020-in-nigeria-rights-group/>.

Watch List (SWL).⁴ Last Christmas, a Boko Haram/ISIS affiliated group beheaded ten Christian Nigerians and shot another.⁵ The Buhari government's failure to adequately combat such non-state terrorism has emboldened these groups to increase attacks on innocent and peaceful citizens.

The Buhari government's own agencies have also abused the civil liberties of innocent Nigerian citizens. Last December's re-arrest and detention of a U.S. green card-holding journalist is just the latest, high profile example.⁶ The re-arrest and detainment of New Jersey resident Omoyele Sowore—just one day after he was released by a judicial court—is a clear testament to its glaring contempt of judicial opinion and the rule of law. Mr. Sowore, an activist journalist and former political opponent of President Buhari, is still being detained, a blatant transgression of international norms. Countless other Nigerian citizens are also being incarcerated in disastrous conditions. According to Amnesty International, the military has routinely and without consequence conducted violent and sexually abusive behavior towards women.⁷

Under the guidance of Attorney General Abubakar Malami and governed by Chairman Ibrahim Magu, the Economic Financial Crimes Commission (EFCC) has served as an enforcement arm against anyone voicing opposition to the Buhari government.⁸ The EFCC is ostensibly an anti-corruption component of the Buhari Government, yet it has allegedly been involved in the detention of innocent individuals and withheld critical medical care and legal representation all in violation of the Nigerian Constitution.⁹

Given all these circumstances, it is critical for Congress to understand what steps the United States government is taking, before it helps transfer hundreds of millions of dollars to Nigeria, to ensure that the money is not fueling more corruption and government abuses. Please provide detailed written responses to the following, no later than April 23, 2020:

1. Please provide a copy of the agreement between the United States, the Isle of Jersey, and Nigeria.
2. After the money is transferred, what oversight mechanism, if any, will ensure that Nigeria is acting in good faith in accordance with the agreement facilitated by the United States and the Isle of Jersey? If none, please explain why not and what steps the United States could take *before transmitting* the funds to ensure proper oversight.
3. What enforcement mechanism exists, if any, to recoup funds that are not spent in accordance with the agreement? If none, please explain why not and what steps the United States could take *before transmitting* the funds to ensure that the agreement can be enforced.

⁴ Amnesty Int'l Ltd., *Harvest of Death: Three Years of Bloody Clashes Between Farmers and Herders in Nigeria*, Amnesty Int'l, (Dec. 17, 2018), available at <https://www.amnesty.org/download/Documents/AFR4495032018ENGLISH.PDF>; Press Statement, *United States Takes Action Against Violators of Religious Freedom*, U.S. Dep't of State (Dec. 12, 2010)(Statement by Sec'y of State Michael R. Pompeo), available at <https://www.state.gov/united-states-takes-action-against-violators-of-religious-freedom/>.

⁵ Spencer Neale, *ISIS Terrorists Mark Christmas by Beheading 10 Christians on Video*, WASH. EXAM'R (Dec. 27, 2019), <https://www.washingtonexaminer.com/news/isis-terrorists-mark-christmas-by-beheading-10-christians-on-video>.

⁶ Joe Parkinson, *Nigeria's Detention of Journalist Reflects Escalating Media Crackdown*, WALL ST. J. (Dec. 16, 2019), <https://www.wsj.com/articles/nigerias-detention-of-journalist-reflects-escalating-media-crackdown-11576509176>.

⁷ Amnesty Int'l Ltd., *Women in North-east Nigeria Starved and Raped by Those Claiming to Rescue Them*, Amnesty Int'l (Nov. 23, 2018), available at <https://www.amnesty.org/download/Documents/AFR4491222018ENGLISH.PDF>.

⁸ Noah Bijie, *I Saw Hell in EFCC Cell –Shehu Sani*, THE SUN (Feb. 2, 2020), <https://www.sunnewsonline.com/i-saw-hell-in-efcc-cell-shehu-sani/>.

⁹ Malik Abdulganiy, *The Insider: EFCC to Keep Adoke in Perpetual Detention — Despite Court Order*, THE CABLE (Feb. 5, 2020), <https://www.thecable.ng/the-insider-efcc-to-keep-adoke-in-perpetual-detention-despite-court-order>.

4. The funds are supposed to be earmarked for specific infrastructure projects, but what safeguards, if any, prevent Nigeria from using the funds to pay contractors with a history of violating the Foreign Corrupt Practices Act (FCPA) or similar violations? If none, please explain why not.
5. Has the Nigerian government identified the contractors to be used on the projects, and if so, has the United States determined whether the firms have a history of FCPA or other violations? If not, please explain why not.
6. Given the EFCC's role in detaining individuals who have spoken against the Buhari government, what steps has the United States government taken to consider whether sanctions would be appropriate against certain individuals such as EFCC Chairman Magu and Attorney General Malami under the Global Magnitsky Act or the Frank R. Wolf International Religious Freedom Act?
7. Why is the U.S. participating in the return of some stolen Abacha funds even though Nigeria is not fully cooperating with U.S. forfeiture of other stolen Abacha money?
8. What steps are being taken to ensure that Nigeria does not return any stolen money to any of the officials who were involved with the original Abacha corruption?

Freedom of speech, freedom of religion, and respect for the rule of law are central tenets of any democracy, anywhere in the world. When a government cannot protect these basic human rights, it is of deep and profound concern. Furthermore, it is imperative that repatriated funds seized from a previously corrupt regime are used appropriately.

The Abacha funds transfer and Mr. Sowore's next trial are both imminent. Accordingly, please provide written responses by the date requested and be prepared to schedule a follow-up briefing soon thereafter.

Thank you for your attention to this matter.

Sincerely,



Charles E. Grassley
Chairman
Committee on Finance