

10th April, 2017

The Vice President and Chairman, Asset Recovery Committee,
Federal Republic of Nigeria
Aso Presidential Villa
Abuja.

*L. Elizabeth
Barrister 19/04/17
2942hrs*

Dear Sir,

**REQUEST FOR THE INTERVENTION AND REPRESENTATION OF NIGERIA AS AN AG-
GRIEVED PARTY IN THE HEARING OF THE MILAN COURT'S PROSECUTION OFSHELL
AND ENI WITH RESPECT TO THE SCANDALOUS MALABU DEAL**

The above subject matter refers.

The Human and Environmental Development Agenda (HEDA Resource Centre) (HEDA) is a Nigerian based non-governmental organisation. It was registered with the Corporate Affairs Commission on the in 2004 under Part C as an Incorporated Trustee. HEDA's aims and objectives, as set out in its incorporation document. HEDA is committed to human and environmental development, with a mandate to achieve the specific objectives on democracy and good governance through participatory democratic culture in the government and the people and respect for and promotion of rule of law.

The above aims and objectives are broadly defined, reflecting a wide range of issues relating to human rights, environment, good governance, anti-corruption and development on which HEDA works. HEDA Networks with other human rights bodies and governmental apparatuses in promoting the spirit of qualitative, responsive, accountable and transparent leaderships as well as responsible and patriotic citizenry. HEDA's work in the last 10 years has been on exposing and combating corruption, which HEDA views as a major impediment to its objective of encouraging the promotion of human rights and the sustainable and equitable use of natural resources for the common good of all members of the society.

The media was awash about six (6) years ago with information on how one of Nigeria's richest oil field, OPL 245 was sold in shady circumstances and more than half of the \$1.1 Billion paid to Malabu Oil and Gas for the procurement was used to bribe Nigerian politicians and intermediaries who helped to secure the controversial deal for both Shell and ENI. Media reports on the issue indicted former President Goodluck Jonathan, some public officials in his administration, some Italian nationals, including the Nigerian Agip Exploration, Shell and Eni.

Despite overwhelming evidences showing that Shell and Eni are aware that a specified chunk of the money would be paid to a character with a shady background, officials of the companies have denied any wrong doing in the affair, even when it was revealed that on the 29th of April, 2011 Eni transferred \$1.092 Billion dollars into an escrow account of the Nigerian government at the bank; JP Morgan Chase in London which is not the usual account of the state but a parallel one. Shell has now admitted that it knew that former oil minister Dan Etete, a convicted money-launderer, was involved in Malabu and that the proceeds of the 2011 deal went to Malabu. It is a matter of record that Etete awarded OPL 245 to Malabu when he was himself the oil minister.

In addition to the above, the reports of the Public Prosecution Office at the ordinary court of Milan in its notification of completion of preliminary investigations highlighted the role of Eni's former Chief Executive Officer, Paola Scaroni and his successor Claudio Descalzi and indicted them for alleged international corruption over the scandal. Kindly find attached a copy of the said investigation report.

The said investigation report indicted some former Nigerian government officials for formulating what was called the 'FGN Resolution Agreement' vesting 50% each to Eni and Shell, in violation of the reserve of allowances guaranteed to so called 'indigenoucompanies' based on government guidelines, with full unconditional exemption from all national taxes, with express limitations and constraints to the power of the Nigerian government and all government bodies or agencies to take over exploitation of the oil block under the Nigerian government's obligation to 'hold harmless' Eni and Shell from any future legal action relating to the block and from possible unfavourable rulings and court costs.

Our petition in respect of the above prosecution is buoyed by the following facts:

- Evidence abound via leaked emails that senior executives of the companies were aware that payments made in 2011 for oil block OPL 245, one of Africa's most valuable oil blocks would go to convicted money launderer and ex Nigerian Oil Minister Dan Etete and certain government officials rather than to the suffering people of Nigeria but still selfishly and corruptly went through with the deal that deprived the Nigerian people of billions of dollars. This goes to prove that the companies who are purportedly most powerful and profitable oil companies have only masqueraded as leaders of responsible businesses, while robbing countries of their natural resources. As noted, Shell has officially admitted that it had knowledge of Dan Etete's potential benefit from the deal.
- Currently two countries have opened investigations into the deal and there is a strong chance that Shell and ENI would lose the oil block following the trial on international corruption charges.

- Shell and Eni's corrupt deal had huge consequences for ordinary Nigerians as right now, according to Global Witness, about five million people across Nigeria face starvation and one in ten children do not live to see their fifth birthday, while the money paid for the block equates to one and a half times what the United Nations says is needed to respond to the country's current famine crisis. Also, the payment for the deal is worth more than Nigeria's entire health budget for 2016.
- Shining a light on corrupt deals like OPL 245 Bribery scheme prevents multinational companies from scheming with greedy government officials to get rich at the expense of ordinary people.
- The prosecution of Shell and Eni will serve as a veritable ground for the passage of relevant laws that require Oil, Gas and Mining companies to disclose what they are paying any government on a project by project basis, just as is obtainable in over 30 major economies including the United States of America, Canada, Norway, United Kingdom and all E.U countries.

In view of the above facts, we hereby urge that the country be duly represented as a victim of the bribery scheme at the Italian Court's preliminary hearing on the case which will begin on the 20th day of April, 2017 to determine whether ENI and Shell will face trial on international corruption charges.

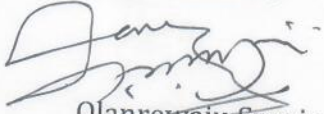
Furthermore, before the beginning of the actual trial - in which is likely to September or October 2017 - assuming permission is granted by the Italian Court we urge the FGN to request the judge to be recognised as a civil party to the criminal proceeding in order to request adequate compensation for the damages received by the corruption scheme. Being a civil party would allow the FGN to bring its own evidence to the Court, appoint its witness lists and cross-examine all other witnesses, and defendants too - whether or the latter would accept it. In short the FGN would become and actual additional prosecutor supporting the work of the public prosecutor in the case. In two year time, in the event of a positive ruling, the FGN might be awarded significant damages, up to the entire \$1.1 billion paid, and even more given that the OPL 245 did not get properly developed right when the oil price was very high, so that the FGN missed important royalties and revenues from the field exploitation.

We believe that Nigeria's active participation and representation at the said trial will go a long way to booster the confidence of the citizenry in the current anti-corruption campaign of the federal government in addition to the recovery of assets of the country that has been corruptly looted by greedy government officials, thus providing financial strength for the government's bid to improve the human development of the country.

We look forward to your response and support for the country's representation at the trials in the general interest of the citizenry.

Thank you.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Olanrewaju Suraju', written in a cursive style.

Olanrewaju Suraju
(Chairman)