

ONE ESSEX COURT

TEMPLE LONDON EC4Y 9AR

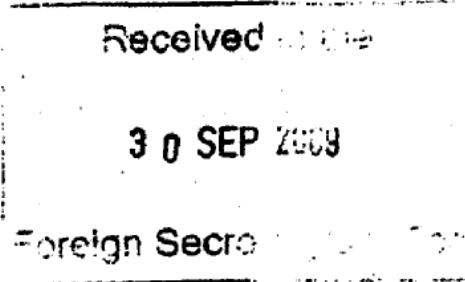


Rt. Hon. David Miliband, MP
Secretary of State
Foreign and Commonwealth Office
Whitehall
London SW1A 2AH

24 September 2009

TB/1EC

Dear David,



Nigeria

I am writing following a recent meeting (Tuesday 21st September) I had in Abuja, with His Excellency the President of Nigeria – President Yar ‘Adua.

The fact that the President asked to see me and the points that he raised with me are I suspect matters on which you, the FCO, and the Government more widely, may wish to reflect.

Accordingly, I am copying this letter to the Home Secretary, the Secretary of State for Justice, and the Attorney-General, and as a courtesy, I am sending a copy to the UK High Commissioner to Nigeria in Abuja.

I have recently been instructed by Sarosh Zaiwalla, of Zaiwalla & Co., solicitors, to represent James Ibori.

My understanding is that James Ibori faces no charges in the United Kingdom. However, his wife and a number of people closely associated with him have been indicted to stand trial at Southwark Crown Court on a number of counts of offences allegedly against the Proceeds of Crime Act 2002.

I do not represent any of these defendants and am in no way involved with their defence and of course the conduct of that case is a matter for the Crown Court.

Arising out of those proceedings the Courts made a fairly Draconian world-wide freezing Order on all of James Ibori's assets.

I understand that this Order was initially imposed by a Crown Court Judge having the conduct of the preliminary issues in the trial of James Ibori's wife and others but after a period of some two months, the same Judge discharged the Order because he did not consider that it could be justified.

The Crown Prosecution Service then appealed that decision, ex parte, to the Court of Appeal (Criminal Division) who re-imposed the Order which remains in place to this day some two years later, with obvious and serious consequences for James Ibori and his ability to live his life day by day, notwithstanding that he himself is not before the Courts of the UK on any matter.

As I understand it, the case against James Ibori's wife and others is that they purchased a number of properties in London using money which it is alleged derived from corrupt practices in Nigeria, perpetrated by James Ibori.

So the Prosecution will have to prove that James Ibori was guilty of corruption in Nigeria, and that part of the proceeds of any such corruption were used to purchase the specified properties in London.

As you will know, James Ibori is a public figure in Nigeria, a former Governor of Delta State, and still actively involved with the governing party of Nigeria.

He is not difficult to find.

I am told that notwithstanding several visits to Nigeria by the Metropolitan Police, in connection with these matters, no attempt has ever been made to invite James Ibori's response to the allegations that have been made against him, or to give him an opportunity to put his side of the story – notwithstanding that the UK Authorities have sought to impose a worldwide freezing Order on all his assets.

I enclose a notarised statement, together with supporting documents, given by James Ibori, which he tells me is the first time that anyone has sought to listen to his explanation of what has occurred.

President Yar 'Adua made the following points to me at our meeting.

- The Government of Nigeria is determined to bear down on corruption wherever it occurs. The President firmly believes that unless corruption is dealt with firmly, it will undermine the progress of development in Nigeria.
- To that end he is seeking to ensure that the EFCC have the resources and the independence properly and effectively to carry out their responsibilities.

- However, the President also clearly believes that the EFCC should only initiate investigations if there is prima facie evidence of corruption and of specific individuals performing corrupt acts.
- He clearly feels very strongly that it is imperative that the Rule of Law should prevail in Nigeria and no official should be allowed to pursue any citizen without prima facie evidence of wrong doing.

I understand that the President made these points very clearly and without equivocation to our Prime Minister when they last met for bilateral talks and I am sure that the Minute of that meeting will show that the President of Nigeria is very clear that any alleged corruption in Nigeria should be tackled firmly and fearlessly and where there is prima facie evidence of wrong doing, people should be prosecuted in Nigeria.

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

[REDACTED]

From his comments to me, President Yar 'Adua also firmly believes that if any Nigerian is being accused of perpetrating corrupt acts in Nigeria, that those persons should be investigated and if appropriate prosecuted in Nigeria, and he finds it extremely difficult to understand how the UK Authorities can effectively declare a Nigerian citizen guilty of corruption without even giving that person the opportunity to respond to the matters put against them.

There is, I think, a sense that the worldwide freezing Order against a Nigerian citizen made in a foreign Court, when that person has not been found guilty of any wrongdoing, was a sort of Colonialism with London trying to control what happens in Nigeria.

As you will know, James Ibori is facing trial in Nigeria on allegations of corruption brought by exactly the same officials in the EFCC and that the President firmly believes is a matter for the Nigerian Courts to deal with justly and according to the evidence and can't understand why the UK Authorities couldn't wait until the outcome of such Nigerian proceedings which, if they should find Ibori guilty of corruption, it would then be a matter of judicial note that he had been found guilty, but if he should be found not guilty, that will simply reinforce the impression that Nigerian citizens are being tried effectively "in absentia" in overseas Courts, notwithstanding that they have not been found guilty by the competent Authorities of any offence in Nigeria.

The meeting with President Yar 'Adua lasted some 45 minutes or so, throughout which time the President did almost all of the speaking. He is, as you know, a quiet and dignified man, but these are issues on which he clearly feels very strongly.

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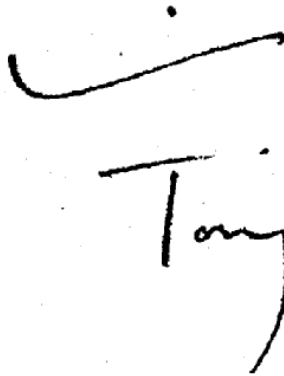
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The President's sense of injury must, I suspect, affect the nature of UK/Nigerian bilateral relations.

It is an enormous pity that, given that both countries and both Governments are so determined to bear down on corruption, that there should be such disquiet over this particular case, and perhaps after the outcome of the present Crown Court proceedings are known, the FCO, CPS and others might want to reflect on what lessons need to be learnt from the procedures followed in this case.

Tony Baldry

A handwritten signature in black ink, consisting of a stylized 'T' followed by 'ony'.