Memorandum
to
Secretary of State for International Development

Concerns over alleged corruption in CDC-backed companies in Nigeria

by

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Summary

The corrosive impacts of corruption on development and on democratic accountability have been widely documented.[1] It would be wholly inaccurate, however, to characterise corruption as a problem solely of the South. Corruption flourishes wherever the powerful are able to undermine the rule of law for personal gain. It is as common in the North as it is in the South. Moreover, much of the corruption that takes place in developing countries is possible only with the complicity – active or passive – of Northern financial institutions, which enable bribes and other forms of corrupt wealth to be laundered through "legitimate" investments.

The former Labour Government recognised the role played by Northern companies and financial institutions in facilitating corruption, and thus made promoting good governance and combating corruption the "centrepiece"[2] of its policy on international development. Nonetheless, the UK has been widely criticised for failing to clamp down on "home grown" corruption overseas.[3] In addition, despite the adoption of anti-corruption procedures by government departments that directly and indirectly support UK business overseas, there is continuing evidence of the Government failing to act where credible evidence of corruption is presented to it.[4]

This Memorandum from concerned Non-Governmental Organisations (NGOs) raises several questions over the due diligence conducted by the CDC Group, a company wholly owned by the UK Government, in its dealings with two private equity firms[5] – Emerging Capital Partners (ECP) and Ethos – that CDC has supported in Nigeria. Both firms have invested in Nigerian companies reported to be "fronts"[6] for the alleged laundering of money said to have been obtained corruptly by the former Governor of Nigeria's oil rich Delta State, James Ibori. Ibori is currently under investigation by Nigeria's Economic and Financial Crimes Commission (EFCC) for alleged corruption.[7]

The CDC Group (formerly the Commonwealth Development Corporation) is a public limited company that is wholly owned by the UK's Department for International Development (DfID).[8] Created in 1948 to promote private sector development in the UK's former colonies,[9] CDC was substantially restructured in 2004: instead of investing directly in companies, it now primarily does so indirectly,[10] providing capital to "private equity funds that in turn invest in companies in the poor countries of the world".[11] CDC now describes itself as a "fund of funds".[12] At the end of 2009, CDC had assets of ข 2.5 billion (US$4.0 billion)[13] and investments in 65 funds, which in turn invest in 794 companies in 71 countries,[14] notably in Asia and sub-Saharan Africa.

CDC states that "responsible investment practices have always been core to CDC's mandate".[15] The funds in which CDC invests are selected because of their managers' specialist knowledge and understanding of the countries in which they operate.[16] Moreover, they are expected to invest only in accordance with CDC's Investment Code,[17] which requires, *inter alia*, that all businesses in which CDC's capital is invested comply with all applicable laws and international standards intended to prevent bribery and financial crime.[18] The aim is "to ensure that portfolio companies improve upon their business practices from the environmental, social and governance perspectives during their investment period."[19]

As detailed in this Memorandum, serious concerns have emerged over whether or not two CDC-backed private equity funds – Emerging Capital Partners Africa Fund II PCC (ECP Africa Fund II) and Ethos Fund V – complied with CDC's Investment Code. Both funds have invested in Nigerian companies reported to be "fronts"[20] for the alleged laundering of money said to have been obtained corruptly by the former Governor of Nigeria's oil rich Delta State, James Ibori. Nigeria's Economic and Financial Crimes Commission (EFCC) and law enforcement agencies in the UK have alleged links between these ECP- or Ethos-backed companies and Ibori and/or his associates. Specifically:

- In October 2007, the Economic and Financial Crimes Commission (EFCC), Nigeria's prime anti-corruption enforcement agency, named four companies – Notore, OandO, Celtel and Oceanic Bank – in a sworn affidavit as companies through which funds are alleged to have been corruptly moved on behalf of James Ibori, the former Governor of Nigeria's Delta State.[21] Emerging Capital Partners (ECP) or Ethos has invested in these companies.[22] The affidavit also referred to a fifth ECP-backed company, Intercontinental Bank,[23] as party to an alleged illegal payment.[24]

Ibori has a criminal record in the United Kingdom[25] and is currently under investigation on money laundering charges by London's Metropolitan Police.[26] In 2007, a UK court froze assets allegedly belonging to him worth $35 million (₦ 21 million).[27] Ibori fled Nigeria in April 2010, [28] following charges brought against him by the EFCC for allegedly selling off Delta State assets illegally to pay off a private loan from Intercontinental Bank while he was still Governor.[29] He is accused of stealing $290 million (£196 million) from Delta State.[30] Ibori's dealing with both Oceanic Bank (on which Ethos had board representation)[31] and Intercontinental Bank (on which ECP had board representation)[32] are central to the charges.[33] On 13 May 2010, he was arrested in Dubai at the request of the London Metropolitan Police.[34]

- Two directors of ECP-backed companies – Henry Imasekha [35] and Michael Orugbo[36] – were also named by the EFCC as part of its 2007 investigations into Ibori's alleged "corruption, diversion and misappropriation of public funds, stealing and money laundering".[37] In EFCC's October 2007 affidavit, Imasekha was described as "the character moving funds in Celtel, OandO and Notore Chemical Industries."[38] Imasekha has also been charged as a co-conspirator in the money-laundering case against Ibori and several of his associates that is currently being heard before the UK.[39] In May 2010, Imasekha was reported to have fled to Ghana, [40] following fresh corruption charges against Ibori.

- The current director of the Ethos-backed Oceanic Bank, Oboden Ibru,[41] and the Bank's former CEO and director, Cecilia Ibru,[42] are currently facing money-laundering charges in Nigeria. [43] The assets of Cecilia Ibru have been frozen, and Oboden Ibru has been named as her associate. [44] Oboden Ibru is also currently listed as a non-executive director of ECP-backed OandO.[45]

- Intercontinental Bank and Oceanic Bank, in which ECP and Ethos have invested respectively, collapsed in 2009 and had to be bailed out by the Central Bank of Nigeria (CBN) – in effect, by Nigerian citizens to the detriment of the country's development. CBN sacked the banks' executive directors and ordered an investigation into a number of non-performing loan portfolios, including unsecured loans to Ibori's associates.[46] Thomas Gibian, ECP's current Executive Chair, has reportedly been a board member of Intercontinental since 2007.[47] Ethos similarly has board representation on Oceanic Bank.[48]

The links that Nigeria's Economic and Financial Crimes Commission (EFCC) and other law enforcement agencies have alleged between ECP- or Ethos-backed companies in Nigeria and associates of James Ibori raise many questions about the due diligence performed by ECP and Ethos and by CDC:

- Did ECP seek advice from the EFCC as to its planned investments in Notore and other companies in Nigeria? If so, when? If so, what was the EFCC's response? If it did not, why did it not do so?
- Why did ECP chose to invest in OandO some two months after the company had been named by the EFCC in connection with Ibori's alleged money laundering?
- Why did ECP increase its stake in Notore after the EFCC had similarly named the company?
- Did the companies whose directors were named by the EFCC in its 2007 affidavit concerning money laundering and illegal payment inform their board members, including those representing the CDC-backed investment funds, about these widely publicised allegations and legal actions? If so, what did the board members representing the private equity funds do with this information? If not, how effective are these private equity funds, and the board members representing them, in ensuring good corporate governance, a key goal of CDC?
- What action did ECP and Ethos take to address the governance failures that ultimately led to the 2009 collapse of Intercontinental Bank and Oceanic Bank?
- Was Ethos aware of the size and extent of unsecured loans made by Oceanic Bank to companies associated with Henry Imasekha, [49] despite the EFCC having named him in 2007 as a business associate of Ibori? [50] Did Ethos – which had board representation on Oceanic Bank – question the purpose of such loans?
- Similarly, did ECP's nominated board member on Intercontinental Bank – ECP's current Executive Chair Thomas Gibian – know that the bank was making unsecured loans to companies associated with Henry Imasekha,[51] despite the EFCC having named him in 2007 as a business associate of Ibori?[52] If so, what steps did he take to stop the practice?
- When did ECP and Ethos learn of the alleged links between their investee companies in Nigeria and James Ibori?

- If they were unaware of such links, which were widely publicised in Nigeria and elsewhere, what is the extent and relevance of their knowledge of the country in which they invested?
- What steps did ECP or Ethos take to alert the UK or Nigerian authorities of any concerns that such links might have raised?
- Did ECP and Ethos disclose to CDC that companies in which they were investing had been named by the EFCC in its investigations?
- When did CDC become aware of the alleged links between these five companies and Ibori?
- If CDC did not flag up such links, what does this indicate about the quality of its anti-corruption due diligence procedures?
- What losses has CDC incurred in relation to the five cited companies?
- What warranties did the two private equity firms, ECP and Ethos, make to CDC concerning the due diligence they had undertaken relating to the five investee companies and the anti-corruption procedures they had in place? Were these warranties broken? If so, what action is CDC taking?
- CDC conducted its own board level investigation into the alleged links between Ibori and the five investee companies? If it deemed the allegations sufficiently credible to merit such an investigation, why did CDC not inform the Serious Fraud Office of them immediately?
- DfID's support for CDC is premised on private sector-led economic growth being the way out of poverty. How was this objective realised through CDC's support for investments in Intercontinental Bank and Oceanic Bank on which CDC-backed funds had board representation? What are the development consequences for poorer Nigerians who are now effectively bailing out these banks after their failure helped to bring the Nigerian economy to the brink of collapse?

Introduction:
Corruption and Northern financial institutions

Corruption – broadly defined as "the abuse of public or private office for personal gain"[53] – takes many forms, from petty extortion to the amassing of personal wealth through embezzlement or other dishonest means.[54] Its corrosive impacts on development and on democratic accountability have been widely documented.[55] Moreover, corruption is not a victimless crime. As former Secretary of State for International Development, Hilary Benn, bluntly stated in 2006:

> "In poor countries [corruption] can kill. Money meant for drugs for a sick child, or to build a hospital, can be siphoned off into overseas bank accounts or to build a luxury house."[56]

Worldwide, bribery and embezzlement have permitted billions of dollars to be amassed by corrupt politicians. Nigeria's former President Abacha is estimated to have embezzled between $2 billion and $5 billion; Zaire's President Mobutu, an estimated $5 billion. Kenya lost $600 million in one scandal alone in the early 1990s, while in Angola an estimated $4 billion went missing between 1997 and 2002.[57]

It would be wholly inaccurate, however, to characterise corruption as a problem solely of the South. No country is immune.[58, 59] Corruption flourishes wherever the powerful are able to undermine the rule of law for personal gain. It is as common in the North as it is in the South. Moreover, much of the corruption that takes place in developing countries is possible only with the complicity – active or passive – of Northern financial institutions, which enable bribes and other forms of corrupt wealth to be laundered through "legitimate" investments, often in Northern economies.

Recognising the role played by Northern companies and financial institutions in facilitating corruption, the former Labour Government made promoting good governance and combating corruption the "centrepiece" [60] of its policy on international development. In 2006, the then Secretary of State for International Development stated: [61]

> "Bad governance can be caused or made worse by the actions of rich countries and their companies. It is often called the "supply-side" of corruption – those who provide the bribes or offer opportunities to hide stolen assets. All of us must take strong action to address these problems . . ." [62]

Promising to tackle corruption "wherever we find it – whether here or abroad" and not to tolerate "those who extort, corrupt and deceive",[63] the then Government launched its Anti-

Corruption Action Plan in December 2006, in which it committed itself to investigating and prosecuting bribery overseas, to eliminating money laundering and to promoting responsible business conduct in developing countries.[64] A "Proceeds of Crime" team was established within the London Metropolitan Police, funded by the Department for International Development (DfID), to investigate, recover and return the proceeds of money laundering by Politically Exposed Persons through the UK's financial system.[65]

Nonetheless, the UK has been widely criticised for failing to clamp down on "home grown" corruption overseas.[66] Moreover, despite the adoption of anti-corruption procedures by government departments that support UK business overseas, whether directly or indirectly, there is continuing evidence of the Government failing to act where credible evidence of corruption is uncovered.[67]

This Memorandum from concerned Non-Governmental Organisations (NGOs) raises similar concerns over the due diligence conducted by the CDC Group, a development finance institution wholly owned by the Department for International Development, in its dealings with two private equity firms – Emerging Capital Partners (ECP) and Ethos – that it has supported. Both firms have invested in Nigerian companies that are reported to be "fronts"[68] for the alleged laundering of money said to have been obtained corruptly by the former Governor of Nigeria's oil rich Delta State, James Ibori. Mr. Ibori is currently under investigation by Nigeria's Economic and Financial Crimes Commission (EFCC) for alleged corruption.[69]

The CDC Group: Anti-corruption undertakings

The CDC Group (formerly the Commonwealth Development Corporation) is a public limited company that is wholly owned by the UK Government through the Department for International Development (DfID).[70] It describes itself as the UK Government's Development Finance Institution.[71]

The Commonwealth Development Corporation was created in 1948 to promote private sector development in the UK's former colonies.[72] It was substantially restructured in 2004: instead of investing directly in companies, it now primarily does so indirectly,[73] providing capital to "private equity funds that in turn invest in companies in the poor countries of the world".[74]

CDC now describes itself as a "fund of funds".[75] At the end of 2009, CDC had assets of ข 2.5 billion (US$4.0 billion)[76] and investments in 65 funds, themselves investing in 794 companies in 71 countries,[77] notably in Asia and sub-Saharan Africa. Typically, the CDC-supported funds sell their investment after 7-10 years to other private sector investors, and the net proceeds of the sale are returned to CDC.[78] DfID states that it supports CDC because there is evidence to show "that it is the private sector that drives economic growth. And it is economic growth that is the only long-term sustainable way out of poverty."[79]

Since CDC is a UK government agency, its financing is backed by the full faith and credit of the UK Government and using UK taxpayers' money. Its use of government-backed funds to invest in the private sector, and its sharing of the profits that arise from such investments, thus place it at a nexus of public and private sector obligations to combat corruption.

CDC states that: "Responsible investment practices have always been core to CDC's mandate".[80] The funds in which CDC invests are selected because of their managers' specialist knowledge and understanding of the countries in which they operate.[81] Critically, CDC-backed fund managers do not take a "hands off" approach to their investments, but "play a role in the companies in which they invest",[82] often through board level representation. CDC also states that "experience in identifying areas for improvements in corporate governance is usually part of a fund manager's core skills".[83]

Fund managers are expected to invest only in accordance with CDC's Investment Code,[84] which has been approved by DfID. The Code requires, *inter alia*, that all businesses in which CDC's capital is invested comply with all applicable laws and international standards intended to prevent bribery and financial crime.[85] The aim is "to ensure that portfolio companies improve upon their business practices from the environmental, social and governance perspectives during their investment period."[86]

More specifically, CDC's Investment Code[87] requires it:

> "to ensure that CDC, and the businesses in which CDC's capital is invested, exhibit honesty, integrity, fairness, diligence and respect in all business dealings;"[88]

and

> "to comply with all applicable laws and promote international best practice, including those laws and international best practice standards intended to prevent extortion, bribery and financial crime."[89]

Section 4 of the Investment Code also requires CDC-supported fund managers to enter into a formal agreement with CDC pursuant to which each fund manager establishes and maintains environmental, social and governance management systems that "monitor and record

incidents involving portfolio companies that result in . . . material breach of law, and promote appropriate corrective actions".[90] Moreover, the management systems that CDC-backed funds are required to have in place must be "suitable to the level of risk of the companies in which they invest".[91]

Recognising that "standards within businesses are not always perfect", CDC "insists on improved reporting by its fund managers and investee companies so that problems are identified and fixed as soon as is practicable".[92] More specifically, CDC's Investment Code requires fund managers to ". . . inform CDC about incidents . . . that result in . . . material breach of law, and any corrective actions taken".[93]

In addition, as a financial institution, CDC is arguably bound by the UK's anti-money-laundering legislation,[94] which requires due diligence to prevent money laundering. Best practice – and potentially the law itself – would require that CDC ensures that the funds in which it invests have adequate anti-money laundering procedures in place.[95] CDC's anti-corruption due diligence should therefore include an enhanced review of investments involving what are deemed to be "Politically Exposed Persons" (PEPs). These persons, according to the intergovernmental Financial Action Task Force, are:

> "[I]ndividuals who are or have been entrusted with prominent public functions in a foreign country, for example Heads of State or of government, senior politicians, senior government, judicial or military officials, senior executives of state-owned corporations, important political party officials. Business relationships with family members or close associates of PEPs involve reputational risks similar to those with PEPs themselves. The definition is not intended to cover middle ranking or more junior individuals in the foregoing categories."[96]

This is particularly relevant in the context of CDC-supported investments involving current or former government enterprises, banks, and government decision-makers.

Corruption in Nigeria: Of what should CDC have been mindful?

Although the vast majority of businesses in Nigeria are "clean" of corruption,[97] the widespread looting of public assets by corrupt officials has led to many companies being established or used as fronts for money laundering.

Recent investigations by the Nigerian authorities, notably the Economic and Financial Crimes Commission (EFCC),[98] the country's prime anti-corruption enforcement agency, have exposed many of the networks of corruption through which public assets are amassed and subsequently "laundered" for private gain. Of particular relevance to the concerns raised by this Memorandum are the efforts of the EFCC to bring the former Governor of the oil-producing Delta State, James Ibori, to account for alleged corruption. In 2007, the EFCC charged Ibori with 170 counts of looting more than $85 million during his eight-year governorship of Delta State.[99] Although a federal court in the Delta State capital of Asaba dismissed the case on a technicality,[100] the EFCC has appealed this judgment and has also brought new charges following the collapse of several Nigerian banks, including Intercontinental Bank and Oceanic Bank, in 2009. The new charges relate to a multi-million pound private loan that Intercontinental Bank made to Ibori, for which Ibori is alleged to have illegally used Delta State shares in Oceanic Bank as security.[101]

Such investigations have revealed a number of practices through which corruptly obtained funds are allegedly laundered within Nigeria. These include government officials:

- selling national assets to their front men, their associates or those close to them;
- securing private loans from banks without collateral, in return for placing government funds with those banks;
- diverting funds by moving them through a series of front companies from government accounts to personal or business accounts; and
- using front men to carry out inflated or privileged government contracts.

Given that CDC selects its fund managers in part for their local knowledge, there is a legitimate expectation that such practices would be well known to CDC-backed fund managers that invest in Nigerian companies. It is thus of great concern that two CDC-supported private equity firms, Emerging Capital Partners (ECP) and Ethos, appear to have invested in Nigerian companies that have been linked, directly or indirectly, to individuals who, variously, have been named, investigated and charged for alleged corrupt activities, had their national and international assets frozen, and who are associated in various ways with James Ibori.

Emerging Capital Partners (ECP): Investments of concern

CDC has investments in two private equity funds – Africa Fund II and Africa Fund III – run by US-based Emerging Capital Partners (ECP), which it describes as "a leader in private equity in Africa".[102] ECP's Executive Chair is Thomas Gibian,[103] who is based in Washington, DC. ECP has equity investments in telecommunications, oil and gas, financial services, consumer products, mining, and engineering and construction.[104]

In 2008, the value of CDC's investments in ECP's Africa Fund II was £23 million.[105] The same year, CDC committed $100 million to ECP's Africa Fund III, the successor to the Africa Fund II.[106]

ECP lists Africa Fund II as investing in several Nigerian companies including Intercontinental Bank,[107] Notore (a fertilizer manufacturer)[108] and Ocean & Oil Investments (a holding company whose main asset is a significant shareholding in OandO, an oil and gas conglomerate).[109] ECP Africa Fund II is the successor to AIG Africa Investment Fund,[110] which had investments in Celtel, a telecommunications company.[111]

Further details of these investments are outlined below:

- **Notore (also Notore Chemical Industries)** is an agrochemical company that evolved out of the sale in 2005 of the state-owned National Fertiliser Corporation of Nigeria (NAFCON) when the Nigerian Government sold it off as part of its privatisation programme.[112] ECP has representation on the board of Notore: ECP Managing Director Michael Jansa of Washington DC[113] and former ECP Managing Director of Johannesburg, Navaid Burney are both Notore directors.[114]
  ECP used an offshore company, Notore Mauritius, to invest in Notore[115] and to date is the only institutional investor in Notore. Notore Mauritius is jointly owned by ECP (20.9%), Egyptian Fertiliser Company (22%) and a Nigerian company, Oyeladuk Global Concepts (57.1%).

  ECP's Executive Chair, Thomas Gibian, has acknowledged that a number of Notore's Nigerian directors,[116] including Henry Imasekha, who was named in the EFCC's 2007 affidavit (*see* p.4), own their shares in Notore through Notore Mauritius. Gibian has

confirmed that Notore Mauritius was established "based on ECP's insistence on being accorded stronger minority shareholder rights which are available under Mauritius law as compared to Nigerian law".[117]

Of concern are two other potential outcomes of the arrangement. It may have enabled the directors to avoid paying tax in Nigeria on their investment in Notore and to present themselves as "foreign investors", despite being Nigerian citizens, since their investment (nominally) comes from an offshore company. The arrangement also creates several layers of transactions that can hide, or at least cause confusion as to, the identities of Notore's actual owners.

In its 2007 affidavit,[118] the EFCC raised concerns about Michael Orugbo securing a loan from Oceanic Bank to buy NAFCON even though Orugbo and the bank had no previous relationship. Following the Central Bank of Nigeria's 2009 audit of the failed banks' non-performing loans, Notore was listed as the biggest non-performing debtor of Oceanic Bank. Oceanic's former CEO, Cecilia Ibru, is now facing criminal charges relating to illegal loans (*see* below).

CBN sacked the banks' executive directors and ordered an investigation into a number of non-performing loan portfolios, including unsecured loans to Ibori's associates

- **Ocean & Oil Investments** is a Nigerian investment holding company whose main asset is a 32 per cent common equity stake (the largest shareholder) in OandO Plc (OandO),[119] Nigeria's largest indigenous diversified oil and gas company.[120] In 2000, OandO acquired 30 per cent of Unipetrol, a former government oil company sold off as part of a Nigerian government privatisation programme.[121] ECP's investment in Ocean & Oil Investments is $35 million.[122] OandO lists former ECP Managing Director Johannesburg, Navaid Burney and current Managing Director Lagos, Genevieve Sangudi[123] as board directors in Oando; Burney is currently reported to be an OandO non-executive Director even though he is now with Standard Bank and was until 2009 representing ECP on the Oando board.[124] ECP for its part lists ECP Managing Directors Michael Jansa[125] and Carolyn Campbell[126] as current board members of Ocean & Oil and Oceans and Oil Investments respectively. Neither, however, is listed on the websites of the two relevant companies.

- **Celtel** is a telecommunications company. Until 2005, ECP Africa Fund II was an equity investor in Celtel International, the parent company of Celtel Nigeria. ECP's investment consisted of $50 million in common shares.[127] ECP indicates that its current Executive Chair, Thomas Gibian, served on the board of Celtel.[128]

- **Intercontinental Bank** was one of the largest Nigerian commercial banks. ECP indicates that its current Executive Chair, Thomas Gibian, was a non-executive director of Intercontinental Bank,[129] reportedly appointed in 2007.[130] In 2009, the entire senior management and executive board members of Intercontinental Bank were required to stand down after the Central Bank of Nigeria (CBN) had to bail the bank out.[131] CBN Governor Lamido Sanusi ascribed Intercontinental's collapse to "poor corporate governance practices, lax credit administration processes and the absence or non-adherence to the bank's credit risk management practices."[132] Gibian was not removed, as he was a non-executive director. Intercontinental still lists him as such,[133] although ECP is understood to have disinvested recently from the bank.

  In 2007, in a sworn affidavit filed by an official of the Nigerian Economic and Financial Crimes Commission (EFCC), reference was made to an allegedly corrupt payment made "via Intercontinental Bank Manager's Cheques".[134] The affidavit was submitted as evidence against former Delta State Governor James Ibori who had been charged with conspiracy, official corruption, diversion and misappropriation of public funds, stealing and money laundering.

Allegations relating to directors of ECP-backed companies in Nigeria

As widely reported in the Nigerian and international media, several of the directors of ECP-backed companies in Nigeria, and in some cases the companies themselves, have been named in corruption investigations undertaken by the Nigerian and/or UK authorities. Some of the named individuals have also been charged with corruption-related offences and two have had their bank accounts frozen. Some of the individuals reported to be under investigation are alleged to be associated with former Delta State Governor James Ibori.

Further details are set out below:

- ## Erastus Akingbola

Erastus Akingbola is a former managing director of Intercontinental Bank. Media reports indicate that in April 2010, a high court in Nigeria's capital, Lagos, froze Akingbola's national assets and over £9 million of international assets after he was charged *inter alia* with conspiracy to grant unsecured credit facilities, conspiracy to manipulate share prices, reckless consideration of credit facilities without adequate security, and a failure to present monthly statements of account to the Central Bank.[135] The charges followed the collapse of Intercontinental Bank and the removal in August 2009 of its Managing Director and Executive Directors on the orders of the Governor of the Central Bank of Nigeria.[136]

- ## Henry Imasekha

Henry Imasekha is currently listed on Notore's board of directors.[137] Imasekha is repeatedly named in the 2007 EFCC affidavit as an accomplice in James Ibori's alleged laundering of corruptly obtained funds and is specifically described as "the character moving funds in Celtel, OandO and Notore Chemical Industries."[138] Media reports refer to Imasekha as "Ibori's brain," and Ibori's "business front."[139]

Imasekha is reported to have been named in money laundering charges in the United Kingdom.[140] The charge sheet, as reproduced on a public website, alleges that, contrary to Section 327 of the Proceeds of Crime Act 2002, Imasekha conspired with Ibori and others to conceal, disguise, convert and transfer US$10 million in criminal property.[141]

Questions have also been raised in the press about Imasekha's possible role in a recent collapse of several of Nigeria's banks, including Intercontinental Bank,[142] largely because of their excessively high proportion of non-performing loans. Imasekha is named in a public notice issued in 2009 by the Central Bank of Nigeria ordering him and other "defaulting customers of the affected banks to pay without further delay their indebtedness, failing which the banks will take all appropriate legal actions to ensure repayment".[143]

Separately, Imasekha is reported to have been a defendant in a lawsuit filed in the Nigerian Federal High Court in 2007 by the President of the Nigerian Stock Exchange, alleging the unlawful sale of shares in two companies, OandO Networks

Ltd and Bromley Investments Ltd, to Delta State Ministry of Finance Incorporated and Delta State Government.[144]

In May 2010, Imasekha was reported to have fled to Ghana,[145] following further corruption charges against Ibori.

- ### Michael Orugbo

Michael Orugbo, a Nigerian, is a board director of Notore,[146] and is named in the 2007 EFCC affidavit in relation to his role in the acquisition of NAFCON.[147] He is reported to be a former Ibori aide and would therefore be deemed a Politically Exposed Person.[148]

- ### Onajite Okoloko

Onajite Okoloko, a Nigerian, is the CEO of Notore,[149] a founding director of the OandO Group[150] and a current director of OandO.[151] In an interview with *Next*, a Nigerian news group, Okoloko is reported to have said that he is a personal friend and school classmate of Ibori, although he denied any business links.[152] Okoloko is named, along with Imasekha, in the Central Bank of Nigeria's 2009 public notice ordering him to pay his debts to the collapsed banks (*see* above).[153]

- ### Wale Tinubu

Wale Tinubu, a Nigerian, is the Group Chief Executive and a Director of OandO.[154] Tinubu is reported to have been a defendant, along with Imasekha, in the 2007 lawsuit filed by the President of the Nigerian Stock Exchange over the allegedly illegal sale of OandO Networks shares to Delta State Ministry of Finance Incorporated and Delta State Government.[155]

Ethos: Investments of concern

Ethos is "a leading private equity manager in South Africa", established in 1984 and involved in private equity since 1996. It is "currently investing its fifth pool of capital", Ethos Fund V,[156] which operates in sub-Saharan and South Africa.[157] With CDC support, Ethos Fund V

has raised $750 million and has equity investments in manufacturing, consumer products and service companies.[158] CDC's financial commitment to Ethos Fund V amounts to $30 million.

In 2007, Ethos led a consortium that invested $130 million in Nigeria's Oceanic Bank, concerns over which are set out below.[159]

- **Oceanic Bank**

  Oceanic Bank describes itself as "one of Nigeria's leading one-stop financial services conglomerates".[160] Delta State, of which James Ibori is a former governor, was a major shareholder in Oceanic; Ibori is now alleged to have used these Delta State shares as security for a loan from another bank, Intercontinental, and of subsequently selling the Oceanic Bank shares illegally to repay the Intercontinental loan.[161]

  Oceanic Bank was named in the 2007 EFCC affidavit that set out a range of allegations against James Ibori and others for alleged corruption.[162] The Bank was also named in 2009 by the Governor of the Central Bank of Nigeria (CBN) as one of five banks whose weak corporate governance and non-performing loans had collectively brought the Nigerian economy to the brink of collapse and resulted in the CBN having to inject billions in bail out funds.[163] CBN named Notore and OandO as non-performing debtors of the bank.[164] The CBN Governor sacked Oceanic's executive directors and ordered a special examination into the bank's activities.[165]

  Oceanic Bank wholly owns OandO Networks,[166] the company whose shares Wale Tinubu and Henry Imasekha (*see* above, p.16) were alleged (in a 2007 court case brought by the President of the Nigerian Stock Exchange) to have sold illegally to Delta State government companies. [167] The lawsuit alleged that Tinubu and Imasekha were part of a secret and illegal arrangement to hold those shares on behalf of Ibori.

  Ngalaah Chuphi of Ethos private equity firm is reported to be on the board of Oceanic Bank International.[168]

Allegations relating to directors of Ethos-backed Oceanic Bank

A number of allegations of corruption have been reported against the directors of the Ethos-backed Oceanic Bank, as detailed below:

- **Cecilia Ibru and Oboden Ibru**

  Cecilia Ibru, a former CEO and managing director of Oceanic Bank, was sacked by the CBN Governor in the 2009 shake-up following allegations of fraudulent loans and the Bank's collapse.[169] Her son, Oboden, is listed as a non-executive director of OandO,[170] while Oceanic Bank's *2008 Annual Report* names him as a non-executive Bank director.[171]

  The Ibrus are high-profile associates of Ibori.[172] In January 2010, a Federal High Court in Lagos is reported to have frozen the bank account of Cecilia Ibru, after the EFCC traced assets to them that were deemed to be proceeds of economic and financial crimes.[173] These assets included vast holdings of property abroad including millions of dollars' worth in Marlboro in the US state of Maryland.[174] The EFFC charges reportedly name Oboden Ibru as an accomplice. [175]

Due diligence and Political Exposed Persons: James Ibori

Financial institutions are under a legal duty to ensure that they do not facilitate money laundering. Best practice requires enhanced due diligence to be undertaken where Politically Exposed Persons (PEPs) are linked to financial transactions (*see* p.11).

James Ibori is a Politically Exposed Person because he was Governor of Delta State, the oil producing state in the Niger Delta region, from 1999-2007. There is thus a legitimate expectation that CDC and the funds in which it invests would have conducted in-depth investigations into the widely reported links between Ibori and Notore, Intercontinental Bank, Oceanic Bank, OandO and Celtel.

Our own experience suggests that a cursory Internet search reveals many legal documents and media reports going back over the past 19 years alleging that Ibori was (in chronological order):

- Convicted of theft in the UK in January 1991;[176]
- Convicted in the UK of possessing stolen credit cards in February 1992;[177]
- Subject of a forfeiture order in the US District Court of Maryland in July 1997 (*see* Annex);[178]
- Arraigned by the Economic and Financial Crimes Commission (EFCC) in Nigeria in December 2007 on 170 counts of money laundering totalling over $100 million belonging to Delta State;[179]
- Investigated by the London Metropolitan Police in 2007 for money laundering offences, as a result of which several of Ibori's associates have been charged in UK courts and the UK requested Ibori's arrest in Dubai;[180]
- The subject of a 2007 UK court-ordered freezing of his traceable assets outside of Nigeria;[181]
- Charged by the EFCC in April 2010 for allegedly selling off Delta State assets illegally to fund private investments while he was still in office[182] and stealing $290 million (£196 million) from Delta State;[183]
- Arrested in Dubai on 13 May 2010, following an extradition request by the London Metropolitan Police,[184] after fleeing Nigeria in April 2010.[185]

Additionally, Ibori's sister, Christine Ibori-Ibie, and his friend, Udoamaka Onuigbo, were convicted in London in June 2010 for helping Ibori launder through the UK more than £14 million of stolen state assets between 1999 and 2006.[186]

The extent of due diligence on Ibori undertaken by ECP, Ethos and CDC is unknown. As detailed below, however, CDC insists that no connections have been established between Ibori and the ECP- and Ethos-backed investments cited in this Memorandum.

Official responses to the allegations

The reported allegations documented in this Memorandum were first relayed to the Department for International Development (DfID) and to CDC by Dotun Oloko, a Nigerian anti-corruption campaigner, in a detailed report entitled "Emerging Capital Partners (ECP) Investments in Nigeria". *Private Eye* has also published a number of articles detailing the allegations.[187]

The responses received to date from these UK government departments and from the private equity funds themselves are outlined below:

- **CDC**

  CDC was first contacted by Dotun Oloko in a letter dated 1 June 2009. On 26 February 2010, CDC Chief Executive Richard Laing replied, advising that Oloko's report

  > ". . . has received very serious consideration by CDC's management as well as its Board. The time it has taken us to revert to you is a consequence of the thoroughness of the review that has been undertaken . . .We have examined these allegations in depth, including discussions at Board level on a number of occasions . . . In conclusion, we believe there is no evidence to support these allegations."[188]

  CDC went on to state:

  > "Through adherence to CDC's Investment Code, all of our fund managers are required to operate to the highest standards of business integrity, as well incorporate a best practice approach on environmental, health and safety, and social risks. Our fund managers strive to ensure that their portfolio companies operate in accordance with these standards. Sometimes there are failures, and an email from you mentioned such failures in two portfolio companies – Intercontinental Bank and Oceanic Bank. We are in discussions with ECP as to how they can enhance their processes and procedures and improve their management of certain environmental, health and safety, social and governance risks."[189]

  No details were given as to the areas where CDC deemed ECP's procedures to be in need of enhancement, nor of the improvements that CDC had proposed.

  A month later, in March 2010, CDC responded to an article in *Private Eye*[190] linking CDC investments to business associates of James Ibori. CDC's General Counsel, Mark Kenderine-Davies, advised:

> "We take allegations linking CDC to business associates of convicted criminals very seriously. We have no evidence that CDC invests 'alongside close business associates of [James] Ibori. Given the statement in the article, you must have such evidence. In light of this, I wish to invite you to attend a meeting at our office . . .
>
> If you have evidence that we do not, we shall expect you to share it with us. We may then contact the Serious Fraud Office
>
> If you do not have evidence we expect Private Eye to withdraw the statement made in the article in its next edition."[191]

Following the requested meeting with *Private Eye*, however, Kenderine-Davies wrote:

> "I can . . . confirm that we are reviewing the list of charges provided to us at the meeting. In light of the latter, we are currently not in a position to advise you whether we still require the withdrawal of the statement made previously. We shall revert once our investigations have progressed further."[192]

In the same letter, CDC confirmed that the information supplied by *Private Eye* was substantially the same as that already "received, reviewed and . . . explored with ECP".[193]

CDC has not given any reasons why it now appears to have re-opened its investigation into the allegations made initially by Dotun Oloko, nor has it informed Oloko of this decision.

- **ECP**

Dotun Oloko received an unsolicited email from ECP on 28 August 2009, seeking a meeting. Oloko did not respond, because he had requested anonymity and confidentiality when his report was initially sent to DfID and CDC. He subsequently became aware in October 2009 that Nigerian lawyers acting on behalf of ECP and Notore had been making substantial efforts to reach him through friends and family. After unsolicited text messages were sent to his spouse, Oloko agreed to meet with ECP in London on 27 October 2009.

At that meeting, ECP's Executive Chair Thomas Gibian denied that he had any knowledge of Ibori or the 2007 EFCC affidavit until he had received a copy of Oloko's report. But Gibian did admit to knowledge of problems with the Oceanic loan used by Michael Orugbo to buy Notore and also indicated that he hoped to persuade Henry Imasekha to step down from his directorship of Notore by January 2010. Oloko

and Gibian subsequently exchanged emails until 5 March 2010, the date of Gibian's last email. During the email exchange, Gibian advised that he would:

> "prepare a detailed note to you (and our Fund shareholders) regarding the measures that ECP has undertaken to ensure that there is no expropriation, money laundering or other corrupt or otherwise unacceptable activities relating to Notore involving Ibori or anyone else."[194]

To date, no such note has yet been received by Oloko.

- **Ethos**

Dotun Oloko wrote to Ethos with regard to its investments in Oceanic Bank on 19 February 2010 but to date has not received any response.

- **Department for International Development (DfID)**

Dotun Oloko initially approached DfID anonymously through an anti-corruption NGO but subsequently contacted the Department directly on 1 February 2009, sending them a copy of his report. After 10 months and no substantive response, Oloko submitted a Freedom of Information (FOI) request on 27 November 2009 relating to DfID's response to his report. On 2 February 2010, DfID confirmed that it held information relevant to the FOI request but was withholding it under sections 31,[195] 40,[196] 41[197] and 43[198] of the Freedom of Information Act. Oloko subsequently requested an internal review of DfID's decision to withhold this information and, on 19 March 2010, DfID replied with the review's decision to uphold the withholding of information.

Documents released by the National Audit Office (NAO), however, under another FOI request by Oloko state that:

> "DfID has investigated extensively. Found no evidence of wrong-doing by CDC"[199]

To date, DfID has failed to provide any meaningful information to Oloko about its "extensive" investigation or to indicate when they will or are likely to complete its response to his report.

The released NAO materials also reveal that ECP has agreed to "independent third party reviews of their due diligence" but that, as of 9 February 2010, no such review had been undertaken.

Some questions

From all the media reports, court documents and public notices issued by official bodies cited in this Memorandum, the following can be summarised about CDC-backed investments in Nigeria:

- Two CDC investee banks (Oceanic and Intercontinental) on which CDC-backed fund managers had board representation have had to be bailed out by the Central Bank of Nigeria (CBN), and their then CEOs (respectively Cecilia Ibru and Erastus Akingbola[200]) are reportedly facing criminal charges and have had their assets frozen;
- Two CDC investee companies (Notore and OandO) were publicly listed as non-performing debtors of Oceanic Bank, while Imasekha, a director of CDC investee company Notore is listed as the single largest non-performing debtor of Intercontinental Bank through Ascot Offshore;
- Three CDC investee companies Notore, OandO, Celtel have been cited as being used to move funds illegally;
- Several directors of all five CDC investee companies mentioned in this Memorandum are reportedly implicated in investigations into the money laundering activities of former Delta State Governor James Ibori.

Analysis of other CDC-backed funds in Nigeria does not reveal similar patterns of investment or concerns,[201] (although wider questions may arise over the development impact of CDC's private equity model of investment[202]). In the light of this and the allegations by Nigerian and other law enforcement agencies that have been publicly available since 2007 alleging links between ECP- or Ethos-backed investments in Nigeria and associates of James Ibori, a number of questions may be legitimately asked in relation to the due diligence performed by ECP and Ethos, and by CDC:

- Why did ECP invest in OandO some two months after the company had been named by the Economic and Financial Crimes Commission (EFCC) in relation to Ibori's alleged money laundering?

- Why did ECP increase its stake in Notore after the EFCC had named the company in relation to Ibori's alleged money laundering?
- Did the companies named by the EFCC inform their board members, including those representing the CDC-backed investment funds, about these widely publicised allegations and legal actions? If so, what did the board members representing the investment funds do with this information? If not, how effective are these investment funds, and the board members representing them, in ensuring good corporate governance, a key goal of CDC?
- What action did ECP and Ethos take to address the governance failures that ultimately led to the collapse of Intercontinental Bank and Oceanic Bank?
- Was Ethos aware of the size and extent of unsecured loans made by Oceanic Bank to companies associated with Henry Imasekha,[203] despite the EFCC having named him in 2007 as a business associate of Ibori? [204] Did Ethos – which had board representation on Oceanic Bank – question the purpose of such loans?
- Similarly, did ECP's nominated board member on Intercontinental Bank – ECP's current Executive Chair Thomas Gibian – know that Intercontinental was making unsecured loans to companies associated with Henry Imasekha,[205] again despite the EFCC having named him in 2007 as a business associate of Ibori? [206] If so, what steps did Gibian take to stop the practice?
- When did ECP and Ethos learn of the alleged links between their investee companies in Nigeria and Ibori?
- If they were unaware of such links, what does their lack of awareness indicate about their supposed knowledge of the country in which they invested, which CDC considers to be a key attribute in choosing these fund managers?
- What steps did ECP and Ethos take to alert the Nigerian or UK authorities of any concerns such links might have raised?
- Did ECP and Ethos disclose to CDC that companies in which they were investing had been named by the EFCC in its investigations?
- When did CDC become aware of the alleged links between their investee companies in Nigeria and Ibori?

- If CDC did not flag such links, what does this indicate about the quality of its anti-corruption due diligence procedures?
- What losses has CDC incurred in relation to the five cited companies?
- What warranties did ECP and Ethos make to CDC concerning the due diligence they had undertaken relating to the five investee companies and the anti-corruption procedures they had in place? Were these warranties broken? If so, what action is CDC taking?
- CDC conducted its own board level investigation into the alleged links between Ibori and the five investee companies? If it deemed the allegations sufficiently credible to merit such an investigation, why did CDC not inform the Serious Fraud Office of them immediately?
- DfID's support for CDC is premised on private sector-led economic growth being the way out of poverty. How was this objective realised through CDC's support for investments in Intercontinental Bank and Oceanic Bank on which CDC-backed funds had board representation? What are the development consequences for poorer Nigerians who are now effectively bailing out these banks after their failure helped to bring the Nigerian economy to the brink of collapse?

Conclusion

This Memorandum details serious allegations involving five companies in Nigeria that CDC has supported with UK taxpayers' money. Citizens in both Nigeria and the UK have a right to expect that publicly-funded investments do not involve or facilitate bribery, corruption or money-laundering. CDC's own Investment Code requires all businesses in which CDC's capital is invested to comply with all applicable laws and international best practice standards to prevent extortion, bribery and financial crime.

To date, CDC and DfID have failed to provide satisfactory answers to questions raised in this Memorandum arising from these allegations. We urge the Secretary of State for International Development to investigate as a matter of priority the due diligence undertaken by CDC, and

by the two private equity funds in which CDC has invested run by Emerging Capital Partners (ECP) and Ethos, concerning the five companies and to make its findings public.

ENDNOTES

1 *See*, for example:
United Nations, 'The Monterrey Consensus of the International Conference on Financing for Development: Leading Actions', 2002
http://www.un.org/esa/sustdev/documents/Monterrey_Consensus.htm

World Bank, 'Corruption, Poverty and Inequality'
http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/EXTPUBLICSECTORANDGOVERNANCE/EXTANTICORRUPTION/0,,contentMDK:20222075%7EmenuPK:1165474%7EpagePK:148956%7EpiPK:216618%7EtheSitePK:384455,00.html#top

Why Worry About Corruption? Paulo Mauro, 1997 IMF Publication
http://www.imf.org/EXTERNAL/PUBS/FT/ISSUES6/INDEX.HTM

2 Hilary Benn, Secretary of State for International Development, Queen Elizabeth the 2nd Conference Centre, Transparency International "Improving Governance, Fighting Corruption" 14 September 2006
http://www.dfid.gov.uk/news/files/Speeches/fighting-corruption.asp.

Benn said:

> "Why did we make governance the centrepiece of our recent white paper? Very simply because without good governance, and unless we beat corruption, we will never defeat poverty."

See also: Hilary Benn, Secretary of State for International Development, "Better Aid Needs Better Politics: DFID' s role in 'Making Governance Work for the Poor'", Speech at Demos, Westminster Hall, 23 October 2006
http://www.dfid.gov.uk/news/files/Speeches/governance-demos.asp.

Benn stated:

> "Our recent white paper on development made governance its central theme. It's why we called it 'Making governance work for the poor'."

3 For example, the UK was strongly criticised by the OECD Working Group on Bribery for abandoning a corruption investigation into UK arms company BAE Systems over its dealings in Saudi Arabia.

See: OECD Working Group on Bribery, "United Kingdom: Phase 2*bis* report on the application of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the 1997 Recommendation on Combating Bribery in International Business Transactions", 16 October 2008
http://www.oecd.org/dataoecd/23/20/41515077.pdf

4 The UK Export Credits Guarantee Department (ECGD), which insures UK exporters against losses in their business overseas, was criticised by the OECD for failing to act on evidence passed to it by the Serious Fraud Office that BAE had allegedly made bribery-related fraudulent misrepresentations to ECGD when it requested insurance cover from ECGD for its Saudi Arabian deals.

The OECD wrote:

> "[The examiners] are seriously concerned both about the lack of evidence of any response by ECGD to the fraud allegations, the absence of any explanation for the inaction and ECGD's proffered justification for declining to provide information in this area."

See: OECD Working Group on Bribery, "United Kingdom: Phase 2*bis* report on the application of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the 1997 Recommendation on Combating Bribery in International Business Transactions", 16 October 2008, p.67.
http://www.oecd.org/dataoecd/23/20/41515077.pdf

5 Private equity denotes any investment in assets or companies not listed on public stock exchanges. Private equity funds are pools of capital managed and invested by private equity firms. The funds invest in companies with the intention of selling their investments, usually after three to five years, at a higher price. With average life spans of 8-10 years, funds invest in several companies; usually no single investment exceeds 20 per cent of the total amount of money committed.

6 "How James Ibori bankrupted Intercontinental and Oceanic banks", undated, *Urhoboland.com*, http://www.urhoboland.com/News%20Files/How%20James%20Ibori%20bankrupted%20InterContinental%20and%20Oceanic%20banks.htm

7 "EFCC declares Ibori wanted for corruption charges", *Channels TV (Nigeria)*, 13 April 2010, http://www.channelstv.com/global/news_details.php?cat=Politics&nid=17378

Archibong, E., "Ibori wanted", *Next,* 14 April 2010
http://234next.com/csp/cms/sites/Next/Opinion/Editorial/5554434-147/ibori_wanted____.csp

Okulaja, A, "EFCC declares Ibori wanted", *Next*, 13 April 2010,
http://234next.com/csp/cms/sites/Next/Opinion/Editorial/5554238-147/efcc_declares_ibori_wanted__.csp

Archibong, E., "Why we want Ibori", *Next*, 15 April 2010,
http://234next.com/csp/cms/sites/Next/Opinion/Editorial/5554993-147/why_we_want_ibori__.csp

EFCC, "Investigation activities: Letter of invitation", 22 March 2010
http://thewillnigeria.com/files.php?force&file=EFCC_LETTER_OF_INVITATION_913276455.pdf

"Ex-Governor of Nigeria's oil state wanted for graft", *Star Africa*, 13 April 2010,
http://www.starafrica.com/en/news/politics/article/ex-governor-of-nigerias-oil-state-wante-40455.html.

Star Africa, citing an EFCC spokesperson, reports:

> "[Ibori] is accused of diverting 520 million units of Delta State government shares in the Oceanic Bank to secure a loan from the Intercontinental Bank worth 44 billion naira (290 million dollars/213 million euros) . . . Ibori then instructed Intercontinental Bank "to sell the shares to offset a loan obtained by Ascot", referring to a company owned by the former governor."

8 CDC Group Plc, "Statement from Chief Executive", *Growth for Development, Development Report 2008*, p.2,
http://www.cdcgroup.com/uploads/developmentreport2009.pdf

National Audit Office, "Investing for Development: The Department for International Development's Oversight of CDC Group Plc", p.4, http://www.nao.org.uk/idoc.ashx?docId=C6A8AEDD-2C9E-438F-8D48-7979C341AA62&version=-1

According to the National Audit Office:

> "The Department for International Development (DFID) sets the overall framework for CDC's investment policy, but does not interfere in individual investment decisions."

9 CDC Group Plc, *Growth for Development, Development Report 2008*, p.13,
http://www.cdcgroup.com/uploads/developmentreport2009.pdf

10 CDC still retains ownership of the assets built up in companies in which it had invested prior to its 2004 restructuring. But these are now managed by two independent private equity fund managers, Aureos and Actis, created in 2001 and 2004 respectively. Actis focuses on investments in larger companies, Aureos on small- and medium-sized enterprises. CDC pays Actis and Aureos "fees and a share of profits for managing investee companies on CDC's behalf."

See: CDC Group Plc, *Growth for Development, Development Report 2008*, p.15, http://www.cdcgroup.com/uploads/developmentreport2009.pdf.

11 CDC Group Plc, *Growth for Development, Development Report 2008*, p.15, http://www.cdcgroup.com/uploads/developmentreport2009.pdf

12 CDC Group Plc, *Growth for Development, Development Report 2008*, p.15, http://www.cdcgroup.com/uploads/developmentreport2009.pdf

13 CDC Group Plc, *Financial Review 2009*, p.6, http://online.hemscottir.com/ir/cdc/fr_2009/ar.jsp?page=1&zoom=1.0&layout=single

14 CDC Group Plc, *Financial Review 2009*, p.10, http://online.hemscottir.com/ir/cdc/fr_2009/ar.jsp?page=1&zoom=1.0&layout=single

15 CDC Group Plc, *Growth for Development, Development Report 2008*, p.19, http://www.cdcgroup.com/uploads/developmentreport2009.pdf

16 CDC Group Plc, *Financial Review 2009*, p.5, http://online.hemscottir.com/ir/cdc/fr_2009/ar.jsp?page=1&zoom=1.0&layout=single.

CDC states:

> "Commitments are principally with local private equity fund managers who know and understand developing countries."

17 CDC Group Plc, *Financial Review 2009*, p.5, http://online.hemscottir.com/ir/cdc/fr_2009/ar.jsp?page=1&zoom=1.0&layout=single.

CDC states:

> "Managers invest responsibly in accordance with CDC's investment code".

See also: CDC Group Plc, *Growth for Development, Development Report 2008*, p.16, http://www.cdcgroup.com/uploads/developmentreport2009.pdf

CDC states:

> "CDC . . . requires a strong commitment to responsible investment principles and requires its fund managers to sign up to CDC's Investment Code on environmental, social and governance (ESG) matters".

The Investment Code is available at: http://www.cdcgroup.com/uploads/cdcinvestmentcode.pdf

18 CDC Investment Code on Environmental, Social and Governance Matters, "Governance: Business Integrity and Good Corporate Governance", http://www.cdcgroup.com/uploads/cdcinvestmentcode.pdf

19 CDC Group Plc, *Growth for Development, Development Report 2008*, p.19, http://www.cdcgroup.com/uploads/developmentreport2009.pdf.

20 "How James Ibori bankrupted Intercontinental and Oceanic banks", undated, *Urhoboland.com*, http://www.urhoboland.com/News%20Files/How%20James%20Ibori%20bankrupted%20InterContinental%20and%20Oceanic%20banks.htm

21 "Suit no: FHC/B/CS/862/2007, Counter affidavit of 1st defendant/respondent to the motion dated 8th October 2007, in the Federal High Court of Nigeria Holden Benin City", http://www.africa-interactive.net/site/list_message/8099.

22 At the time of writing (June 2010), ECP is still invested in Notore and OandO and, indeed, has increased its stake in Notore. Ethos is still invested in Oceanic Bank. ECP exited Celtel International in 2005.

23 ECP is understood to have recently divested from Intercontinental Bank.

24 "Suit no: FHC/B/CS/862/2007, Counter affidavit of 1st defendant/respondent to the motion dated October 2007, in the Federal High Court of Nigeria Holden Benin City", http://www.africa-interactive.net/site/list_message/8099.

Intercontinental Bank is named at Para 16, xxii.

The relevant passage of the affidavit states:

> "The investigation carried out by the 1st Defendant's team headed by me has revealed the involvement of Chief James Ibori and his accomplices in the following economic and financial crimes . . . That another payment of N4.418 billion was received by Oceanic Bank from Brisbane Ltd. via two Intercontinental Bank Manager's Cheques for acquisition of 13% of the fertilizer company while Brisbane Ltd. is owned by Henry Imasekha who is also the sole owner of Berkeley Group."

25 In January 1991, James Ibori was convicted of theft and, in February 1992, of possessing stolen credit cards.

See: "Ibori, Wife Convicted of Theft—UK Police," *Nigerian Muse*, 16 January 2008 http://www.nigerianmuse.com/20080116210010zg/nigeriawatch/officialfraud/Ibori_wife_convicted_of_theft_UK_Police

26 Full details of charges against James Ibori and others are available at http://allafrica.com/stories/200909170117.html.

These include a charge of money laundering, contrary to section 327 of the Proceeds of Crime Act 2002:

> "That Bhadresh Babulal Gohil, Lambertus de Boer, and Daniel Benedict McCann on or about the 21st December 2006 together with James Onanefe Ibori, Victor Attah, Henry Imasekha and others concealed, disguised, converted and transferred criminal property, namely the sum of $10,000,000 United States dollars being a purported loan from African Development Finance Limited to a company named Ascot Offshore (Nigeria) Limited, they knowing or suspecting that that sum constituted the benefit from criminal conduct of another person, or that it represented such benefit in whole or in part and whether directly or indirectly."

27 "Nigerian Official's $35 million refrozen", *BBC News*, 9 October 2007 http://news.bbc.co.uk/1/hi/world/africa/7035427.stm.

28 "Ibori flees", *The Sun*, 25 April 2010, http://www.sunnewsonline.com/webpages/news/national/2010/apr/25/national-25-04-2010-001.htm.

29 "EFCC declares Ibori wanted for corruption charges", *Channels TV (Nigeria)*, 13 April 2010, http://www.channelstv.com/global/news_details.php?cat=Politics&nid=17378

Archibong, E., "Ibori wanted", *Next*, 14 April 2010 http://234next.com/csp/cms/sites/Next/Opinion/Editorial/5554434-147/ibori_wanted____.csp

Okulaja, A, "EFCC declares Ibori wanted", *Next*, 13 April 2010, http://234next.com/csp/cms/sites/Next/Opinion/Editorial/5554238-147/efcc_declares_ibori_wanted__.csp

Archibong, E., "Why we want Ibori", *Next*, 15 April 2010, http://234next.com/csp/cms/sites/Next/Opinion/Editorial/5554993-147/why_we_want_ibori__.csp

EFCC, "Investigation activities: Letter of invitation", http://thewillnigeria.com/files.php?force&file=EFCC_LETTER_OF_INVITATION_913276455.pdf

"Ex-Governor of Nigeria's oil state wanted for graft", *Star Africa*, 13 April 2010, http://www.starafrica.com/en/news/politics/article/ex-governor-of-nigerias-oil-state-wante-40455.html.

Star Africa, citing an EFCC spokesperson, reports:

> "[Ibori] is accused of diverting 520 million units of Delta State government shares in the Oceanic Bank to secure a loan from the Intercontinental Bank worth 44 billion naira (290 million dollars/213 million euros) . . . Ibori then instructed Intercontinental Bank "to sell the shares to offset a loan obtained by Ascot", referring to a company owned by the former governor."

30 "Nigeria ex-governor James Ibori 'freed on bail'", *BBC News*, 14 May 2010, http://news.bbc.co.uk/1/hi/world/africa/8682020.stm

31 Ngalaah Chuphi, a director of Oceanic Bank, is also Executive Director of Ethos Private Equity Limited. http://www.oceanicbanknigeria.com/aboutus/directors.php

32 Thomas Gibian, current Executive Chair of Emerging Capital Partners, is a director of Intercontinental Bank. http://www.oceanicbanknigeria.com/aboutus/directors.php

33 According to the EFCC, Ibori allegedly took out a multi-million pound loan from Intercontinental Bank, illegally using Delta State shares in Oceanic Bank as security. He later allegedly asked Oceanic Bank to sell off the Delta State shares to repay the loan from Intercontinental.

See: "EFCC declares Ibori wanted for corruption charges", *Channels TV (Nigeria)*, 13 April 2010 http://www.channelstv.com/global/news_details.php?cat=Politics&nid=17378

"Ex-Governor of Nigeria's oil state wanted for graft", *Star Africa*, 13 April 2010, http://www.starafrica.com/en/news/politics/article/ex-governor-of-nigerias-oil-state-wante-40455.html

Star Africa, citing an EFCC spokesperson, reports:

> "[Ibori] is accused of diverting 520 million units of Delta State government shares in the Oceanic Bank to secure a loan from the Intercontinental Bank worth 44 billion naira (290 million dollars/213 million euros)."

34 "UK Police Confirm Ibori arrest", *Sahara Reporters*, 13 May 2010, http://www.saharareporters.com/real-news/sr-headlines/6067-uk-police-confirms-iboris-arrest-in-dubai.html

James Ibori has reportedly been refused bail in Dubai and is awaiting a hearing in the United Arab Emirates on his extradition to the UK. *See*: Anyanwu, K., "Ibori denied bail in Dubai", *Haaba*, 10 June 2010, http://www.haaba.com/news/2010/06/10/282-434435/ibori-denied-bail-in-dubai

35 Henry Imasekha (sometimes also spelled Imasekka) is a director of Notore and Celtel.

36 Michael Orugbo is a director of Notore.

37 "Suit no: FHC/B/CS/862/2007, Counter affidavit of 1st defendant/respondent to the motion dated 8 October 2007, in the Federal High Court of Nigeria Holden Benin City", http://www.africa-interactive.net/site/list_message/8099.

Orugbo is named at para 16, xvii and xviii:

> "xvii. That investigation on the acquisition of NAFCON revealed that O-secul Nig. Ltd., a company owned by Mike Orugbo bidded and acquired the company in 2005 for the sum of USD 152 million dollars."
>
> "xviii. That during the bid process, the sum of USD 2 million dollars was sourced by Mike Orugbo and paid to the company's liquidators via a new Nigerian Bank for the sum of N280 million naira issued sometime in August 2005."

Imasekha is named at para 16 xxii, xxiii and xxix:

> "xxii. That another payment of N4.418 billion was received by Oceanic Bank from Brisbane Ltd. via two Intercontinental Bank Manager's Cheques for acquisition of 13% of the fertilizer company while Brisbane Ltd. is owned by Henry Imasekha who is also the sole owner of Berkeley Group."
>
> "xxiii. That investigation on the origin of the money paid Brisbane however, revealed that in 2001 Mr. Henry Masekha used Bromley Ltd. to secure a loan of N2.2 billion naira from New Nigeria Bank without any collateral or evidence of previous Banking relationship with the Bank and purchased 10% of Econet Nigeria Ltd. (now Celtel) while few weeks later 'Delta State Government' bought 5% of the Econet shares from Bromley Ltd. at the sum of N2.5 billion naira via a Standard Trust Bank Draft which he used in liquidating the New Nigeria Bank facility."
>
> "xxix That the said Wilbros Nig. Ltd was acquired for USD 155 million by a new established company Ascot Offshore Nig. Ltd. registered and solely owned by Mr. Henry Imasekha, the same character moving funds in Celtel, OandO and NOTORE chemical industries."

38 "Suit no: FHC/B/CS/862/2007, Counter affidavit of 1st defendant/respondent to the motion dated 8 October 2007, in the Federal High Court of Nigeria Holden Benin City", para 16 xxix, http://www.africa-interactive.net/site/list_message/8099.

See also: Akinbajo, I., "Ibori's brain and the great bank heist", *Next*, 23 August 2009 http://234next.com/csp/cms/sites/Next/Money/Business/5446926-146/story.csp.

39 "London Mets Charges against Yar'adua's PPS, David Edevbie,Victor Attah, Henry Imashekka and Ibori", *Sahara Reporters*, 10 September 2009, http://www.saharareporters.com/index.php?option=com_content&view=article&id=3674:charges-against-edevbie-henry-imashekka-and-ibori&catid=1:latest-news&Itemid=18

The charge sheet reads:

> "That Bhadresh Babulal Gohil, Lambertus de Boer, and Daniel Benedict McCann on or about the 21st December 2006 together with James Onafefe Ibori, Victor Attah, Henry Imasheka and others concealed, disguised, converted and transferred criminal property, namely the sum of $10 million (USD) being a purported loan from African Development Finance Limited to a company named Ascot Offshore (Nigeria) Limited, they knowing or suspecting that that sum constituted the benefit from criminal conduct of another person, or that it represented such benefit in whole or in part and whether directly or indirectly.
> Contrary to section 327 of the proceeds of crime Act 2002
> H.O. 38/1 Local None CJS PC02020".

40 "N44b alleged fraud: Ibori, associate flee to Ghana", *Compass*, 2 May 2010, http://www.compassnewspaper.com/NG/index.php?option=com_content&view=article&id=47241:n44b-alleged-fraud-ibori-associate-flee-to-ghana&catid=672:top-stories&Itemid=794.

41 Oboden Ibru is listed as a director of Oceanic Bank on the bank's website at the time of writing (June 2010)
http://www.oceanicbanknigeria.com/aboutus/directors.php

See also: Oceanic Bank, *2008 Annual report*, p.6,
http://www.oceanicbanknigeria.com/investors/financials/

42 "CBN sacks CEOs of Intercontinental, Oceanic, UBN, Afribank and Finbank", *Proshare*, 14 August 2009
http://www.proshareng.com/news/singleNews.php?id=7344

43 "Court Freezes Ibru's N399bn Assets", *All Africa*, 22 January 2010,
http://allafrica.com/stories/201001220200.html

44 "Court Freezes Ibru's N399bn Assets", *All Africa*, 22 January 2010,
http://allafrica.com/stories/201001220200.html

45 OandO, "Oboden Ibru"
http://www.oandoplc.com/nigeria/about-oando/about/board-of-directors/oboden/

46 "How James Ibori bankrupted Intercontinental and Oceanic banks", undated, *Urhoboland.com*,
http://www.urhoboland.com/News%20Files/How%20James%20Ibori%20bankrupted%20InterContinental%20and%20Oceanic%20banks.htm

47 Intercontinental Bank, PLC, Organizational Record, AFDEVINFO,
http://www.afdevinfo.com/htmlreports/org/org_47948.html

48 *Bloomberg Business Week* database,
http://investing.businessweek.com/businessweek/research/stocks/people/relationship.asp?personId=25068867&ticker=OCEANIC:NL&previousCapId=20357513&previousTitle=OCEANIC%20BANK%20INTERNATIONAL

49 Akinbajo, I., "Ibori's brain and the great bank heist", *Next*, 23 August 2009
http://234next.com/csp/cms/sites/Next/Money/Business/5446926-146/story.csp.

According to *Next*:

> "Notore Chemical Industries Ltd, owes Oceanic N32.3 billion. And Berkeley Group, another company controlled by Mr. Imasekha, owes Oceanic another N4.3 billion, the CBN [Central Bank of Nigeria] says." A number of other companies listed by the Central Bank of Nigeria in August 2009 as having unsecured ("non-performing") loans from Oceanic also have links to Ibori. They include: Midwestern Oil and Gas, OandO and Delta State Government."

See also: Central Bank of Nigeria Advertorial, 18 August 2009,
http://www.cenbank.org/Out/publications/pressRelease/GOV/2009/ADVERTORIAL2.pdf

50 "Suit no: FHC/B/CS/862/2007, Counter affidavit of 1st defendant/respondent to the motion dated 8 October 2007, in the Federal High Court of Nigeria Holden Benin City", http://www.africa-interactive.net/site/list_message/8099

Imasekha is named at para 16 xxii, xxiii and xxix:

> "xxii. That another payment of N4.418 billion was received by Oceanic Bank from Brisbane Ltd. via two Intercontinental Bank Manager's Cheques for acquisition of 13% of the fertilizer company while Brisbane Ltd. is owned by Henry Imasekha who is also the sole owner of Berkeley Group."

"xxiii. That investigation on the origin of the money paid Brisbane however, revealed that in 2001 Mr. Henry Masekha used Bromley Ltd. to secure a loan of N2.2 billion naira from New Nigeria Bank without any collateral or evidence of previous Banking relationship with the Bank and purchased 10% of Econet Nigeria Ltd. (now Celtel) while few weeks later 'Delta State Government' bought 5% of the Econet shares from Bromley Ltd. at the sum of N2.5 billion naira via a Standard Trust Bank Draft which he used in liquidating the New Nigeria Bank facility."

"xxix That the said Wilbros Nig. Ltd was acquired for USD 155 million by a new established company Ascot Offshore Nig. Ltd. registered and solely owned by Mr. Henry Imasekha, the same character moving funds in Celtel, OandO and NOTORE chemical industries."

See also: Akinbajo, I., "Ibori's brain and the great bank heist", *Next*, 23 August 2009 http://234next.com/csp/cms/sites/Next/Money/Business/5446926-146/story.csp

51 Akinbajo, I., "Ibori's brain and the great bank heist", *Next*, 23 August 2009 http://234next.com/csp/cms/sites/Next/Money/Business/5446926-146/story.csp.

Citing the Central Bank of Nigeria, *Next* reports:

"Ascot Offshore Nigeria Ltd, on whose parent board Mr. Imasekha seats as chairman, owes Intercontinental N44.6 billion."

See also: Central Bank of Nigeria Advertorial, 18 August 2009, http://www.cenbank.org/Out/publications/pressRelease/GOV/2009/ADVERTORIAL2.pdf

52 "Suit no: FHC/B/CS/862/2007, Counter affidavit of 1st defendant/respondent to the motion dated 8 October 2007, in the Federal High Court of Nigeria Holden Benin City", http://www.africa-interactive.net/site/list_message/8099.

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See also: Akinbajo, I., "Ibori's brain and the great bank heist", *Next*, 23 August 2009 http://234next.com/csp/cms/sites/Next/Money/Business/5446926-146/story.csp

53 *See*, for example: Asian Development Bank, 'Anti-Corruption: Policies and Strategies, Description and Answers to Frequently Asked Questions', Manila, Philippines, 2000, p.1, http://www.adb.org/Documents/Manuals/Anticorruption/anti.pdf

54 For a discussion, *see*: Control Risks, *Facing up to Corruption*, "Chapter 1: What is corruption and why does it matter", http://www.controlrisks.com/pdf/chapter_01.pdf

55 *See*, for example: United Nations, 'The Monterrey Consensus of the International Conference on Financing for Development: Leading Actions', 2002, http://www.un.org/esa/sustdev/documents/Monterrey_Consensus.htm

World Bank, 'Corruption, Poverty and Inequality', http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/EXTPUBLICSECTORANDGOVERNANCE/EXTANTICORRUPTION/0,,contentMDK:20222075%7EmenuPK:1165474%7EpagePK:148956%7EpiPK:216618%7EtheSitePK:384455,00.html#top

Why Worry About Corruption? Paulo Mauro, 1997 IMF Publication http://www.imf.org/EXTERNAL/PUBS/FT/ISSUES6/INDEX.HTM

56 Hilary Benn, Secretary of State for International Development, 'Governance and Development', speech at Holyrood, Edinburgh, 22 June 2006, http://www.dfid.gov.uk/news/files/Speeches/governance-development.asp

57 The World Bank, *Global Monitoring Report 2006: Millennium Development Goals – Strengthening Mutual Accountability, Aid, Trade and Governance*, World Bank, 2006, p.177, http://siteresources.worldbank.org/INTGLOBALMONITORING2006/Resources/2186625-1145565069381/GMR06Complete.pdf

58 "Foreword", *United Nation Convention Against Corruption*, http://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf

UNCAC states:

> "Corruption is an insidious plague that has a wide range of corrosive effects on societies. It undermines democracy and the rule of law, leads to violations of human rights, distorts markets, erodes the quality of life and allows organized crime, terrorism and other threats to human security to flourish. This evil phenomenon is found in all countries—big and small, rich and poor—but it is in the developing world that its effects are most destructive."

59 International Development Committee, *Corruption*, 4th Report, Session 2000-2001, 'Causes of Corruption', paragraphs 22-23, http://www.publications.parliament.uk/pa/cm200001/cmselect/cmintdev/39/3907.htm.

The Committee states:

> "We support Clare Short [then Secretary of State for International Development] when she said 'The difference between developing countries and us is not that they have less moral people than we have - because of course we have little outbreaks of corruption in voluntary organisations, in local government, politics and business as we know - but we have powerful systems that check and catch it. The difference between developing countries and countries like us is not the morality of the people but the systems'. We have seen no evidence to suggest corruption is a cultural phenomenon."

60 Hilary Benn, Secretary of State for International Development, "Improving Governance, Fighting Corruption", speech at Queen Elizabeth the 2nd Conference Centre, meeting organised by Transparency International, 14 September 2006 http://www.dfid.gov.uk/news/files/Speeches/fighting-corruption.asp.

Benn said:

> "Why did we make governance the centrepiece of our recent white paper? Very simply because without good governance, and unless we beat corruption, we will never defeat poverty."

See also: Hilary Benn, Secretary of State for International Development, "Better Aid Needs Better Politics: DFID' s role in 'Making Governance Work for the Poor'", speech at Demos, Westminster Hall, 23 October 2006 http://www.dfid.gov.uk/news/files/Speeches/governance-demos.asp.

Benn stated:

> "Our recent white paper on development made governance its central theme. It's why we called it 'Making governance work for the poor'."

61 Home Office, 'Reform of the Prevention of Corruption Acts and SFO [Serious Fraud Office] Powers in Cases of Bribery of Foreign Officials: A Consultation Paper', December 2005, p.3, http://www.homeoffice.gov.uk/documents/2005-cons-bribery?view=Binary

62 Hilary Benn, Secretary of State for International Development, "Improving Governance, Fighting Corruption", speech at Queen Elizabeth the 2nd Conference Centre, meeting organised by Transparency International, 14 September 2006
http://www.dfid.gov.uk/news/files/Speeches/fighting-corruption.asp

63 Department for International Development, 'Press Release: UK calls for more action to fight corruption', 9 December 2006
http://www.dfid.gov.uk/news/files/pressreleases/corruption-action.asp

64 Department for International Development, 'Press Release: UK calls for more action to fight corruption', 9 December 2006
http://www.dfid.gov.uk/news/files/pressreleases/corruption-action.asp

65 "Department for International Development (DfID): The establishment and purpose of the ICG [International Corruption Group]", City of London Police,
http://www.cityoflondon.police.uk/CityPolice/Departments/ECD/anticorruptionunit/DfID.htm.

See also: "Specialist Crime", Metropolitan Police,
http://www.met.police.uk/scd/specialist_units/economic_specialist_crime.htm.

66 For example, the UK was strongly criticised by the OECD Working Group on Bribery for abandoning a corruption investigation into the UK arms company BAE Systems over its dealings in Saudi Arabia.

See: OECD Working Group on Bribery, "United Kingdom: Phase 2*bis* report on the application of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the 1997 Recommendation on Combating Bribery in International Business Transactions", 16 October 2008
http://www.oecd.org/dataoecd/23/20/41515077.pdf

67 The UK Export Credits Guarantee Department (ECGD), which insures UK exporters against losses in their business overseas, was criticised by the OECD for failing to act on evidence passed to it by the Serious Fraud Office that BAE had allegedly made bribery-related fraudulent misrepresentations to ECGD when it requested insurance cover from ECGD for its Saudi Arabian deals.

The OECD wrote:

> "[The examiners] are seriously concerned both about the lack of evidence of any response by ECGD to the fraud allegations, the absence of any explanation for the inaction and ECGD's proffered justification for declining to provide information in this area."

See: OECD Working Group on Bribery, "United Kingdom: Phase 2*bis* report on the application of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the 1997 Recommendation on Combating Bribery in International Business Transactions", 16 October 2008, p.67.
http://www.oecd.org/dataoecd/23/20/41515077.pdf

68 "How James Ibori bankrupted Intercontinental and Oceanic banks", undated, *Urhoboland.com*,
http://www.urhoboland.com/News%20Files/How%20James%20Ibori%20bankrupted%20InterContinental%20and%20Oceanic%20banks.htm

69 "EFCC declares Ibori wanted for corruption charges", *Channels TV (Nigeria)*, 13 April 2010, http://www.channelstv.com/global/news_details.php?cat=Politics&nid=17378

Archibong, E., "Ibori wanted", *Next*, 14 April 2010 http://234next.com/csp/cms/sites/Next/Opinion/Editorial/5554434-147/ibori_wanted____.csp

Okulaja, A, "EFCC declares Ibori wanted", *Next*, 13 April 2010, http://234next.com/csp/cms/sites/Next/Opinion/Editorial/5554238-147/efcc_declares_ibori_wanted__.csp

Archibong, E., "Why we want Ibori", *Next*, 15 April 2010, http://234next.com/csp/cms/sites/Next/Opinion/Editorial/5554993-147/why_we_want_ibori__.csp

EFCC, "Investigation activities: Letter of invitation", http://thewillnigeria.com/files.php?force&file=EFCC_LETTER_OF_INVITATION_913276455.pdf

"Ex-Governor of Nigeria's oil state wanted for graft", *Star Africa*, 13 April 2010, http://www.starafrica.com/en/news/politics/article/ex-governor-of-nigerias-oil-state-wante-40455.html.

Star Africa, citing an EFCC spokesperson, reports:

> "[Ibori] is accused of diverting 520 million units of Delta State government shares in the Oceanic Bank to secure a loan from the Intercontinental Bank worth 44 billion naira (290 million dollars/213 million euros) . . . Ibori then instructed Intercontinental Bank "to sell the shares to offset a loan obtained by Ascot", referring to a company owned by the former governor."

70 CDC Group Plc, "Statement from Chief Executive", *Growth for Development, Development Report 2008*, p.2 http://www.cdcgroup.com/uploads/developmentreport2009.pdf

National Audit Office, *Investing for Development: The Department for International Development's Oversight of CDC Group Plc*, p.4, http://www.nao.org.uk/idoc.ashx?docId=C6A8AEDD-2C9E-438F-8D48-7979C341AA62&version=-1

According to the National Audit Office:

> "The Department for International Development (DFID) sets the overall framework for CDC's investment policy, but does not interfere in individual investment decisions."

71 Development Finance Institutions (DFIs) are government owned or backed entities that provide private sector finance to developing countries. Within Europe, there are 15 such DFIs.
See: European Development Finance Institutions http://www.edfi.be/members.html

72 CDC Group Plc, *Growth for Development, Development Report 2008*, p.13, http://www.cdcgroup.com/uploads/developmentreport2009.pdf

73 CDC still retains ownership of the assets built up in companies in which it had invested prior to its 2004 restructuring. But these are now managed by two independent private equity fund managers, Aureos and Actis, created in 2001 and 2004 respectively. Actis focuses on investments in larger companies, Aureos on small- and medium-sized enterprises. CDC pays Actis and Aureos "fees and a share of profits for managing investee companies on CDC's behalf."

See: CDC Group Plc, *Growth for Development, Development Report 2008*, p.15, http://www.cdcgroup.com/uploads/developmentreport2009.pdf

74 CDC Group Plc, *Growth for Development, Development Report 2008*, p.15, http://www.cdcgroup.com/uploads/developmentreport2009.pdf

75 CDC Group Plc, *Growth for Development, Development Report 2008*, p.15, http://www.cdcgroup.com/uploads/developmentreport2009.pdf

76 CDC Group Plc, *Financial Review 2009*, p.6, http://online.hemscottir.com/ir/cdc/fr_2009/ar.jsp?page=1&zoom=1.0&layout=single

77 CDC Group Plc, *Financial Review 2009*, p.10, http://online.hemscottir.com/ir/cdc/fr_2009/ar.jsp?page=1&zoom=1.0&layout=single

78 DfID, "CDC" http://www.dfid.gov.uk/About-DFID/Who-we-work-with1/CDC/

79 DfID, "CDC" http://www.dfid.gov.uk/About-DFID/Who-we-work-with1/CDC/

80 CDC Group Plc, *Growth for Development, Development Report 2008*, p.19, http://www.cdcgroup.com/uploads/developmentreport2009.pdf

81 CDC Group Plc, *Financial Review 2009*, p.5, http://online.hemscottir.com/ir/cdc/fr_2009/ar.jsp?page=1&zoom=1.0&layout=single.

CDC states:

> "Commitments are principally with local private equity fund managers who know and understand developing countries."

82 CDC Group, "Supporting Business" http://www.cdcgroup.com/supporting-business.aspx

83 CDC Group, *Development Report 2009*, p.21, http://www.cdcgroup.com/uploads/developmentreport2009.pdf

84 CDC Group Plc, *Financial Review 2009*, p.5, http://online.hemscottir.com/ir/cdc/fr_2009/ar.jsp?page=1&zoom=1.0&layout=single.

CDC states:

> "Managers invest responsibly in accordance with CDC's investment code".

See also: CDC Group Plc, *Growth for Development, Development Report 2008*, p.16, http://www.cdcgroup.com/uploads/developmentreport2009.pdf

> "CDC . . . requires a strong commitment to responsible investment principles and requires its fund managers to sign up to CDC's Investment Code on environmental, social and governance (ESG) matters".

The Investment Code is available at: http://www.cdcgroup.com/uploads/cdcinvestmentcode.pdf

85 CDC Investment Code on Environmental, Social and Governance Matters, "Governance: Business Integrity and Good Corporate Governance", http://www.cdcgroup.com/uploads/cdcinvestmentcode.pdf

86 CDC Group Plc, *Growth for Development, Development Report 2008*, p.19, http://www.cdcgroup.com/uploads/developmentreport2009.pdf

87 CDC Investment Code http://www.cdcgroup.com/uploads/cdcinvestmentcode.pdf

88 CDC Investment Code on Environmental, Social and Governance Matters, "Governance: Business Integrity and Good Corporate Governance", Section 2c, http://www.cdcgroup.com/uploads/cdcinvestmentcode.pdf

89 CDC Investment Code on Environmental, Social and Governance Matters, "Governance: Business Integrity and Good Corporate Governance", Section 2c, http://www.cdcgroup.com/uploads/cdcinvestmentcode.pdf

90 CDC Investment Code on Environmental, Social and Governance Matters, "Governance: Business Integrity and Good Corporate Governance", Section 4, http://www.cdcgroup.com/uploads/cdcinvestmentcode.pdf

91 CDC Group, *Development Report 2009*, p.21, http://www.cdcgroup.com/uploads/developmentreport2009.pdf

92 CDC Group, "Key Facts" http://www.cdcgroup.com/key-facts.aspx

93 CDC Investment Code on Environmental, Social and Governance Matters, "Governance: Business Integrity and Good Corporate Governance", Section 4, http://www.cdcgroup.com/uploads/cdcinvestmentcode.pdf

94 Such legislation includes the Money Laundering Regulations 2007, http://www.opsi.gov.uk/si/si2007/plain/uksi_20072157_en#pt2-l1g5

95 For a discussion, *see*: "Anti-money laundering and the importance of rigid due diligence", http://www.customhousegroup.com/speeches/2004/02/anti_money_laundering_and_the_importance_of_rigid_due_diligence

96 FATF Recommendations: Glossary http://www.fatf-gafi.org/glossary/0,3414,en_32250379_32236920_34295666_1_1_1_1,00.html#34285860

The Financial Action Task Force (FATF) is an inter-governmental body that develops and promotes national and international policies to combat money laundering and terrorist financing. http://www.fatf-gafi.org/pages/0,3417,en_32250379_32235720_1_1_1_1_1,00.html

97 *See*: Peel, M., *Nigeria-related Financial Crime and its links with Britain*, Chatham House, November 2006 http://www.chathamhouse.org.uk/publications/papers/download/-/id/410/file/3377_nigeria1106.pdf.

Peel notes:

> "Criminal activity involves only a small minority of Nigerians."

98 *See*, for example, "Ribadu tells of Nigeria corruption battle", *BBC News*, 10 November 2009, http://news.bbc.co.uk/1/hi/world/africa/8322992.stm

As chair of the Economic and Financial Crimes Commission (EFCC) from 2003 to2007, Nuhu Ribadu brought more than 1,000 cases of corruption to court, securing 270 convictions. He was forced into exile in 2008 after several attempts were made on his life and he was demoted in the Police.

See: "'Threat' to Nigeria ex-graft Czar", *BBC News*, 3 December 2008, http://news.bbc.co.uk/1/hi/world/africa/7762264.stm.

99 Howden, D, "Nigeria seizes powerbroker in ข 196m fraud case", *The Independent*, 14 May 2010, http://www.independent.co.uk/news/world/africa/nigeria-seizes-powerbroker-in-163196m-fraud-case-1973036.html

"Ibori and the Burden of Charges", *Business Day*, 14 May 2010, http://www.businessdayonline.com/index.php?option=com_content&view=article&id=11025:ibori-and-the-burden-of-charges&catid=1:latest-news&Itemid=18

100 Howden, D, "Nigeria seizes powerbroker in ข 196m fraud case", *The Independent*, 14 May 2010, http://www.independent.co.uk/news/world/africa/nigeria-seizes-powerbroker-in-163196m-fraud-case-1973036.html.

101 *See*: "EFCC declares Ibori wanted for corruption charges", *Channels TV (Nigeria)*, 13 April 2010 http://www.channelstv.com/global/news_details.php?cat=Politics&nid=17378;

"Ex-Governor of Nigeria's oil state wanted for graft", *Star Africa*, 13 April 2010, http://www.starafrica.com/en/news/politics/article/ex-governor-of-nigerias-oil-state-wante-40455.html.

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102 CDC Group, *CDC Annual Report and Accounts 2008: Generating Wealth in Emerging Markets*, p.23 http://www.cdcgroup.com/uploads/cdc2008annualreview.pdf

103 Emerging Capital Partners, Managing Directors http://www.ecpinvestments.com/team_details.xml?id=1002&p=1044&d=1042

104 ECP, "Current portfolio" http://www.ecpinvestments.com/portfolio.xml?p=1012&d=1047&_offset=0

105 CDC Group, *CDC Annual Report and Accounts 2008: Generating Wealth in Emerging Markets*, p.38 http://www.cdcgroup.com/uploads/cdc2008reportandaccounts.pdf

106 CDC Group, *CDC Annual Report and Accounts 2008: Generating Wealth in Emerging Markets*, p.23 http://www.cdcgroup.com/uploads/cdc2008reportandaccounts.pdf

107 ECP, "Intercontinental Bank" http://www.ecpinvestments.com/inv_details.xml?id=1101

108 ECP, "Notore" http://www.ecpinvestments.com/inv_details.xml?id=1096

109 ECP, "OandO" http://www.ecpinvestments.com/inv_details.xml?id=1103

110 ECP Investments, ECP Africa Fund II PCC http://www.ecpinvestments.com/fund.xml?id=1005

111 ECP Investments, Celtel http://www.ecpinvestments.com/inv_details.xml?id=1000

112 "Who We Are", Notore http://www.notore.com/short_story.html.

113 ECP Managing Directors http://www.ecpinvestments.com/team_details.xml?id=1006&p=1044&d=1042.

114 Notore Board of Directors
http://www.notore.com/board.html.

115 According to ECP's Executive Chair Thomas Gibian, Notore Mauritius was "established at the time of the [ECP] Fund's investment based on ECP's insistence on being accorded stronger minority shareholder rights which are available under Mauritius law as compared to Nigerian law." (Email from Thomas Gibian to Dotun Oloko, 22 January 2010.) But a search of the company records in Mauritius shows that Notore Mauritius was registered on 14 August 2006, some seven months before ECP made its investment in Notore Nigeria in March 2007.

116 Notore's Nigerian directors who hold their shares through Notore Mauritius are Onajite Okoloko, Henry Imasekha and Michael Osime.

117 Email from Thomas Gibian to Dotun Oloko, 22 January 2010.

118 "Suit no: FHC/B/CS/862/2007, Counter affidavit of 1st defendant/respondent to the motion dated 8th October 2007, in the Federal High Court of Nigeria Holden Benin City", http://www.africa-interactive.net/site/list_message/8099.

Orugbo is named at para 16, xvii and xviii:

> "xvii. That investigation on the acquisition of NAFCON revealed that O-secul Nig. Ltd., a company owned by Mike Orugbo bidded and acquired the company in 2005 for the sum of USD 152 million dollars."
>
> "xviii. That during the bid process, the sum of USD 2 million dollars was sourced by Mike Orugbo and paid to the company's liquidators via a new Nigerian Bank for the sum of N280 million naira issued sometime in August 2005."

At para xix, the Affidavit further states:

> "xix. That investigation showed that the Oceanic Bank raised the remaining money on behalf of O-secul for the acquisition of the fertilizer company while there exists no evidence of previous banking relationship between O-Secul and Oceanic Bank but the Bank felt comfortable in granting the large facility to the company.

119 Ocean & Oil Holdings, "About Us"
http://www.oandoholdings.com/about-us.php.

120 ECP, "Emerging Capital Partners Invests US $35 million in West African Energy Company", 7 January 2008
http://www.ecpinvestments.com/news/1602.xml.

121 OandO, "About OandO Group"
http://www.oandoplc.com/nigeria/about-oando/about/history-of-oando-group/.

122 Emerging Capital Partners Investment in O&OI, http://www.ecpinvestments.com/news/1602.xml

123 ECP describes Navaid Burney as Managing Director in a 2008 press release. According to OandO, Burney left ECP in 2009.

See: ECP, "Emerging Capital Partners Invests US $35 million in West African Energy Company", 7 January 2008
http://www.ecpinvestments.com/news/1602.xml

OandO, Board of Directors' Profile
http://www.oandoplc.com/nigeria/about-oando/about/board-of-directors/

124 OandO, Mr. Navaid Burney Board of Directors' Profile
http://www.oandoplc.com/nigeria/about-oando/about/board-of-directors/navaid
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125 Michael Jansa, ECP Managing Directors
http://www.ecpinvestments.com/team_details.xml?id=1006&p=&d=

126 Carolyn Cambell, ECP Managing Directors http://www.ecpinvestments.com/team_details.xml?id=1005

127 "Case Study, Celtel International", ECP
http://www.ecpinvestments.com/upload/wysiwyg/Case%20Studies/Celtel%20Case%20Study.pdf

128 "Case Study, Celtel International", ECP
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129 Thomas Gibian, "Chairman", ECP http://www.ecpinvestments.com/team_details.xml?id=1002&p=&d=

130 "Intercontinental Bank, PLC, Organizational Record", AFDEVINFO,
http://www.afdevinfo.com/htmlreports/org/org_47948.html.

131 For an overview of the Nigerian banking crisis, *see*: Agbonkpolor, T., "Risk Management and Regulatory Failures in Banking: Reflections on the current banking crisis in Nigeria", *Journal of Banking Regulation*, Vol. 11, pp.146-155, 2010.
http://www.palgrave-journals.com/jbr/journal/v11/n2/pdf/jbr20105a.pdf.

132 Address by the Governor of the Central Bank of Nigeria, Mallam Sanusi Lamido Sanusi, on Developments in the Banking System in Nigeria on 14 August 2009,
http://www.imoisilis.com/2009/08/full-text-of-cbn-governors-speech-on.html

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http://thenationonlineng.net/web2/articles/14623/1/QAImplications-of-Nigerian-bank-bailout/Page1.html

Intercontinental Bank, "Intercontinental Bank set to recover N200bn – Alabi", 17 September 2009
http://www.intercontinentalbankplc.com/portal/general/pressrelease.php?n=70&mode=story

133 Intercontinental Bank, "Board of Directors", accessed 7 June 2010
http://www.intercontinentalbankplc.com/portal/general/corporate_governance.php?c=1&cname=Board%20of%20Directors&page=listing

134 "Suit no: FHC/B/CS/862/2007, Counter affidavit of 1st defendant/respondent to the motion dated 8 October 2007, in the Federal High Court of Nigeria Holden Benin City", para 16, xxii, http://www.africa-interactive.net/site/list_message/8099

The relevant passages of the affidavit state:

> "The investigation carried out by the 1st Defendant's team headed by me has revealed the involvement of Chief James Ibori and his accomplices in the following economic and financial crimes . . . That another payment of N4.418 billion was received by Oceanic Bank from Brisbane Ltd. via two Intercontinental Bank Manager's Cheques for acquisition of 13% of the fertilizer company while Brisbane Ltd. is owned by Henry Imasekha who is also the sole owner of Berkeley Group."

135 "Court freezes Erastus Akingbola's assets worldwide", *Next*, April 9, 2010
http://234next.com/csp/cms/sites/Next/Home/5505590-146/story.csp

136 Address by the Governor of the Central Bank of Nigeria, Mallam Sanusi Lamido Sanusi on Developments in the Banking System in Nigeria on 14 August 2009
http://www.cenbank.org/out/speeches/2009/Govadd-14-8-09.pdf

137 Notore Chairman and Board of Directors
http://www.notore.com/board.html

138 "Suit no: FHC/B/CS/862/2007, Counter affidavit of 1st defendant/respondent to the motion dated 8 October 2007, in the Federal High Court of Nigeria Holden Benin City" http://www.africa-interactive.net/site/list_message/8099.

Para 16 xxix states:

> "That the said Wilbros Nig. Ltd was acquired for USD 155 million by a new established company Ascot Offshore Nig. Ltd. registered and solely owned by Mr. Henry Imasekha, the same character moving funds in Celtel, OandO and NOTORE chemical industries."

See also: Akinbajo, I., "Ibori's brain and the great bank heist", *Next*, 23 August 2009
http://234next.com/csp/cms/sites/Next/Money/Business/5446926-146/story.csp.

139 Akinbajo, I., "Ibori's brain and the great bank heist", *Next*, 23 August 2009,
http://234next.com/csp/cms/sites/Next/Money/Business/5446926-146/story.csp

140 "London Mets Charges against Yar'adua's PPS, David Edevbie,Victor Attah, Henry Imashekka and Ibori", *Sahara Reporters*, 10 September 2009
http://www.saharareporters.com/news/3674-charges-against-edevbie-henry-imashekka-and-ibori.html

141 "London Mets Charges against Yar'adua's PPS, David Edevbie,Victor Attah, Henry Imashekka and Ibori", *Sahara Reporters*, 10 September 2009
http://www.saharareporters.com/news/3674-charges-against-edevbie-henry-imashekka-and-ibori.html.

The charge, as reported by *Sahara Reporters*, reads:

> "Bhadresh Babulal Gohil, Lambertus de Boer, and Daniel Benedict MCCaann on or about the 21st December 2006 together with James Onafefe Ibori, Victor Attah, Henry Imasheka and others concealed, disguised, converted and transferred criminal property, namely the sum of $10 million (USD) being a purported loan from African Development Finance Limited to a company named Ascot Offshore (Nigeria) Limited, they knowing or suspecting that that sum constituted the benefit from criminal conduct of another person, or that it represented such benefit in whole or in part and whether directly or indirectly."

142 Akinbajo, I., "Ibori's brain and the great bank heist", *Next*, 23 August 2009
http://234next.com/csp/cms/sites/Next/Money/Business/5446926-146/story.csp

143 Central Bank of Nigeria Advertorial, 18 August 2009
http://www.cenbank.org/Out/publications/pressRelease/GOV/2009/ADVERTORIAL2.pdf

144 Amokeodo, T., "Court Begins Hearing in Otudeko's Suit Against GSM Firm's Directors", *The Punch,* 13 November 2007
http://www.punchng.com/Article2Print.aspx?theartic=Art200711130473121

145 "N44b alleged fraud: Ibori, associate flee to Ghana", *Compass*, 2 May 2010,
http://www.compassnewspaper.com/NG/index.php?option=com_content&view=article&id=47241:n44b-alleged-fraud-ibori-associate-flee-to-ghana&catid=672:top-stories&Itemid=794.

146 Notore Chairman and Board of Directors
http://www.notore.com/board.html

147 "Suit no: FHC/B/CS/862/2007, Counter affidavit of 1st defendant/respondent to the motion dated 8th October 2007, in the Federal High Court of Nigeria Holden Benin City" http://www.africa-interactive.net/site/list_message/8099.

Orugbo is named at para 16, xvii and xviii:

> "xvii. That investigation on the acquisition of NAFCON revealed that O-secul Nig. Ltd., a company owned by Mike Orugbo bidded and acquired the company in 2005 for the sum of USD 152 million dollars."
>
> "xviii. That during the bid process, the sum of USD 2 million dollars was sourced by Mike Orugbo and paid to the company's liquidators via a new Nigerian Bank for the sum of N280 million naira issued sometime in August 2005."

148 "EFCC Pushes Case Against Ibori Man", *PM News*, 6 October 2008
http://174.143.70.125/reports/exclusive/2137-efcc-pushes-case-against-iboris-man-pm-news-.html.

149 Notore Chairman and Board of Directors
http://www.notore.com/board.html

150 OandO, "Director's Profile; Paul Okoloko"
http://www.oandoplc.com/nigeria/about-oando/about/board-of-directors/paul-okoloko/.

For further background, *see*: "OandO PLC Restructures its Management Team, Announces New Appointments", press release, OandO, 30 April 2006
http://www.oandoplc.com/nigeria/about-oando/media/press-releases/more-releases/oando-restructures-management.php

151 OandO, "Director's Profile; Paul Okoloko"
http://www.oandoplc.com/nigeria/about-oando/about/board-of-directors/paul-okoloko/

152 Iyamu, E., "Talking About a Revolution", *Next*, 4 July 2009
http://234next.com/csp/cms/sites/Next/Money/Business/5429936-147/story.csp.

153 Central Bank of Nigeria Advertorial, 18 August 2009,
http://www.cenbank.org/Out/publications/pressRelease/GOV/2009/ADVERTORIAL2.pdf

154 "Board of Director's Profile, About OandO", OandO
http://www.oandoplc.com/nigeria/about-oando/about/board-of-directors/adewale-tinubu/

155 Amokeodo, T., "Court Begins Hearing in Otudeko's Suit Against GSM Firm's Directors", *The Punch*, 13 November 2007
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156 Ethos Private Equity, "Home"
http://www.ethos.co.za/live/index.php

157 CDC Group, "Fund managers"
http://www.altassets.com/private-equity-news/article/nz12537.html.

158 Ethos Fund V
http://www.ethos.co.za/live/content.php?Category_ID=34

159 Ethos, "Ethos backs leading Nigerian bank's expansion plans", November 2007, http://www.ethos.co.za/content/Oceanic-dealcard~1.pdf

See also: "Ethos Leads Consortium in $130 Million in Nigerian Bank Oceanic", *AltAssets*, 20 January 2008
http://www.altassets.com/private-equity-news/article/nz12537.html

160 Oceanic Bank, "About Us"
http://www.oceanicbanknigeria.com/aboutus/

161 Nkereuwem, E., "EFCC can't find Ibori", *Next*, 28 March 2010
http://234next.com/csp/cms/sites/Next/News/Metro/Politics/5546985-146/efcc_cant_find_ibori__.csp

162 "Suit no: FHC/B/CS/862/2007, Counter affidavit of 1st defendant/respondent to the motion dated 8 October 2007, in the Federal High Court of Nigeria Holden Benin City", para 16, vii, xix, xii and xxv http://www.africa-interactive.net/site/list_message/8099.

The citations referring to Oceanic Bank read:

> "viii. That investigation conducted on Udoamaka's accounts such as Sagicon Nig Ltd., Rivbbed Agro Allied, Saagaris Properties, Global Little Drops held in Oceanic and Zenith Banks revealed several lodgment of Delta State Government cheques in the neighborhood of N2 billion out of which N1.3 billion Naira were paid out between May and December 2006.
>
> xix. That investigation showed that the Oceanic Bank raised the remaining money on behalf of O-secul for the acquisition of the fertilizer company while there exists no evidence of previous banking relationship between O-Secul and Oceanic Bank but the Bank felt comfortable in granting the large facility to the company.
>
> xxii. That another payment of N4.418 billion was received by Oceanic Bank from Brisbane Ltd. via two Intercontinental Bank Manager's Cheques for acquisition of 13% of the fertilizer company while Brisbane Ltd. is owned by Henry Imasekha who is also the sole owner of Berkeley Group.
>
> xxv. That investigation on share placements in Nigerian banks and companies revealed the diversion of N5 Billion from the accounts of the Delta State Government in Oceanic Bank and Zenith Bank for the purchase of Afribank shares for Chief James Ibori. The fraudulent transactions were perpetrated through the use of 14 fictitious companies such as Double Dip Nig. Ltd., Arusha Nig. Ltd., Abajim Nig Ltd., Lugba Nig. Ltd., Mombassa Nig. Ltd., Limpopo Nig. Ltd., Zaragoza Nig. Ltd., Sandton Nig. Ltd. etc."

163 Address by the Governor of the Central Bank of Nigeria, Mallam Sanusi Lamido Sanusi on Developments in the Banking System in Nigeria on 14 August 2009
http://www.imoisilis.com/2009/08/full-text-of-cbn-governors-speech-on.html.

164 Central Bank of Nigeria Advertorial, 18 August 2009
http://www.cenbank.org/Out/publications/pressRelease/GOV/2009/ADVERTORIAL2.pdf

165 "CBN sacks CEOs of Intercontinental, Oceanic, UBN, Afribank and Finbank", *Proshare*, 14 August 2009
http://www.proshareng.com/news/singleNews.php?id=7344

166 Oceanic Bank, *2008 Annual report*, p.56 http://www.oceanicbanknigeria.com/investors/financials/

167 Amokeodo, T., "Court Begins Hearing in Otudeko's Suit Against GSM Firm's Directors", 13 November 2007, *The Punch*, http://www.punchng.com/Article2Print.aspx?theartic=Art200711130473121.

168 *Bloomberg Business Week* database, http://investing.businessweek.com/businessweek/research/stocks/people/relationship.asp?personId=25068867&ticker=OCEANIC:NL&previousCapId=20357513&previousTitle=OCEANIC%20BANK%20INTERNATIONAL

169 "CBN sacks CEOs of Intercontinental, Oceanic, UBN, Afribank and Finbank", *Proshare*, 14 August 2009 http://www.proshareng.com/news/singleNews.php?id=7344

170 OandO, "Oboden Ibru" http://www.oandoplc.com/nigeria/about-oando/about/board-of-directors/oboden/

171 Oceanic Bank, *2008 Annual report*, p.6 http://www.oceanicbanknigeria.com/investors/financials/

172 Official report of Ibori paying a condolence visit to the Ibrus, http://www.deltastate.gov.ng/images/gpix/180506/gipix180506.htm

173 "Court Freezes Ibru's N399bn Assets", *All Africa*, 22 January 2010 http://allafrica.com/stories/201001220200.html.

174 "Rescued Banks: EFCC seizes Ibru's 103 properties", *The Punch*, 18 January 2010, http://www.punchng.com/Articl.aspx?theartic=Art201001183521414.

175 "Court Freezes Ibru's N399bn Assets", *All Africa*, 22 January 2010, http://allafrica.com/stories/201001220200.html.

176 "Ibori, Wife Convicted of Theft—UK Police", *Nigerian Muse,* 16 January 2008 http://www.nigerianmuse.com/20080116210010zg/nigeriawatch/officialfraud/Ibori_wife_convicted_of_theft_UK_Police

177 "Ibori, Wife Convicted of Theft—UK Police", *Nigerian Muse*, 16 January 2008 http://www.nigerianmuse.com/20080116210010zg/nigeriawatch/officialfraud/Ibori_wife_convicted_of_theft_UK_Police

178 Complaint for Forfeiture, United States District Court for the District of Maryland, United States of America v. $1,019,000.40 in U.S. CURRENCY, JFM 97-1779. *See* Annex of this Memorandum.

179 "How EFCC Arrested Ibori", *All Africa*, 13 December, 2007 http://allafrica.com/stories/200712130001.html

180 "Ibori held accounts, and his agent was prosecuted for fraud and conspiracy, UK court hears", *Sahara Reporters*, 10 March 2010 http://174.143.70.125/real-news/sr-headlines/5460-ibori-held-uk-accounts-and-his-agent-was-prosecuted-for-fraud-and-conspiracy-uk-court-hears.html

181 "Ibori's Assets Remain Frozen, Says UK Courts", *All Africa*, 16 November 2007 http://allafrica.com/stories/200711160235.html

182 "EFCC declares Ibori wanted for corruption charges", *Channels TV (Nigeria*), 13 April 2010, http://www.channelstv.com/global/news_details.php?cat=Politics&nid=17378

Archibong, E., "Ibori wanted", *Next*, 14 April 2010 http://234next.com/csp/cms/sites/Next/Opinion/Editorial/5554434-147/ibori_wanted____.csp

Okulaja, A, "EFCC declares Ibori wanted", *Next*, 13 April 2010, http://234next.com/csp/cms/sites/Next/Opinion/Editorial/5554238-147/efcc_declares_ibori_wanted__.csp

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EFCC, "Investigation activities: Letter of invitation", http://thewillnigeria.com/files.php?force&file=EFCC_LETTER_OF_INVITATION_913276455.pdf

"Ex-Governor of Nigeria's oil state wanted for graft", *Star Africa*, 13 April 2010, http://www.starafrica.com/en/news/politics/article/ex-governor-of-nigerias-oil-state-wante-40455.html.

Star Africa, citing an EFCC spokesperson, reports:

> "[Ibori] is accused of diverting 520 million units of Delta State government shares in the Oceanic Bank to secure a loan from the Intercontinental Bank worth 44 billion naira (290 million dollars/213 million euros) . . . Ibori then instructed Intercontinental Bank "to sell the shares to offset a loan obtained by Ascot", referring to a company owned by the former governor."

183 "Nigeria ex-governor James Ibori 'freed on bail'", *BBC News*, 14 May 2010, http://news.bbc.co.uk/1/hi/world/africa/8682020.stm

184 "UK Police Confirm Ibori arrest", *Sahara Reporters*, 13 May 2010 http://www.saharareporters.com/real-news/sr-headlines/6067-uk-police-confirms-iboris-arrest-in-dubai.html

185 "Ibori flees", *The Sun*, 25 April 2010 http://www.sunnewsonline.com/webpages/news/national/2010/apr/25/national-25-04-2010-001.htm.

186 Michael Peel and Tom Burgis, "Nigerians face jail for role in laundering stolen oil money", *Financial Times*, 3 June 2010, p.4.

187 "CDC's seedy bedfellows (2)", *Private Eye*, 2 October 2009, p.28;
"Haven help us", *Private Eye,* 2 April 2010, p.29;
Private Eye, 5 March 2010, p.3

188 Email from Richard Laing to Dotun Oloko, "Report on ECP Investments in Nigeria", 26 February 2010.

189 Email from Richard Laing to Dotun Oloko, "Report on ECP Investments in Nigeria", 26 February 2010.

190 *Private Eye*, 5 March 2010, p.3.

191 Letter from Mark Kenderine-Davies to Richard Brooks, 8 March 2010.

192 Email from Mark Kenderine-Davies to Richard Brooks, 25 March 2010.

193 Email from Mark Kenderine-Davies to Richard Brooks, 25 March 2010.

CDC wrote:

> "There are differences between the report we previously reviewed and the report you have now provided but the differences are not substantive."

194 Email from Thomas Gibian to Dotun Oloko, 13 January 2010.

195 Section 31 of the Freedom of Information Act permits information to be withheld if disclosure would be prejudicial to law enforcement. http://www.opsi.gov.uk/acts/acts2000/ukpga_20000036_en_3#pt2-l1g31.

196 Section 40 of the Freedom of Information Act permits information to be withheld if it constitutes personal data. http://www.opsi.gov.uk/acts/acts2000/ukpga_20000036_en_4#pt2-l1g40

197 Section 41 of the Freedom of Information Act permits information to be withheld if it was provided to a public authority in confidence. http://www.opsi.gov.uk/acts/acts2000/ukpga_20000036_en_4#pt2-l1g41.

198 Section 43 of the Freedom of Information Act permits information to be withheld if, *inter alia*, it prejudices the commercial interests of any person (including the public authority holding it). http://www.opsi.gov.uk/acts/acts2000/ukpga_20000036_en_4#pt2-l1g43.

199 "Meeting with DfID CFU and CDC Sponsorship Team", 9 February 2010, released under Freedom of Information request to National Audit Office, FOI (440), 7 June 2010.

200 The CEO of Intercontinental at the time was Erastus Akingbola who is currently a fugitive from the law in Nigeria and reportedly hiding in the UK. See: Bangudu, O, "Court freezes Erastus Akingbola's assets worldwide", 1 January 2010, Next, http://234next.com/csp/cms/sites/Next/Home/5505590-146/story.csp.

Cecilia Ibru was CEO of Oceanic. See: "Court Freezes Ibru's N399bn Assets", *All Africa*, 22 January 2010 http://allafrica.com/stories/201001220200.html

201 The companies in the portfolio of Actis (the CDC-backed private equity fund manager established when CDC was restructured in 2004) are unlikely to be prone to corruption or money-laundering in the Nigerian context. Actis has not invested, for example, in recently privatised state-owned companies or companies dependent on government patronage for the continuation of the services they provide.

202 *See*, for example, Kavaljit Singh, "Taking It Private: The Global Consequences of Private Equity", *Corner House Briefing 37*, The Corner House, October 2008.

203 Akinbajo, I., "Ibori's brain and the great bank heist", *Next*, 23 August 2009 http://234next.com/csp/cms/sites/Next/Money/Business/5446926-146/story.csp.

According to *Next*:

> "Notore Chemical Industries Ltd, owes Oceanic N32.3 billion. And Berkeley Group, another company controlled by Mr. Imasekha, owes Oceanic another N4.3 billion, the CBN [Central Bank of Nigeria] says." A number of other companies listed by the Central Bank of Nigeria in August 2009 as having unsecured ("non-performing") loans from Oceanic also have links to Ibori. They include: Midwestern Oil and Gas, OandO and Delta State Government.

See also: Central Bank of Nigeria Advertorial, 18 August 2009 http://www.cenbank.org/Out/publications/pressRelease/GOV/2009/ADVERTORIAL2.pdf

204 "Suit no: FHC/B/CS/862/2007, Counter affidavit of 1st defendant/respondent to the motion dated 8 October 2007, in the Federal High Court of Nigeria Holden Benin City" http://www.africa-interactive.net/site/list_message/8099

Imasekha is named at para 16 xxii, xxiii and xxix:

> "xxii. That another payment of N4.418 billion was received by Oceanic Bank from Brisbane Ltd. via two Intercontinental Bank Manager's Cheques for acquisition of 13% of the fertilizer company while Brisbane Ltd. is owned by Henry Imasekha who is also the sole owner of Berkeley Group."
>
> "xxiii. That investigation on the origin of the money paid Brisbane however, revealed that in 2001 Mr. Henry Masekha used Bromley Ltd. to secure a loan of N2.2 billion naira from New Nigeria Bank without any collateral or evidence of previous Banking relationship with the Bank and purchased 10% of Econet Nigeria Ltd. (now Celtel) while few weeks later 'Delta

State Government' bought 5% of the Econet shares from Bromley Ltd. at the sum of N2.5 billion naira via a Standard Trust Bank Draft which he used in liquidating the New Nigeria Bank facility."

"xxix That the said Wilbros Nig. Ltd was acquired for USD 155 million by a new established company Ascot Offshore Nig. Ltd. registered and solely owned by Mr. Henry Imasekha, the same character moving funds in Celtel, OandO and NOTORE chemical industries."

See also: Akinbajo, I., "Ibori's brain and the great bank heist", *Nex*t, 23 August 2009 http://234next.com/csp/cms/sites/Next/Money/Business/5446926-146/story.csp

205 Akinbajo, I., "Ibori's brain and the great bank heist", *Next*, 23 August 2009 http://234next.com/csp/cms/sites/Next/Money/Business/5446926-146/story.csp.

Citing the Central Bank of Nigeria, *Next* reports:

"Ascot Offshore Nigeria Ltd, on whose parent board Mr. Imasekha seats as chairman, owes Intercontinental N44.6 billion."

See also: Central Bank of Nigeria Advertorial, 18 August 2009 http://www.cenbank.org/Out/publications/pressRelease/GOV/2009/ADVERTORIAL2.pdf

206 "Suit no: FHC/B/CS/862/2007, Counter affidavit of 1st defendant/respondent to the motion dated 8 October 2007, in the Federal High Court of Nigeria Holden Benin City" http://www.africa-interactive.net/site/list_message/8099.

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See also: Akinbajo, I., "Ibori's brain and the great bank heist", *Next*, 23 August 2009 http://234next.com/csp/cms/sites/Next/Money/Business/5446926-146/story.csp