

TO THE PRE-TRIAL INVESTIGATIONS COURT

[I,] MR. DOMINGO JOSÉ COLLADO, Court Representative and representative under the citizen complaint brought by **ASOCIACIÓN PRO DERECHOS HUMANOS DE ESPAÑA (APDHE)**, acting on behalf of all of [its members] as evidenced by the notarized special power of attorney which, having been duly examined for sufficiency, I attach hereto, hereby appear before the Court and, to the fullest extent allowed by Law and with the legal assistance of the attorney-at-law registered with the Honorable Bar Association Mr. **MANUEL OLLÉ SESÉ, STATE [as follows]:**

I hereby file a **CRIMINAL COMPLAINT** under the provisions of Section 271 *et seq.* of the Law of Criminal Procedure [*Ley de Enjuiciamiento Criminal*] against the persons mentioned in section III below and against those who might appear to be criminally liable during the course of the investigation for a **CRIMINAL CHARGE OF MONEY LAUNDERING**, for which purpose, and in compliance with Section 277 and related provisions of such Law,

**I**

This criminal complaint is filed with such Central Pre-Trial Investigations Court as is in session to hear this case, as such Court has jurisdiction to conduct the pre-trial investigation.

## II

The complainant, who hereby brings a citizen complaint, is **ASOCIACIÓN PRO DERECHOS HUMANOS DE ESPAÑA (APDHE)**, domiciled at calle José Ortega y Gasset, 77, 2º A, of Madrid (28006).

APDHE has a lawful and direct interest in this complaint. The purposes and/or objectives set out in the Bylaws of such complainant Association consist of "defending Human Rights in all forms and in all places, ensuring observance of those already acknowledged and fostering the recognition and guaranteed protection of those that are not yet recognized," and the specific purposes pursued by the party I represent include "defending, supporting and proclaiming, disseminating and developing, by all means of expression, the Universal Declaration of Human Rights and other resolutions issued, with the same spirit, by International and Domestic Organizations regarding Human Rights issues, as well as denouncing the violation thereof" (Article 3 of the Bylaws of APDHE).

APDHE's standing is therefore based upon the following grounds: Equatorial Guinea is sub-Saharan Africa's third-largest oil producer, after Nigeria and Angola. It has annual income on the order of 3 billion euros from the oil market; its economy grows at a 20% rate, and its GDP per capita stands at 17,000 euros per annum. It is estimated that the current regime under the rule of Teodoro Obiang has managed around 16 billion euros since it took power in 1979. As an example, the list prepared annually by the well-known magazine *Forbes* revealed in 2006 that President Obiang occupied the eighth position among heads of government with the largest personal wealth, with a fortune

of 600 million euros. Attached hereto as **document number 1** is a copy of the article "*Fortunes of Kings, Queens and Dictators*," of May 5, 2006, in which it is claimed that the dictator has control over the country's public funds and over a sum close to 700 million dollars deposited by Equatorial Guinea in U.S. funds (at **Riggs Bank**).

Despite the sizeable revenues earned by the Equatorial Guinean State, 65% of the population lives in extreme poverty; the life expectancy of Equatorial Guinean citizens is 50.4 years; 56% of the population has no access to piped water; 19% of children suffer from malnutrition; the share of public expenditure that goes to education is 4% and that allocated to health care is about 1.2% of the GDP (data taken from the *Human Development Report 2007/2008*, [http://hdr.undp.org/en/media/HDR\\_20072008\\_EN\\_Complete.pdf](http://hdr.undp.org/en/media/HDR_20072008_EN_Complete.pdf)).

The prestigious *Transparency International's Global Corruption Report 2008* places Equatorial Guinea in 171<sup>st</sup> place among the 180 countries subject to examination ([http://www.transparency.org/news\\_room/latest\\_news/press\\_releases/2008/2008\\_09\\_23\\_cpi\\_2008\\_en](http://www.transparency.org/news_room/latest_news/press_releases/2008/2008_09_23_cpi_2008_en)).

Members of the Equatorial Guinean government and other private persons acting in connivance with them are unlawfully diverting a portion of these large public funds from the oil business in order to subsequently "launder" them in Spain. In this way, not only the civil rights but also the economic and social rights of the Equatorial Guinean population are subject to continuous and systematic violation, as the population is deprived of the minimum quality standards indispensable for survival, health or education, among others. Such violation undoubtedly has a direct impact on the dignity of the citizens, whose most fundamental rights are deliberately curtailed.

Within the framework of its strategic plans, APDHE has always closely monitored the situation of Human Rights in Equatorial Guinea.

### III

The defendants under this criminal complaint are: (1) **MARCELINO OWONO EDU**, who appears to have been recently appointed as Minister for Mining, Industry and Energy; (2) **CONSTANCIA NCHAMA ANGÜE**, the wife of Marcelino Owono Edu; (3) **MIGUEL ABIA BITECO**, former Primer Minister of Equatorial Guinea in the 2004-2006 period; (4) **DOROTEA ANITA ROKA ELOBO**, the wife of Miguel Abia Biteco; (5) **GABRIEL NGUEMA LIMA** (the son of President Obiang, also known as Gabriel M. Obiang Lima), who served as Deputy Minister for Mining, Industry and Energy until 2006 and appears to have been recently appointed as Deputy Minister for Mining, Industry and Energy; (6) **VIRGINIA ESTHER MAYE MBA**, the wife of Gabriel Nguema Lima; (7) **TEODORO BIYOGO NSUE**, ambassador of Equatorial Guinea to Brazil and former ambassador to the U.S. and to the United Nations, brother-in-law of President Obiang; (8) **ELENA MENSA**, the wife of Teodoro Biyogo Nsue; (9) **PASTOR MICHA ONDO BILE**, Minister of Foreign Affairs, International Cooperation and Francophony; (10) **MAGDALENA AYANG**, the wife of Pastor Micha Ondo Bile; (11) **ATANASIO ELA NTUGU**, former Minister for Mining, Industry and Energy; and such persons as may appear to be criminally liable during the course of the investigation for a criminal charge of **MONEY LAUNDERING**, as well as for any other charge arising from the conduct of the defendants.

### IV

## FACTS

Set forth below is a detailed account of the facts:

### **PRELIMINARY: SUMMARY.**

In July 2004, the United States Senate Permanent Subcommittee on Investigations submitted a report on money laundering and foreign corruption focusing on the activities of the U.S. entity **Riggs Bank** (*Money Laundering and Foreign Corruption: Enforcement and Effectiveness of the Patriot Act. Case study involving Riggs Bank*). During the course of the investigations, a number of accounts held by the Government of Equatorial Guinea, by senior government officials and by some of their family members were found in this bank.

The Subcommittee concluded that **Riggs Bank** had failed to comply with its anti-money laundering obligations in connection with certain transactions relating to the accounts held by Equatorial Guinea and that, without any room for doubt, such transactions had their criminally unlawful origin in corruption practices (embezzlement) in that country.

During the course of the investigation, it was discovered how, over a period of three years, various transfers had been made from the **Equatorial Guinea Oil Account at Riggs Bank No. 17-164-642** to an account in the name of the company **KALUNGA COMPANY S.A. held at a branch of Banco Santander in Madrid, in the amount of 26,483,982.57 U.S. dollars.**

This "laundered" money was apparently used by Equatorial Guinean personalities and their families for their own benefit, for the acquisition of properties in various Spanish provinces.

**ONE.- GENERAL FRAMEWORK FOR THE SITUATION OF CORRUPTION AND VIOLATION OF HUMAN RIGHTS.**

Equatorial Guinea is one more among the existing cases of corruption in authoritarian governments. It is a regime in which the largest part of the wealth belonging to Equatorial Guineans is looted for the personal benefit of President Teodoro Obiang Nguema Mbasogo, his family members (locally known as the *Mongomo clan*) and his inner circle, with the consent, the aid and the participation of the corporations that operate in the country's raw materials industry and financial sectors. Revenues from gas and oil exports should place Equatorial Guinea among the richest and most prosperous countries in the world. The current level of well-being of many Equatorial Guineans, however, adds Equatorial Guinea to the long list of underdeveloped and poor countries. The reasons for this are primarily the following:

1.- Extensive corruption, induced by multinational companies, through the direct or indirect bribing of a large number of Equatorial Guinean officials, government members and their relatives, thus facilitating a systematic embezzlement of funds from the national budget.

2.- The system is supported by the fact that the gas and oil companies or their subsidiaries have participated from the outset in the exploitation of the vast resources of the country as partners or associates of President Obiang or of

companies controlled by him, with the result that most of such companies' revenues are diverted for the personal benefit of the President and of other persons close to him. Some financial corporations have played a key role in the management of this structure.

3.- The system operates within a framework of dictatorship, violation of Human Rights, persecution of political opponents, political instability, and non-enforcement of the law. Impunity is rampant.

4.- At present, the oil and gas industry is enjoying an extremely prosperous period; it has an enormous potential and brilliant future prospects. Taking into account the revenues from oil and gas exports and considering the price in the United States (its largest customer), per capita income in Equatorial Guinea should place this country second in the world, only after Luxembourg and ahead of Norway and the United States of America. If the factors used to measure human development levels are considered, human development in Equatorial Guinea should be equivalent to that in a medium-developed country among those in the European Union, standing between Greece and Portugal, and should rank above the 25<sup>th</sup> position on the world list of countries with the highest human development. However, it is a poverty-stricken country ranking in the 127<sup>th</sup> position, with most of its population barely surviving in underdevelopment conditions.

In sum, the three main aspects characterizing the situation in the country are:

1.- Corruption: the government of Equatorial Guinea is plundering the country's wealth with the acquiescence and

cooperation of its partners, i.e., oil multinational companies and financial corporations. It is systematically misappropriating a large part of country's remaining wealth. Bribes are a customary working practice among Equatorial Guinean authorities. President Obiang and his family (the *Mongomo Clan*) control almost all of the country's wealth.

2.- Oppression: Equatorial Guinea is one of the worst dictatorships. It is subject to a merciless rule and to constant violations of Human Rights. The president and his clan concentrate in themselves all the political power, controlling the Government and Institutions.

3.- Extreme poverty: Most of the population lives in extreme poverty. The child and female death rates are alarmingly high. Life expectancy at birth is 50.4 years, when, in view of the country's wealth, it should be 78 years.

The three aspects described above are not independent, but are rather related to each other. Corruption with a capital "C" is the word that defines Equatorial Guinea, but oppression is no separate issue. In fact, in Equatorial Guinea, oppression is an instrument for corruption. The extensive corruption framework through which the country is governed can only be maintained by means of a system of suppression of the population and of political opponents. Poverty is also no isolated issue: it is the necessary consequence of the amazingly high corruption level, which places Equatorial Guinea in the ninth position among the countries with the highest levels of corruption in the world.

The instrumental relationship between corruption and oppression, on the one hand, and the cause-effect relationship between corruption and extreme poverty, on the other, are crucial for the purposes of this complaint: multinational corporations are clearly involved in Equatorial Guinea's corrupt practices. The corporations are responsible for the repression because they are inducing it, knowing and accepting that this is the only way in which they can preserve their abusive and extremely lucrative status quo. Therefore, the corporations must also be deemed responsible for the deplorable living conditions of Equatorial Guinea's population. Equatorial Guineans are dying, and their death is the foreseeable and necessary consequence of the looting of the country's wealth.

**TWO.- RIGGS BANK AND THE REPORT OF THE UNITED STATES SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS.**

In 1995, the first accounts of the Equatorial Guinean Embassy were opened at **Riggs Bank** in the United States of America. Over the next eight years, an additional fifty accounts were opened at such bank, and at least a dozen cash deposits were made in favor of the government of Equatorial Guinea and of a large number of senior governmental officials and members of their families.

In 2003, Equatorial Guinea's account was individually the most significant in the bank, with a balance of approximately seven hundred (700) million U.S. dollars.

The U.S. Senate Permanent Subcommittee on Investigations determined that **Riggs Bank** failed to comply with anti-money laundering obligations, upon establishing, through the evidence gathered, that the transactions conducted by

Equatorial Guinea showed that the origin thereof constituted a clear case of foreign corruption. It was also concluded that such bank allowed numerous suspicious transactions to take place without notifying the competent authorities.

By way of example, the Subcommittee discovered, in connection with the family of the current president of Equatorial Guinea, Teodoro Obiang Nguema, that **Riggs Bank** helped him and his children to create at least two "shell companies" and to open accounts in the name of such companies.

Among other services, **Riggs Bank** provided its customers from Equatorial Guinea with credit agreements and took care of the government's and the Embassy's business transactions, as well as of the individual needs of various senior governmental officials. As stated in the report, Equatorial Guinea held two accounts at **Riggs Bank** which were used as a source of funds to cover the education needs of Equatorial Guinean students abroad. The investigation determined that the students turned out to be the children and other relatives of powerful senior governmental officials of Equatorial Guinea.

During the 90s, the government of Equatorial Guinea made agreements with various oil companies as part of pre-existing oil production participation contracts, under which the companies provide funds to Equatorial Guinean students to cover the costs of their university education.

The information reviewed by the Subcommittee revealed that the members of the Board of Directors of **Riggs Bank** and other senior officers were fully aware of everything in

connection with the Equatorial Guinea accounts. In 2001, several senior members of the Board of Directors of **Riggs Bank** and officers of such bank formed a high-level committee that met on a quarterly basis in order to provide special attention to the relationship of the bank with Equatorial Guinea.

When the Senate Subcommittee analyzed the significant transactions at **Riggs Bank** stemming from the Oil Account and other Equatorial Guinea accounts, it discovered a large number of payments made by the oil companies in favor of Equatorial Guinean governmental entities or of government members directly, their relatives, or entities controlled by them.

It was also uncovered that several senior governmental officials of Equatorial Guinea and their family members dominated entire sectors of the country's economy and forced foreign companies seeking to operate in Equatorial Guinea to engage, in order to achieve their purpose, in unlawful business with the President, Teodoro Obiang Nguema, his relatives, or the entities they controlled, thus securing hefty lucrative returns for themselves to the detriment of the Equatorial Guinean population.

On February 23, 2004, managers of **Riggs Bank** met with the President and other Equatorial Guinean governmental authorities to discuss matters in connection with the accounts held by Equatorial Guinea and certain transfers. As stated in the Senate report, **Riggs Bank** requested the President to supply additional information regarding certain companies, such as **Kalunga Company S.A.** and **Apexside**, which were connected to the government and/or the president and his relatives. Teodoro Obiang Nguema refused

to provide any further information on the transfers made to such companies and merely said that the transfers had been authorized by the signatories for such accounts. **Riggs Bank** subsequently informed the Equatorial Guinean governmental officials that the bank had decided to close the accounts. The last accounts were finally closed between May and July 2004.

### **THREE.- MONEY LAUNDERING IN SPAIN.**

One of the lines of investigation opened by the U.S. Senate mentions a large number of multi-million [dollar] transfers from an official account held by the sovereign State of Equatorial Guinea at Riggs Bank, **Equatorial Guinea Oil Account No. 17-164-642** -called "*República de Guinea Ecuatorial - Tesorería General*" ["Republic of Equatorial Guinea - General Treasury"]- to a private account maintained at **Banco Santander Central Hispano**, known by its acronym BSCH (hereinafter, Banco Santander), in Madrid by **Kalunga Company S.A.**, a company that did not carry on any commercial or other business. The **Oil Account** funds originated from payments made by American oil companies (especially **Exxon-Mobil** and **Maratón**) to the Equatorial Guinean State in order to be entitled to exploit crude oil in such country. We reiterate that, as will be proved during the course of this investigative proceeding, such payments are unlawful.

Specifically, over the course of three and one-half years, from June 2000 to December 2003, sixteen wire transfers were made from the aforementioned Equatorial Guinea Oil Account at Riggs Bank in favor of the account held by Kalunga Company S.A. at Banco Santander, in the aggregate amount of 26,483,982.57 U.S. dollars.

Particularly noteworthy is that the United States Senate Subcommittee pointed out that the corporation **Kalunga Company S.A.**, a company not domiciled in Spain (a "**non-resident**"), is owned, in whole or in part, by the President of Equatorial Guinea, Teodoro Obiang Nguema. The **Oil Account** from which the transfers originated had as signatories (i.e., persons authorized to withdraw funds) **President Obiang**, his son **Gabriel M. Obiang Lima** (former Minister for Mining and, apparently, recently appointed as Deputy Minister for Mining, Industry and Energy) and the President's nephew, **Melchor Esono Edjo** (former State Economy Secretary and, apparently, recently appointed as Deputy Minister of Education, Science and Sports). Two signatures were sufficient to authorize withdrawals from such account, and one of them always had to be that of President Teodoro Obiang Nguema.

Below is a **list of the transfers** made from **Equatorial Guinea Oil Account** at **Riggs Bank No. 17-164-642** to the account held by **Kalunga Company S.A.** at **Banco Santander** in Madrid between 2000 and 2003:

June 7, 2000	Transfer in the amount of USD 1,332,044
August 10, 2000	Transfer in the amount of USD 1,110,000
September 5, 2000	Transfer in the amount of USD 292,200
October 16, 2000	Transfer in the amount of USD 1,362,500
January 30, 2001	Transfer in the amount of USD 2,698,900
April 10, 2001	Transfer in the amount of USD

	1,349,400
May 9, 2001	Transfer in the amount of USD 1,349,400
May 7, 2002	Transfer in the amount of USD 798,000
June 26, 2002	Transfer in the amount of USD 167,000
October 31, 2002	Transfer in the amount of USD 336,934.57
April 7, 2003	Transfer in the amount of USD 7,425,000
July 24, 2003	Transfer in the amount of USD 770,567
September 3, 2003	Transfer in the amount of USD 335,137
November 21, 2003	Transfer in the amount of USD 4,800,000
December 11, 2003	Transfer in the amount of USD 1,637,000
December 11, 2003	Transfer in the amount of USD 720,000
<b>TOTAL:</b>	<b>USD 26,483,982.57</b>

Attached hereto as **document number 2** is a copy of the *Money Laundering and Foreign Corruption Report* of the United States Senate Permanent Subcommittee on Investigations in its original English version, on pages 53 and 54 of which these transfers are listed. Such report is attached hereto in its entirety for the sake of completeness, although the portions relating to the issues at hand in connection with Equatorial Guinea can be found on pages 1 through 17, 37 through 66, and 96 through 110.

It is worthy of note that in 2003, **Riggs Bank** initiated an

investigation aimed at reviewing the accounts relating to Equatorial Guinea. The inquiry focused, among other transactions, on the transfers made in favor of **Kalunga Company S.A.** and of **Apexside Trading Ltd.**, another company presumably owned by President Obiang. In order to obtain additional information, in February 2004 **Riggs Bank** sent letters to various banks to which transfers had been made from the Equatorial Guinea **Oil Account**. In these letters, information was requested regarding various accounts under Section 314 b) of the law known as the *Patriot Act*. Under such section of the law, financial institutions are allowed to share client and transaction information in order to guard against money laundering and terrorist financing.

One of the letters was sent from **Riggs Bank** to **Banco Santander** in Madrid, specifically to Ms. Julia de Lucas Vallejo; in such letter, information was requested as of February 6, 2004 regarding the identity of the holders of or signatories for the account in the name of **Kalunga Company S.A.** and regarding the status of such account. The New York branch of **Banco Santander** responded that the account in the name of **Kalunga Company S.A.** had been opened at the head office in Madrid, but added that such office could not disclose the requested information because Spanish law prohibited disclosure of this kind of information even in cases of presumed money laundering. The New York branch of **Banco Santander** stated that the head office was construing the Spanish law strictly to prohibit disclosure of this kind of information not only to third parties but also to its offices located outside of Spain.

Banco Santander also refused to provide any information when Riggs Bank requested it of Ms. Gloria Benson at the Banco Hato Rey branch in Puerto Rico.

As a consequence of the position assumed by **Banco Santander** in Madrid, the prompt action taken by the New York branch in order to prevent money laundering in connection with the identified transfers was fruitless, such that it was impossible to obtain key information on the account(s) associated with such transfers. The above-mentioned prohibition against disclosure of data on an international level, even when the financial institution is the same, seriously hinders international anti-money laundering efforts.

As Banco Santander would not furnish the information requested in connection with **Kalunga Company S.A.**, **Riggs Bank** requested such information of the President of Equatorial Guinea, Teodoro Obiang Nguema, and of other Equatorial Guinean senior governmental officials at a personal meeting that took place, at the request of **Riggs Bank**, in Washington D.C. on February 23, 2003. During such meeting, the Equatorial Guinean senior officials refused to provide information regarding the companies and their owners, and limited themselves to saying that such transfers had been duly authorized by the signatories for the accounts, i.e., by **President Obiang Nguema**, whose signature was mandatorily required for funds to be withdrawn, and by either of the other two authorized signatories: **Gabriel M. Obiang Lima**, the son of President Obiang and/or **Melchor Esono Edjo**, a nephew of President Obiang.

The above-mentioned information is contained in the report attached hereto as document number 2, specifically on pages 40, 55 and 56.

#### **FOUR.- CONSUMMATION OF THE MONEY LAUNDERING IN SPAIN.**

In the preceding section we have described the manner in which money was unlawfully obtained by resorting to corruption mechanisms –primarily, the embezzlement of public funds–, which mechanisms will be progressively identified during the investigation stage, with the indispensable aid of the judicial inquiry. The facts described above lead to the conclusion that a crime of money laundering has been committed in Spain, based on the numerous million-dollar transfers originating from **Equatorial Guinea Oil Account at Riggs Bank No. 17-164-642** and deposited in the account in the name of **Kalunga Company S.A.** at **Banco Santander**, Madrid, from 2000 to 2003, in **the aggregate amount of 26,483,982.57 U.S. dollars.**

These embezzled funds have been laundered at least through the acquisition of properties at various locations in Spain. From a comparison of the dates of purchase of properties by the signatories for the **Oil Account at Riggs Bank** and by other Equatorial Guinean personalities or citizens within their inner circle, with the dates on which the transfers were made to the account held by **Kalunga Company** at **Banco Santander**, it may be inferred that such funds were used to buy the following properties on Spanish territory:

1.- Property registered with the Land Registry of Las Palmas de Gran Canaria number one in the name of **TEODORO OBIANG NGUEMA MBASOGO (signatory for the Oil Account)**, President of Equatorial Guinea. Such property was acquired, as shown by the deed of purchase and sale, on November 29, 2000, and it is a housing unit with a surface area of 90.87 square meters, located at calle Dolores de la Rocha SN, 4<sup>th</sup>

floor, door C, CP 35001, Las Palmas de Gran Canaria. The acquisition of this property is contemporaneous with the transfer made on October 16, 2000, as shown in the table included in the preceding section;

2.- Property registered with the Land Registry of Las Palmas de Gran Canaria number one in the name of **TEODORO OBIANG NGUEMA MBASOGO (signatory for the Oil Account)**, President of Equatorial Guinea. Such property was acquired, as shown by the deed of purchase and sale, on November 29, 2000, and it is a garage with a surface area of 14 square meters located at calle Eufemiano Jurado SN, 2<sup>nd</sup> floor, CP 35016, Finca Las Laboradoras, Las Palmas de Gran Canaria. The acquisition of this property is contemporaneous with the transfer made on October 16, 2000, as shown in the table included in the preceding section.

Attached hereto as **document number 3** are the uncertified information notes issued by the Land Registry of Las Palmas de Gran Canaria number one.

3.- Property registered with Land Registry number two of Torrejón de Ardoz, Madrid, in the name of **MARCELINO OWONO EDU, Minister for Mining, Industry and Energy, and of his wife, CONSTANCIA NCHAMA ANGÜE**. This property was acquired, as shown by the deed of purchase and sale, on October 3, 2003, and it is a housing unit with a built-on surface area of 184.25 square meters located at calle Almendros número 11, CP 28864, Torrejón de Ardoz, Madrid. The acquisition of this property is contemporaneous with the transfer made on September 3, 2003, as shown in the table included in the preceding section.

Attached hereto as **document number 4** are the uncertified

information notes issued by the Land Registry of Torrejón de Ardoz number 2.

4.- Property registered with Land Registry number 5 of Gijón in the name of **TEODORO BIYOGO NSUE**, the brother-in-law of President Obiang, ambassador of Equatorial Guinea to Brazil and former ambassador to the United States of America and to the United Nations, and of his wife, **ELENA MENSA**. This property was acquired, as shown by the deed of purchase and sale, on May 15, 2001, and it is a single-family housing unit built on a plot with a surface area of 600 square meters, located in the development area called "Verdesol," district of Fuejo, council of Gijón. The acquisition of this property is contemporaneous with the transfer made on May 9, 2001, as shown in the table included in the preceding section.

Attached hereto as **document number 5** are the uncertified information notes issued by the Land Registry of Gijón number 5.

5.- Property registered with Land Registry number 3 of Alcalá de Henares, Madrid, in the name of **PASTOR MICHA ONDO BILE**, Minister of Foreign Affairs, International Cooperation and Francophony, and of his wife, **MAGDALENA AYANG**. This property was acquired, as shown by the deed of purchase and sale, on December 27, 2001, and it is a single-family housing unit with a built-on surface area of 255 square meters located at calle Alfaguara número 27, planta CHA, door 180, Alcalá de Henares. The acquisition of this property is contemporaneous with the transfer made on May 9, 2001, as shown in the table included in the preceding section.

Attached hereto as **document number 6** are the uncertified information notes issued by the Land Registry of Alcalá de Henares number 3.

6.- Property registered with Land Registry number 4 of Móstoles, Madrid, in the name of **GABRIEL NGUEMA LIMA (signatory for the Oil Account)**, former Deputy Minister for Mining, Industry and Energy, the son of President Obiang, and, apparently, the current Deputy Minister for Mining, Industry and Energy, and of his wife, **VIRGINIA ESTHER MAYE MBA**. This property was acquired, as shown by the deed of purchase and sale, on June 25, 2002, and it is a housing unit with a built-on surface area of 193 square meters located at Avenida Alcalde de Móstoles número 27, 7<sup>th</sup> floor, door B. The acquisition of this property is contemporaneous with the transfer made on May 7, 2002, as shown in the table included in the preceding section;

7.- Property registered with Land Registry number 4 of Móstoles, Madrid, in the name of **GABRIEL NGUEMA LIMA (signatory for the Oil Account)**, former Deputy Minister for Mining, Industry and Energy, the son of President Obiang, and, apparently, the current Deputy Minister for Mining, Industry and Energy, and of his wife, **VIRGINIA ESTHER MAYE MBA**. This property was acquired, as shown by the deed of purchase and sale, on June 25, 2002, and it is a garage located at Avenida Alcalde de Móstoles número 27, basement, door 7. The acquisition of this property is contemporaneous with the transfer made on May 7, 2002, as shown in the table included in the preceding section.

Attached hereto as **document number 7** are the uncertified information notes issued by the Land Registry of Móstoles number 4.

In addition, properties have been found in Spain whose ownership is held by persons that served in official positions in the government of Equatorial Guinea, although they are now idle. Such properties are the following:

8.- Property registered with Land Registry number 16 of Madrid in the name of **MIGUEL ABIA BITECO**, former Prime Minister of Equatorial Guinea, and of **DOROTEA ANITA ROKA ELOBO**, his wife. This property was acquired, as shown by the deed of purchase and sale, on June 8, 2000, and it is a garage lot with a surface area of 32 square meters located at calle Vieja de Pinto número 14, in the building called "Palomares," basement, CP 28021, Madrid. The acquisition of this property is contemporaneous with the transfer made on June 7, 2000, as shown in the table included in the preceding section.

Attached hereto as **document number 8** are the uncertified information notes issued by the Land Registry of Madrid number 16.

9.- Property registered with Land Registry number 2 of Móstoles, Madrid, in the name of **ATANASIO ELA NTUGU**, former Minister for Mining, Industry and Energy. This property was acquired, as shown by the deed of purchase and sale, on July 30, 2001, and it is a housing unit with a built-on surface area of 89 square meters located at calle Montecarlo número 3, left-hand staircase, 3<sup>rd</sup> floor, door B, Móstoles. The acquisition of this property is contemporaneous with the transfer made on May 9, 2001, as shown in the table included in the preceding section.

Attached hereto as **document number 9** are the uncertified

information notes issued by the Land Registry of Móstoles number 2.

In conclusion, by resorting to corruption mechanisms, the defendants have unlawfully diverted sums of money from Equatorial Guinea to accounts held at **Riggs Bank** in the United States of America and have subsequently transferred to Spain a part of such sums, which they have laundered into the legal circuit through the acquisition of certain properties in Spain.

## V

### LEGAL GROUNDS

#### ONE.- JURISDICTION AND VENUE

This criminal complaint is filed with such Central Pre-Trial Investigations Court as is in session to hear this case, as such is the Court with competent jurisdiction.

The central pre-trial investigations court has jurisdiction for two reasons. First, because the crime of money laundering was committed and consummated in Spain and within the jurisdiction of various High Courts [*Audiencias*]. In this regard, sub-section 1.c) of Section 65 of the Organic Law of the Judiciary [*Ley Orgánica del Poder Judicial*], read in connection with Section 88 thereof, provides that Central Pre-Trial Investigations Courts shall have jurisdiction to hear cases of *"fraud and schemes calculated to alter the price of things, which cause or may cause a serious impact on the safety of trade [or] on the national economy, or financial damage to people*

*generally within the jurisdiction of more than one high court."*

The facts recited above in this complaint refer to the crime of money laundering, which is a crime against property, and evidence is provided of the fact that the various properties acquired are located in different Spanish provinces and, therefore, within the jurisdiction of different High Courts and Superior Courts of Justice.

Second, and apart from the fact that the events relating to money laundering were consummated in Spain, Section 23.4, sub-section i) of the Organic Law of the Judiciary applies to the instant case, as it provides for the jurisdiction of the Spanish courts and, therefore, for the jurisdiction of the Central Pre-Trial Investigations Courts, over crimes which, having been committed by Spaniards or foreigners outside of the Spanish territory, are described as any of the crimes that "pursuant to international treaties or agreements, must be prosecuted in Spain."

The United Nations Convention Against Corruption<sup>1</sup>, approved by the General Assembly on October 31, 2003 and ratified by Spain on June 19, 2006, provides in Article 23 thereof, entitled "Laundering of proceeds of crime," that "*for the purposes of subparagraph (b) above* ["Each State Party shall include as predicate offences at a minimum a comprehensive range of criminal offences established in accordance with this Convention"], *predicate offences shall include offences committed both within and outside the jurisdiction of the State Party in question. However, offences committed outside the jurisdiction of a State Party shall constitute*

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<sup>1</sup> [Translator's note: All texts from international agreements cited in this translation have been retrieved from the official English versions.]

*predicate offences only when the relevant conduct is a criminal offence under the domestic law of the State where it is committed and would be a criminal offence under the domestic law of the State Party implementing or applying this article had it been committed there."*

Furthermore, within the European regional sphere, the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime, executed in Strasbourg on November 8, 1990 and ratified by Spain on July 22, 1998 (Spanish Official Gazette number 252, of October 21, 1998), binds each of the parties, in an effective quest for international judicial cooperation, to adopt "*such legislative and other measures as may be necessary to establish offences [of money laundering] under its domestic law, when committed intentionally*" (Article 6.1), and that "*it shall not matter whether the predicate offence was subject to the criminal jurisdiction of the Party*" (Article 6.2.a.). In this connection, we note again that Section 301.4 of the Spanish Penal Code provides that the "*person guilty [of money laundering] shall still be punished even though the crime from which the property proceeds, or the acts punished under the preceding sub-sections, have been committed, in whole or in part, abroad.*"

The Protocol Against the Smuggling of Migrants by Land, Sea and Air, which supplements the Convention Against Transnational Organized Crime, of November 15, 2000, ratified by Spain on February 21, 2002 (Spanish Official Gazette number 233, of September 29), also tacitly establishes the right to universal jurisdiction in order to inculcate those responsible for vessels without nationality or which may appear to be without nationality and which are involved in unlawful trafficking of immigrants by sea.

Thus, the State Party in question may board and search the vessel, and if it finds evidence confirming the suspicion, the State Party "shall take appropriate measures in accordance with relevant domestic and international law, [as applicable]<sup>2</sup>" (Article 8.7). And this protocol, (Article 15 c), consistent with the Convention it supplements, confirms the possibility for States to add to their domestic laws the right to international jurisdiction when the acts are committed outside of their territory.

The Convention Against Transnational Organized Crime makes clear that the crimes to be prosecuted must be serious crimes ("conduct constituting an offence punishable by a maximum deprivation of liberty of at least four years or a more serious penalty"), which are transnational in nature and which entail the participation of a criminal group organized "to obtain a financial or other material benefit" (Articles 1 to 3). The above-mentioned Protocol states in Article 1 that it must be interpreted together with the Convention.

**TWO.-** The events described constitute the crime of **MONEY LAUNDERING** under Section 301.1 of the Spanish Penal Code:

*"Anybody who acquires, converts or transfers property, knowing that such property proceeds from a serious crime, or performs any other act to conceal or disguise its unlawful origin or to aid the person that has participated in the offense or offenses in evading the legal consequences of their acts, shall be punished with imprisonment from six months to six years and with a fine from as much as the property is worth to three times such value [...]."*

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<sup>2</sup> [Translator's note: this phrase does not appear in the official English version.]

From the facts recited above, it is established that the defendants have regularly diverted funds from Equatorial Guinea's treasury, by ordering *Riggs Bank* to make successive transfers from the official account in Washington D.C. to private accounts opened at Banco Santander in Madrid, held by a shell company controlled by the defendants and the President of Equatorial Guinea, namely, *Kalunga Company S.A.*

The underlying conduct in respect of the origin of the money constitutes a crime of continuing embezzlement of funds. The fact that the crime of embezzlement may have been committed in another country is irrelevant, because the Spanish Penal Code expressly grants jurisdiction to the Spanish courts over money laundering cases occurring in Spain, regardless of the place where the underlying crime (embezzlement) may have been committed. Thus, sub-section four of Section 301 provides that "*The person guilty [of money laundering] shall still be punished even though the crime from which the property proceeds, or the acts punished under the preceding sub-sections, have been committed, in whole or in part, abroad.*"

## VI

In order for the facts recited above to be proved, the following **EVIDENTIARY PROCEEDINGS** must be carried out:

1. After notice of this complaint has been given [to the defendants], a statement must be taken from the defendants by means of the appropriate letter rogatory, unless they live in Spain.

2. An official letter must be sent to the head office of Banco Santander Central Hispano in Spain, located at calle Alcalá número 39, CP 28014, Madrid, in order for it to provide this Court with the number of the account held by Kalunga Company S.A., information regarding the current status of such account, a statement of all transactions made since it was opened and of all transfers made from and to such account, the name of the persons authorized to carry out any banking acts through such account, and any information it possesses regarding the above-mentioned company.

3. A request must be made for a certified copy of Information Proceedings No. 3/05 of the Special Prosecution Office for the Punishment of Economic Crimes relating to Corruption [*Fiscalía Especial para la Represión de los Delitos Económicos relacionados con la Corrupción*] arising from the reporting of a case of money laundering, apparently against Banco Santander Central Hispano.

4. The following **LETTERS ROGATORY** must be issued:

4.1 **TO PANAMA:** in order that the competent authorities of such country provide a complete history of record of the company Kalunga Company S.A.

4.2 **TO THE UNITED STATES OF AMERICA,** in order to:

4.2.1 **Take a witness statement from:**

4.2.1.1. **SIMON KARERI,** in his capacity as the person responsible for the accounts of Equatorial Guinea at Riggs Bank.

**4.2.1.2. NORM COLEMAN**, Chairman of the United States Senate Subcommittee on Investigations that prepared the report mentioned in this complaint.

**4.2.1.3 CARL LEVIN**, senior member of the United States Senate Subcommittee on Investigations.

**4.2.1.4** The investigator of unknown identity that Riggs Bank hired in 2003 to conduct an exhaustive review of the accounts held by Equatorial Guinea at such bank, in order that he bear testimony in court as a witness.

**4.2.2. Documentary evidence:**

**4.2.2.1. TO THE SENATE OF THE UNITED STATES OF AMERICA**, in order for it to provide all the information supporting the official report entitled "*Money laundering and foreign corruption: enforcement and effectiveness of the Patriot Act. Case study involving Riggs Bank*," and especially the information relating to Equatorial Guinea; and also to provide all additional information it may have regarding the oil companies, the company Kalunga Company S.A., Riggs Bank, and the transactions carried out with Banco Santander Central Hispano, specifying the final destination of the 700 million dollars existing in 2003 in the multiple accounts held by Equatorial Guinea at Riggs Bank and providing any other information in connection with Equatorial Guinea when such accounts were closed in 2004.

5. Witness statement from Ms. **JULIA DE LUCAS VALLEJO**, who must be subpoenaed at the headquarters of Banco Santander Central Hispano.

6. [It is also requested] that any further proceedings be carried out as may derive from the foregoing and from any subsequent and other proceedings that this Court may deem appropriate.

By virtue of the foregoing, and bringing a criminal action on behalf of the parties I represent,

**I PRAY OF THE COURT:** that it will consider this criminal complaint duly filed, together with the copies hereof and the documents attached hereto; that it will admit it for further proceedings and that it will carry out any requisite pre-trial proceedings; that it will consider me as a citizen complainant acting in the representative capacity of which I have duly provided evidence; that it will order the notarized powers of attorney to be consolidated as requested; that it will deem this complaint to have been filed for a charge of **MONEY LAUNDERING**, and for any other crime that might arise from the investigation of the facts recited above, against all the persons mentioned in section III and against any other person that might appear to be [responsible] during the course of the investigative proceedings, and that it will cause to be carried out the evidentiary proceedings that this party has requested.

It is justice I pray for in Madrid, on September the twenty-second of two thousand eight.

Ldo. Manuel Ollé Sesé

Lda. Almudena Bernabeu

[Attorney-at-law]

[Attorney-at-law]

Court Representative Domingo José Collado Molinero