

Filed on behalf of Applicant  
Statement No. 5  
Exhibit Number: AM5  
Statement dated: 22 January 2020

**Claim No: CL-2019-000752**

**IN THE HIGH COURT OF JUSTICE  
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES  
COMMERCIAL COURT (QBD)  
IN AN ARBITRATION CLAIM  
AND IN THE MATTER OF APPLICATIONS UNDER S.67 AND S.68 OF THE  
ARBITRATION ACT 1996**

**BETWEEN:**

**THE FEDERAL REPUBLIC OF NIGERIA**

**Claimant**

**- and -**

**PROCESS & INDUSTRIAL DEVELOPMENTS LIMITED**

**Defendant**

**Claim No: CL-2018-000182**

**IN THE HIGH COURT OF JUSTICE  
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES  
COMMERCIAL COURT (QBD)  
IN THE MATTER OF AN ARBITRATION CLAIM  
AND IN THE MATTER OF AN APPLICATION UNDER S.66 OF THE ARBITRATION  
ACT 1996**

**BETWEEN:**

**PROCESS & INDUSTRIAL DEVELOPMENTS LIMITED**

**Claimant/Respondent**

**- and -**

**THE FEDERAL REPUBLIC OF NIGERIA**

**Defendant/Applicant**

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**FIFTH WITNESS STATEMENT OF THE  
HONOURABLE ABUBAKAR MALAMI**

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I, ABUBAKAR MALAMI, SAN of FEDERAL MINISTRY OF JUSTICE, PLOT 71B,  
SHEHU SHAGARI WAY, MAITAMA, ABUJA FCT, NIGERIA WILL STATE as  
follows:

## A. INTRODUCTION

- I. I am the Honourable Attorney General of the Federation and Minister of Justice of Nigeria. This is my fifth witness statement filed in the proceedings with Claim Number CL-2018-000182, following statements made on 18, 20 and 25 November 2019 and 5 December 2019. I wish to also rely on this witness statement in the proceedings with Claim Number CL-2019-000752 in which the Federal Republic of Nigeria (the **FRN**) is the Claimant.
2. I make this supplemental witness statement to update the Court in respect of matters arising since my Fourth Witness Statement dated 5 December 2019 (my **Fourth Witness Statement**) was executed. In particular, I set out:
  - 2.1 Details of further suspicious payments identified by the EFCC since my previous statement.
  - 2.2 An update on the Nigerian criminal proceedings against Ms Taiga, as well as various companies and individuals connected to P&ID.
  - 2.3 A response to public statements made by P&ID that the criminal proceedings in Nigeria have been unfair.
  - 2.4 A general update on the EFCC's other lines of enquiry.
3. I am authorised by the Applicant to make this witness statement on its behalf. I make this statement on the basis of my own knowledge of the events I describe or on the basis of documents and information provided to me, in which case the source is stated and the facts and matters are true to the best of my knowledge and belief.
4. I exhibit to this witness statement marked AM5 a bundle of true copy documents, to which I make reference in this witness statement. I shall refer to these documents throughout this witness statement in the format of **[AM5/XXX]**.
5. This witness statement is provided without prejudice to the FRN's continuing position that the seat of the arbitration between P&ID and the FRN was Nigeria, and/or that the Nigerian Courts are courts of primary jurisdiction for the purposes of the New York Convention as explained in my Fourth Witness Statement.

## B. DISCOVERY OF FURTHER SUSPICIOUS PAYMENTS

6. As I explained in paragraph 81 of my Fourth Witness Statement, the EFCC's investigations into suspicious payments connected to the GSPA are ongoing. Since I provided that Statement, the following additional payments and information have come to light:
- 6.1 In a witness statement provided to the EFCC on 12 January 2020 [AM5/1-8], which my legal team has transcribed [AM5/9-11], Mr Tijani explained that, in or around early April 2009, following the submission by P&ID of its proposal to invest in gas development and a briefing by Dr Lukman (the then Petroleum Minister) to the Technical Team (of which Mr Tijani was the chairperson), the directors of P&ID visited Mr Tijani's office on a "courtesy visit". An hour after they left, Mr Tijani received a call from Dr Lukman's office requesting that Mr Tijani go to Dr Lukman's office. On arrival, Mr Tijani met the two directors of P&ID "Messrs Michael Quinn and Neil Hitchcock". Dr Lukman "directed" Mr Tijani to "give them all the necessary support in their proposals for the accelerated gas development project". On Mr Tijani's return to his office, he recalls that Messrs Quinn and Hitchcock passed by his office to thank him and invite him to join them for dinner. Mr Tijani therefore joined Messrs Quinn and Hitchcock for dinner at Chopsticks Chinese Restaurant. He notes that during dinner they "held several discussions on International news, sports and so on but nothing [was] discussed about [P&ID's] proposals for the gas project". Mr Tijani's evidence is that after dinner Mr Hitchcock escorted him to his car to say goodbye, opened the back door and dropped a black bag in the car, which he said was a "gift". On getting home, Mr Tijani said he discovered US\$50,000 in the bag. When Mr Tijani called Mr Hitchcock to question the funds, he was told "it was just a gift for me and that they normally take care of their friends and that I received them warmly in my office and they wanted us to be friends". Mr Tijani also recalls, "they also promised that they will further take care of me better at a later date" (pages 4 and 5 of the transcript) [AM5/9-10].
- 6.2 In the above-mentioned witness statement, Mr Tijani also confirmed that when the Technical Team under his chairmanship reviewed P&ID's proposal for the GSPA, they discovered that P&ID "did not have any past experience of gas development projects" and that there was "no strong evidence of financial

*capabilities*", nor had they "secured the land location in Calabar Cross-Rivers State as stated in their proposals" (pages 5 and 6 of the transcript) [AM5/10-11]. Mr Tijani admitted that he "deliberately overlooked all the shortcomings" in view of the direction given to him by Dr Lukman to provide P&ID with all the support they needed for the project (page 6 of the transcript) [AM5/10-11].

- 6.3 The new witness evidence from Mr Tijani follows the discovery by the EFCC of a number of suspicious payments relating to a Nigerian company called Conserve Oil Nigeria Limited (**Conserve Oil**), which is closely connected to Mr Tijani. Searches of Taofiq Tijani's residence led to the retrieval of documents relating to Conserve Oil.
- 6.4 In November 2019, the EFCC recovered bank statements from Zenith Bank Plc showing that Conserve Oil received:
  - 6.4.1 US\$54,672.79 from Lurgi Consults Limited (**Lurgi Consults**) on 16 July 2013;
  - 6.4.2 US\$50,000 from Lurgi Consults on 12 August 2013;
  - 6.4.3 US\$30,000 from an offshore account in the name of SESFTF Progress Limited (**SESFTF**) on 17 October 2013; and
  - 6.4.4 N 55,504,768.41 from Lurgi Consults on 10 March 2014. [AM5/33-34]
- 6.5 As I explained at paragraph 77.3 of my Fourth Witness Statement, Lurgi Consults is closely connected to P&ID and is the company from which payments to Taofiq Tijani were made. Mr Tijani confirmed in a written statement provided to the EFCC on 17 December 2019, a transcription of which is exhibited to this statement, that the directors and shareholders of Conserve Oil are as follows: Mr Babatunde Odebunmi Muyiwa (a long-term friend of Mr Tijani – see page 7 of the transcription of Mr Tijani's 12 January 2020 statement (see page 1 of the transcript) [AM5/11]), Mr Rafiu Balogun (believed to be the CEO) and Deborah Allyn Odebunmi [AM5/13]. According to searches at the Corporate Affairs Commission, David Crombie, Azeezat Ibijoke Tijani (Taofiq Tijani's wife) and Beatrice Johnson were also on the board as at 9 June 2015 [AM5/13].

- 6.6 Mr Tijani also confirmed that he is one of the signatories to Conserve Oil's bank account at Guaranty Trust Bank Limited (account number 0219702411) together with Mr Babatunde Odebunmi and Mr Rafui Balogun (page 1) [AM5/33]. Mr Tijani's friend, Mr Odebunmi, is the sole signatory to a further company account at Zenith Bank Plc (account number 1012875471). Mr Tijani also provided details of the company's other bank accounts (account number 5060059023 (GBP) and 5070264231 (USD)) (pages 1 and 2) [AM5/33].
- 6.7 Mr Tijani clarified these payments in a statement provided to the EFCC on 12 January 2020 (following a revocable plea bargain in his favour) when he explained that he had been contacted by Michael Quinn in mid-2013 purportedly seeking his support for a project to be executed by Lurgi Consults. Mr Tijani consequently introduced Neil Hitchcock to Conserve Oil, because it was owned by his long-term friend, Mr Babatunde Odebunmi. In mid-2014, Mr Tijani received a transfer of N3.4 million (approximately US\$20,000 at the then exchange rate) from Lurgi Consults which Mr Hitchcock told him was "*to support the upcoming wedding of [his] son and also [Hitchcock's] promise made to [Tijani] earlier during the time [of the] Accelerated Gas project review*" (page 7) [AM5/11]. Mr Tijani received a further transfer of N4 million (approximately US\$24,000 at the then exchange rate) which Mr Hitchcock said was to support the wedding of Mr Tijani's daughter and "*earlier promises*". In addition, a sum of US\$30,000 was transferred to Conserve Oil on 17 October 2013 which Mr Tijani says Mr Hitchcock confirmed was intended for him (page 7) [AM5/11]. It is clear from Mr Tijani's evidence that the payments were intended as bribes and kick-backs in relation to the award of the GSPA to P&ID.
- 6.8 In his 17 December 2019 statement, Mr Tijani also volunteered details of:
- 6.8.1 Lavanco, a Nigerian company, whose directors and shareholders are (according to Mr Tijani) Mr Odebunmi and Mr Tijani (page 2) [AM5/33]. Searches at the Corporate Affairs Commission verified this information [AM5/36-42].
- 6.8.2 Delcorp Energy Services (**Delcorp**), a Nigerian company, whose directors and shareholders are (according to Mr Tijani) Mr Odebunmi, Ms Beatrice Johnson, Mr Lateef Odveton, Mr Vincent Okwechime, Mr Demola Akande

and Mr Tijani. This information was verified through searches at the Corporate Affairs Commission and Springbank, Delcorp's bank [AM5/43-50].

- 6.9 The EFCC is continuing to investigate the relevance of these entities.
- 6.10 The payor of the US\$30,000 transfer to Conserve Oil on 17 October 2013, as mentioned at paragraph 6.4.3 above, SESFTF, is believed to be an associate company of P&ID as it is run by Brendan Cahill (he is believed to be a director and shareholder) and has the same address as Eastwise Trading Limited [AM5/51-52]. Mr Tijani's evidence in his statement dated 12 January 2020 is that he does not know what SESTF is nor why it would have transferred money to Conserve Oil on 17 October 2013 and he has, as noted above, explained that he was told by Mr Hitchcock that the transfer was intended to be for Mr Tijani personally (page 8 of the transcript) [AM5/11]. Also, in his statement dated 17 December 2019, he was unable to explain a payment out of Conserve Oil's account to a company known as Boulos Enterprises Limited (**Boulos**) on 24 October 2019 also in the sum of US\$30,000. Boulos is a gem merchant/goldsmith (page 5 of the transcript) [AM5/34]. Copies of documents filed at the Corporate Affairs Commission in respect of Boulos are exhibited at [AM5/53-58].
- 6.11 The EFCC has identified a number of payments from SESTF to P&ID Nigeria and ICIL Nigeria Limited as follows:
  - 6.11.1 SESFTF paid US\$250,000 to ICIL Nigeria Limited on 31 July 2007;
  - 6.11.2 SESFTF paid US\$100,000 to ICIL Nigeria Limited on 29 July 2008;
  - 6.11.3 SESFTF paid US\$50,000 to ICIL Nigeria Limited on 31 July 2008;
  - 6.11.4 SESFTF paid US\$80,000 to ICIL Nigeria Limited on 15 August 2008 [AM5/59-60];
  - 6.11.5 SESFTF paid US\$34,000 to P&ID Nigeria on 28 April 2009;
  - 6.11.6 SESFTF paid US\$5,000 to P&ID Nigeria on 11 March 2011 [AM5/73-74].
- 6.12 The reason for these payments is unknown. Investigations are ongoing.

7. As I explain at paragraph 31 below, a legal adviser to the Ministry of Petroleum Resources at the time of the arbitration, Ibrahim Dikko, recently gave a statement to the EFCC. In that statement, he admits to having received a payment of US\$2,000 from Mr Quinn under the pretext of paying for a visit to a professional conference in Ireland (page 8 of the transcript) [AM5/88]. It is unclear why Mr Quinn would be paying for Nigerian government lawyers to travel to Ireland. The EFCC is continuing to investigate the timing and circumstances of this payment.
8. The EFCC is continuing to investigate the possibility that Dr Lukman (the then Petroleum Minister) stood to gain from the agreement between Mohammad Kuchazi and P&ID referred to at paragraphs 79 and 80 of my Fourth Witness Statement, in which Kuchazi (through his company, Kore Holdings) was to receive 3% of the post-tax operating profits of P&ID in return for "facilitating meetings" with the Government. Investigations in this regard are ongoing. As I have described above, Mr Tijani's recent statement to the EFCC suggests that Dr Lukman was proactively promoting P&ID's cause in the Ministry prior to the GSPA being entered into, and instructed Mr Tijani to give the company "all the necessary support" for the project. This is suspicious in circumstances where, as Mr Tijani has admitted, no proper due diligence was carried out on P&ID.

### **C. UPDATE IN RESPECT OF THE CRIMINAL PROCEEDINGS IN NIGERIA**

#### **GRACE TAIGA**

9. On 12 December 2019, the criminal trial of Grace Taiga, former Ministry of Justice official, resumed before the Federal High Court in Abuja, although it has since been adjourned again until 31 January 2020 at the request of Counsel on account of Ms Taiga's health. As I explained in my Fourth Witness Statement at paragraph 73, the hearing of the criminal charges against Ms Taiga (in relation to her involvement in the GSPA and the payments received by her from Eastwise Trading Limited and Industrial Consultants International) initially began on 6 November 2019.
10. Following the EFCC's further investigations, it has become apparent that Grace Taiga overstayed in office for a period of around 16 months until February 2012 (despite being due to depart her post in September 2010) and collected emoluments during this time. The EFCC is in the process of amending the charges against Ms Taiga in respect of this. However, it is still unclear as to whether she overstayed specifically to oversee and facilitate the GSPA implementation for P&ID.

11. On 6 January 2020, Mohammed Bello Adeke, former Attorney General of the Federation and Ministry of Justice, commented in a witness statement (as transcribed) provided to the EFCC that he was "*surprised to hear that Mrs Taiga would claim that [he] gave her permission to stay on beyond her due date of retirement*". Mr Adeke noted, "*In the first place, it is not within my schedule of duties to grant extensions of service as I am not the head of service of the federation who is responsible for such issues*". He went on to explain, "*I discovered based on whistle blower information that she is (sic) due to retire and have (sic) refused to retire and I insisted that she must be asked to leave immediately. I therefore assert boldly that she is not only a liar she is a pathological liar*" (page 14 and 15 of the transcript) **[AM5/116-117]**.
12. A statement was also provided to the EFCC by Ms Taiga's successor, Ibrahim Dikko, on 13 January 2020, a transcript of which is exhibited to this statement **[AM5/87-89]**. Mr Dikko recalls that Ms Taiga "*failed, refused and neglected to hand over to [him]*" and that he "*waited for about two (2) months and she still refused to do the [handover]*". Mr Dikko explained that eventually he had to "*forcefully*" move into the office and eventually Ms Taiga moved out (pages 9 and 10 of the transcript) **[AM5/88-89]**.

#### JAMES NOLAN

13. On 21 October 2019, the EFCC arraigned James Nolan and Adam Quinn (Michael Quinn's son). The charges relate to money laundering and tax evasion, including the failure to register certain companies with Nigerian money laundering authorities, and to notify certain large, unexplained payments to the relevant authority under Nigerian law **[AM5/118-133]**. I referred to Messrs Nolan and Quinn in my Fourth Witness Statement as they are both directors and shareholders of Lurgi Consults, the company which made payments to Mr Tijani as set out at paragraph 74 of my Fourth Witness Statement. Messrs Nolan and Quinn are also both directors of P&ID Nigeria Limited, Goidel Resources Limited and ICIL Nigeria Limited and James Nolan is also a signatory to P&ID's bank account.
14. On 16 December 2019, the criminal trial continued of James Nolan before the Federal High Court in Abuja. The proceedings also concern Goidel Resources Limited and ICIL Limited, who are the First and Second Defendants respectively. Mr Nolan and Mr Quinn are both directors of each company.
15. James Nolan is currently on remand for failure to comply with his bail conditions. His trial has been adjourned until 20 and 21 January 2020.

ADAM QUINN

16. On 18 December 2019, the Federal High Court in Abuja granted the EFCC's application to extradite Adam Quinn for prosecution on 25 counts including money laundering [AM5/134-137]. At the time of making this statement, Adam Quinn remains at large.

BRENDAN CAHILL

17. As referred to at paragraph 29 of my Fourth Witness Statement, Brendan Cahill is one of the co-founders of P&ID and a director and the company secretary of Industrial Consultants (International) Limited. At the time of making this statement, Brendan Cahill is at large.

TAOIQ TIJANI

18. As I have explained above, Taofiq Tijani made further statements to the EFCC on 17 December 2019 and 12 January 2020.
19. As I explained in my Fourth Witness Statement at, inter alia, paragraph 74, certain unexplained payments were made to Mr Tijani in 2014 and 2015 from a company affiliated with P&ID. Mr Tijani was at that time the Senior Special Assistant to Dr Rilwanu Lukman (the then Minister of Petroleum who signed the GSPA). Mr Tijani was also a member of the Technical Committee which, alongside the Legal Committee headed by Mrs Taiga, approved the GSPA.

FURTHER CRIMINAL CHARGES FILED

20. Criminal charges relating to failure to comply with money laundering regulations and tax evasion are being prepared/have been filed against the following six associate companies of P&ID:

20.1 Ecophoenix Nigeria Limited

20.2 Marshpearl Limited

20.3 Lurgi Consults Nigeria Limited

20.4 Kristholm Nigeria Limited, a Nigerian company, whose board of directors includes Michael Quinn, Brendan Cahill and Adam Quinn. Michael Quinn and James Nolan are signatories to the company's bank account. (There is an

English company named Kristholm Limited, which may be related, which bid for contracts at the Ministry of Defence while Grace Taiga was the legal adviser to that ministry).

- 20.5 LIR Resources Nigeria Limited (James Nolan and Neil Murray are noted to be directors and shareholders of this entity).
- 20.6 Babcock Electrical Projects Limited (James Nolan and Neil Murray are noted to be directors and shareholders of this entity).
21. Similar charges are anticipated to be brought against North Wales Military Aviation Services (**NWMAS**) and other affiliate companies of P&ID who are understood to have been operating in breach of extant tax and money laundering laws in Nigeria.
22. These charges may have no direct bearing on the GSPA. However, it appears that P&ID and its affiliated companies operating in Nigeria form part of a common criminal enterprise.

#### ARREST OF MOHAMMED ADOKE

23. On 19 December 2019, Mohammed Bello Adeke was taken into custody by the EFCC in relation to alleged abuse of office and money laundering in relation to the OPL 245 deal **[AM5/138-142]**. As I explained at paragraph 24.4 of my Fourth Witness Statement, Mr Adeke had been charged by the EFCC with corruption and money laundering for receiving funds as payment for negotiations he allegedly brokered between Shell, Eni and Malabu for OPL 245.
24. Mr Adeke was the Attorney General of the Federation during the P&ID arbitration. He provided instructions to the FRN's legal representative, Mr Shasore, in the arbitration (as confirmed by Mr Olasupo Shasore SAN at paragraphs 5 and 7 of his 15 January 2016 witness statement in the arbitration). Mr Shasore stated:

*'In November, 2012, I was instructed by the former Attorney General of the Federation – Mr. Mohammed Bello Adeke SAN to represent the Ministry in the arbitration proceedings instituted by PIDL by a Notice of Arbitration dated 22 August, 2012 ("Notice of Arbitration").'* (paragraph 5);

*'As an external counsel I am obliged to discuss all strategy and conduct of the Ministry's defence with the Attorney General of the Federation and all instructions going forward are*

*obtained directly from the Attorney General of the Federation or under his directions' (paragraph 7). [AM5/211]*

25. I succeeded Mr Adeke as Nigeria's Justice Minister and Attorney General of the Federation in November 2015.
26. Whilst I have not seen any direct evidence implicating Mr Adeke in the P&ID fraud, investigations are ongoing. I note Mr Adeke's direct involvement in the selection of the FRN's arbitrator for the proceedings.

#### **D. FAIRNESS OF CRIMINAL TRIALS IN NIGERIA**

27. As I explain in paragraphs 66, 73, 76 and 87 of my Fourth Witness Statement, criminal proceedings were successfully brought against P&ID and P&ID (Nigeria) in September 2019. Both companies were convicted of offences relating to fraudulent misrepresentation, trading without appropriate licences, under-payment of tax, breaches of money laundering laws and concealing and laundering proceeds of unlawful acts.
28. As outlined in Section C, criminal proceedings are also underway against Ms Taiga, and it is likely that charges will be brought against Mr Tijani, both of whom received suspicious payments in connection with the GSPA.
29. P&ID has made a public statement that the criminal proceedings against it and its Nigerian subsidiary consisted of a "*half day 'kangaroo court trial'* where the defendant (P&ID) received no communication, no notice, no documents and no representation". It is also alleged that the only witnesses in the case had been "*held illegally in Nigeria under duress for the prior two weeks*" [AM5/143-144].
30. As the Attorney General of Nigeria, I strongly refute these allegations and wish to set the record straight in this statement. The criminal trial against P&ID and P&ID Nigeria and the proceedings against Ms Taiga and investigations into Mr Tijani have been conducted in accordance with all applicable procedural safeguards, and in a way which ensured each suspect/defendant was able to defend itself properly. In particular:
  - 30.1 The charges against P&ID and P&ID Nigeria were filed on 17 September 2019, and served on Mr Kuchazi, the Commercial Director of P&ID, and Adamu Usman, a shareholder and director of P&ID (Nigeria) (also a Nigerian-

qualified lawyer), on 18 September 2019, prior to the arraignment on 19 September 2019, as recorded on page 6 of the criminal judgment of 19 September 2019 [AM5/150].

- 30.2 The above is in accordance with criminal procedure in Nigeria where, once charges are filed in Court, the next step is the arraignment of suspects or accused persons. Those individuals are served with the charges prior to the arraignment. The arraignment is for the purpose of taking the plea of an accused person. Where the accused person pleads not guilty, the matter is adjourned as a matter of course for the commencement of trial. Where the accused person pleads guilty, the Court will proceed to sentencing immediately. If he or she pleads not guilty, then the Court adjourns the proceedings and directs a trial.
- 30.3 The charges set out the allegations against P&ID and P&ID (Nigeria) in some detail, and in the usual form [AM5/155-164]. Alongside the formal charge sheets, the defendants were also served with the evidence on which the EFCC intended to rely.
- 30.4 Prior to the charges being served, the EFCC conducted interviews with Messrs Kuchazi, Usman and Nolan. The interviews took place on 2 September 2019 (as regards Mr Usman), 5-7 September 2019 (as regards Mr Kuchazi) and 10 September 2019 (as regards Mr Nolan).
- 30.5 The interviews were carried out in the presence of lawyers. I understand that P&ID was represented by Mr Dandison Akurunwa of Messrs Dandi Akurunwa & Co, who has 34 years' post-call experience as counsel. Furthermore, Mr Usman himself is a Nigerian lawyer with some 31 years of experience. During the Court proceedings, P&ID (Nigeria) dispensed with representation by counsel and relied on representation by Mr Usman, its shareholder and director, who is also a partner in Messrs Akerele and Co, Lagos. I note that page 6 of the Court's judgment refers to P&ID and P&ID (Nigeria) being represented by Messrs. Kuchazi and Usman themselves. This refers to the fact that, for the purposes of taking a plea at the arraignment, a company which is not a natural person must appear through an individual (for example an officer, director, shareholder or agent) in Court. However, P&ID was also represented by Dandi Akurunwa & Co, as explained above.

- 30.6 Mr Nolan was represented by Ivory Chambers, Abuja at all times during the investigations and interview by the EFCC. During Mr Nolan's trial, Mr Paul Erokoro SAN also joined the defence team.
- 30.7 Under section 17 of the Nigerian Administration of Criminal Justice Act 2015, all suspects who are arrested and interviewed by the authorities are entitled to insist on the presence of a lawyer when making statements to the authorities. It is common practice for confessions to be recorded if recording facilities are immediately available although this is dispensed with where video recording is not expedient.
- 30.8 The interviews were duly video-taped. Furthermore, as recorded in the statements that I refer to below, they took place under caution. Each of the interviewees was informed that he was not obliged to say anything, but that anything that he did say might be taken down in writing and might be given in evidence against him.
- 30.9 I exhibit the statements (in hand-written and typed-up form) taken from Messrs Kuchazi, Usman and Nolan at [AM5/165-207]. Each was handwritten by the individual suspect in question in the presence of their respective lawyers and their lawyers countersigned the statements. They record each individual's testimony in some detail.
- 30.10 At page 6 of the criminal judgment dated 19 September 2019, it is recorded that both Messrs Kuchazi and Usman pleaded guilty to the charges made against P&ID and P&ID (Nigeria). This can also be seen from the order of the High Court dated 19 September 2019, which records that the charges were "*read and explained*" to both defendants [AM5/150].
- 30.11 It can be seen from pages 8-9 of the criminal judgment dated 19 September 2019 that the judge considered the statements made by Messrs Kuchazi and Usman, alongside a bundle of further documents which are listed on the next page of the judgment. The defendants and their legal representatives had access to all of this evidence, and were free to comment on it in their statements. It is part of the criminal process in Nigeria for all evidence to be front-loaded and this forms the package of documentation which is filed and served on all the parties to the proceedings at the outset.

- 30.12 The final page of the judgment states that “*it is on record that none of the evidence tendered by the Prosecution that is, documentary or oral, has been controverted by the Defendants*”. It goes on to say that, since the Defendants had pleaded guilty, “*the Court can on that basis enter judgment convicting the Defendant*”.
- 30.13 As at the date of this statement, the criminal proceedings against Ms Taiga are ongoing. They were previously adjourned due to her ill-health. It would not be appropriate for me to comment on the detail of these proceedings before the Court delivers its verdict. Ms Taiga was also represented during the investigations by the EFCC by Messrs Agbalaka and Co., albeit on one or two occasions she chose to waive her representation. Mr Ola Olanipekun SAN joined the defence team during the trial.
- 30.14 Mr Tijani has been represented during the investigations by the EFCC by a barrister, Olawale Dowodu, as indicated in his witness statements.
- 30.15 All documents filed with the Court, including any evidence relied upon, are publicly available.
- 30.16 Furthermore, it is worth noting that, whilst section 241 of the Constitution of the Federal Republic of Nigeria guarantees a right to appeal, under section 25 of the Court of Appeal Act, Cap 37, Laws of the Federation of Nigeria 2004, the time for filing an appeal against any judgment is 90 days from the date of the judgment. As P&ID and P&ID (Nigeria) were convicted on 19 September 2019, they had until 18 December 2019 to file an appeal. They have not done so and the time for doing so has now expired.

#### **E. STATEMENT OF IBRAHIM DIKKO**

31. A witness statement was provided to the EFCC on 13 January 2020 by Ibrahim Dikko, legal advisor to the Ministry of Petroleum Resources at the time of the arbitration. Mr Dikko noted that the name of the lawyer (Mr Shasore) to represent the FRN in the arbitration was provided by Mr Adoke, the then Attorney General, not by Mr Dikko. It is not clear to me why this approach was taken. It reinforces my suspicions about the circumstances in which the arbitration was conducted which I set out at paragraphs 53-54 of my Fourth Witness statement.

## **F. PAYMENTS INTO AND OUT OF P&ID (NIGERIA) | PAYMENTS TO GOVERNMENT EMPLOYEES OR OFFICIALS**

32. Investigations by the FRN are continuing as to whether any current or ex-government employees or officials stood to gain from, or take a cut of, the arbitration award, particularly in light of the payments to Mr Tijani and Ms Taiga, the agreement between Mr Kuchazi and P&ID and the recent witness evidence from Mr Tijani, Mr Dikko and Mr Adoke.

## **G. FURTHER INVESTIGATIONS INTO P&ID**

33. At paragraph 71 of my Fourth Witness Statement, I explained that Ms Taiga's bank statements, provided to the EFCC on 2 October 2019, demonstrate that she received payments from, inter alia, Eastwise Trading Limited. My legal team has conducted investigations into the identity of the registered shareholder(s) and director(s) of Eastwise Trading Limited and has been advised by the Cayman Islands General Registry that information regarding Eastwise Trading Limited is not available for public inspection and the entity had been struck off as at 31 October 2017. The registered agent was listed as Abacus Management Limited.

## **H. PROGRESS OF THE INVESTIGATIONS**

34. My update to the Court in this witness statement on the progress of the investigations highlights how difficult and lengthy a task it is proving to get to the bottom of the fraud. As the EFCC moves forward with the investigations, more information is being obtained which itself opens up new avenues of investigation.
35. I have seen that it is said in P&ID's evidence (Statement of Mr Mark Griffiths of 17 December 2019) that there has been a deliberate decision by the FRN not to investigate matters. I cannot speak to the time before I became Attorney-General in 2015, which P&ID appears to be addressing, but I can say that that is certainly not the case since I have been in office. As I said in my Fourth Witness Statement, President Buhari came to power in 2015 and it is only since then that steps have begun to be taken to root out the endemic corruption in Nigeria. This is proving to be a long and difficult process.

36. As I also said in my Fourth Witness Statement, the FRN attempted for a period to settle the dispute with P&ID, but when those negotiations broke down I ordered the investigations to ascertain whether it was even worth attempting to negotiate any further, given concerns we had about the GSPA. I repeat, again without waiving privilege, that I did not consider there was sufficient evidence at that stage to allege fraud. The investigations have proceeded according to their own pace, dependent, as I have noted, on the information uncovered. It is not true that they have only proceeded with rigour since August 2019. Without waiving privilege, it is fair to say that the early stages of the investigations involved many requests for documents, as I explained in my Fourth Witness Statement, and that the compelling evidence from witnesses has been obtained only more recently. But that is a common feature of investigations and does not demonstrate any lack of rigour on the part of the FRN. As I have explained, the evidence has started to build up as the pieces of the puzzle have fitted together.

STATEMENT OF TRUTH

I believe that the facts stated in this witness statement are true.

SIGNED: .....

NAME: ... Abubakar Malami SAN.....

DATE: .....22 January 2020.....