

OPEN SOCIETY
JUSTICE INITIATIVE



REQUEST FOR INVESTIGATION

June 10, 2010

TO Patrice Sam, Investigator
UNESCO Internal Oversight Service, Investigation Section

FROM Open Society Justice Initiative
Asociación Pro Derechos Humanos de España
Association Sherpa
EG Justice

REGARDING Concerns related to source of funding of the UNESCO-Obiang Nguema Mbasogo
International Prize for Research in the Life Sciences

INTRODUCTION

1. This complaint centers on concerns that UNESCO may have accepted or may be in the process of accepting money¹ representing illicit proceeds of corruption or other crimes, in

¹ The Model Rules for Prizes, established in a Decision of the Executive Board in April 2005, states that UNESCO will begin to accept nominations for a prize when the money has been received. Given that UNESCO has already concluded its extended period of time to submit nominations, we believe, accordingly, that the

the form of a \$3 million donation from the Obiang Nguema Mbasogo Foundation (“the Foundation”), to fund the UNESCO-Obiang Nguema Mbasogo International Prize for Research in the Life Sciences (“the Prize”), in contravention of United Nations policies and staff rules.

2. The United Nations clearly states a policy and determination “to prevent, detect, and deter ... transfers of illicitly acquired assets and to strengthen international cooperation in asset recovery” and recognition of “the need to safeguard integrity and to foster a culture of rejection of corruption.”²
3. The international community, including the United Nations and the International Monetary Fund and World Bank, has acknowledged the *40 Recommendations* to prevent and combat money laundering developed by the Financial Action Task Force - Groupe d’action financière (“FATF”), as implementing such policy and determination by establishing international standards of controls in financial and other institutions encountering risk of money laundering. Indeed, the UN Security Council has “[s]trongly urge[d] all Member States to implement the comprehensive international standards embodied in the Financial Action Task Force’s (FATF) Forty Recommendations on Money Laundering.”³ In the apparent absence of particular UNESCO standards, we believe that the FATF Recommendations represent the best available practical guidance for agencies such as UNESCO seeking to optimally administer potential award monies.
4. The Recommendations outline measures to be taken by financial and certain non-financial institutions as a matter of course to avoid unintentionally facilitating the laundering of criminally tainted funds through “customer due diligence” and record-keeping, before entering into a transaction or relationship with them.⁴
5. Additionally, the Recommendations highlight certain characteristics of financial transactions with particularly high risk and the consequential need for even greater scrutiny. Specifically requiring enhanced due diligence or special attention are transactions that (i) involve a “politically exposed person,” such as a head of state,⁵ (ii) utilize a “legal person,” such as a foundation, to facilitate the transaction,⁶ and (iii) emanate from a jurisdiction that “insufficiently appl[ies] the FATF Recommendations.”⁷

organization has already received, or is receiving the funding for the Prize. *See* Report by the Director-General on the Overall Review of UNESCO Prizes, 171 EX/19, Paris, 9 March 2005, Annex I, p. 2, para. 6.1.

² Preamble, United Nations Convention Against Corruption, General Assembly resolution 58/4 of 31 October 2003.

³ *See* UN Security Council Resolution 1617 Adopted by the Security Council at its 5244th meeting, on 29 July 2005, S/RES/1617 (2005), para. 7.

⁴ FATF Recommendation 5 “Customer due diligence and record-keeping.”

⁵ FATF Recommendation 6; FATF Glossary, “Politically Exposed Persons.”

⁶ FATF Recommendation 33, 34; FATF Glossary, “Legal Person”; FATF Recommendations Interpretative Notes on Recommendation 5, “CDD for legal persons and arrangements.”

⁷ FATF Recommendation 21.

6. In establishing the Prize, UNESCO appears to have accepted or is accepting \$3 million from a PEP through a legal person (the Foundation), from a country that, beyond the question of FATF compliance, has a well-established record of poor governance, particularly as it relates to government revenues.⁸
7. UNESCO staff responsible for vetting applications to establish and/or fund prizes generally should perform due diligence, including careful review of the donor, the donor's reputation and the source of the funding, particularly in circumstances such as the present one, in which there are strong and publicly available indications that the funding for the Prize could have come from proceeds of criminal offenses. The publicly available facts pertaining to this Prize raise a serious question for us as to whether UNESCO reviewed the donor and donation sufficiently to justify a well-founded conclusion that the money is not tainted, and that it could proceed with the Prize.⁹
8. Indeed all of the relevant standards—including as well the United Nations required staff pledge of loyalty to United Nations principles against corruption,¹⁰ and the requirement of all staff to carry out their functions with the highest standard of integrity,¹¹ and Equatorial Guinea's own anticorruption law¹² support the conclusion that due diligence in handling potential prize monies is a high priority and that there is precious little discretion to accept such funds without taking the necessary precautionary steps such as those outlined by the FATF. We present in this complaint evidence that that UNESCO staff responsible for evaluating prize applications may not have considered.
9. This complaint is particularly material and urgent. Its materiality stems from the amount of money in question—\$3 million—and the reputational damage the Prize has the potential to create, given the important role prizes assume in UNESCO's body of work and the emphasis the organization places on their being symbols of morality and prestige.¹³ It is urgent because, if UNESCO has not performed sufficient review, it now has only a narrow window of opportunity to do so, and perhaps remedy a grievous error,

⁸ The World Bank, Transparency International and the United States Human Rights Report on Equatorial Guinea have all focused on poor governance and transparency, and credible charges of corruption, relating to natural resource revenues. *See* Statement of Facts, para. 48-50.

⁹ *See* FATF Recommendations, General Interpretative Notes, para. 3, noting “where reference is made to a financial institution being satisfied as to a matter, that institution must be able to justify its assessment to competent authorities.”

¹⁰ United Nations Staff Rules: Staff Regulations of the United Nations and provisional Staff Rules, Secretary-General's Bulletin, ST/SGB/2009/7***, 21 October 2009, Regulation 1.2(e).

¹¹ United Nations Staff Rules: Staff Regulations of the United Nations and provisional Staff Rules, Secretary-General's Bulletin, ST/SGB/2009/7***, 21 October 2009, Regulation 1.3(a).

¹² The Investigative Section has jurisdiction over allegations of violations of law, and according to the UN Charter and Staff Rules, privileges and immunities conferred on staff do not excuse failure to observe applicable laws. *See* Law and Standards section, below.

¹³ The March 2005 Report by the Director-General on the Overall Review of UNESCO Prizes states that “[a]s a matter of principle, the potential contribution to UNESCO's profile and target audiences should be assessed for each prize” and that “[e]ach UNESCO Prize carries a moral and symbolic value”, 171 EX/19, pg 3. The report also establishes as a part of the strategy for UNESCO Prizes, the need for “[a] clear and effective public information and relations approach...for each UNESCO prize so as to help enhance the Organization's profile, prestige and impact”, 171 EX/19, p. 4.

prior to the 15 June 2010 meeting of the Executive Board, after which the first Prize may be scheduled to be awarded and funds dispersed to a third party recipient. The undersigned therefore urge that this investigation be given the highest priority.

PROCEDURE

Jurisdiction

10. The Internal Oversight Service (IOS) is responsible for “investigations of allegations of corruption, fraud, waste and abuse of authority or other misconduct by UNESCO staff or third parties...involved in activities managed, financed or supported by UNESCO.”¹⁴ The Investigation Section of IOS (INV) is “the focal point for reporting allegations of irregularities (corruption, fraud, embezzlement, abuse of assets and waste, violation of laws and regulations) ... the sole unit responsible for investigating staff misconduct.”¹⁵ The Prize is managed by UNESCO and this complaint is based on concerns that the source of funding for the Prize may represent proceeds of corruption, fraud, misappropriation or other criminal offenses, and that UNESCO staff may not have adequately reviewed the donor or the source of the funds sufficiently to detect possible links between the Prize funds and such offenses, which would breach applicable United Nations Staff Rules and Regulations. It is thus of an appropriate nature to be investigated by INV.

Standing

11. INV undertakes investigative work in accordance with, *inter alia*, the Guidelines for Investigations adopted by the Conference of International Investigators (“the Guidelines”).¹⁶ The Guidelines provide that “the Investigative Office shall accept all complaints irrespective of their source” thus including complaints submitted by external stakeholders and non-governmental organizations such as the undersigned.¹⁷

12. In this instance, the complainants, four non-governmental organizations, are particularly suited to present verifiable, credible and specific allegations and support for such allegations owing to their role as counsel in three relevant legal proceedings against President Obiang and/or his close family members or associates on charges of money laundering, corruption and spoliation of the national wealth of the state of Equatorial Guinea.¹⁸ The undersigned have devoted extensive care and attention to factual and legal investigation that supports these assertions.

¹⁴ Internal Oversight Service (IOS): Annual Report 2009, 184 EX/27, Paris, 26 February 2010, para. 14.

¹⁵ UNESCO website, “Investigation Section (INV): About INV,” available at: http://portal.unesco.org/en/ev.php-URL_ID=47563&URL_DO=DO_TOPIC&URL_SECTION=201.html

¹⁶ *Id.*

¹⁷ The Guidelines for Investigations adopted by the Conference of International Investigators (“The Guidelines”), para. 27.

¹⁸ Association Sherpa is counsel on the Transparence International France/Biens Mals Acquis case in the Tribunal de grande instance de Paris; Open Society Justice Initiative works with APDHE on *APDHE v. Obiang Family* in Las Palmas, Spain and, along with EG Justice, is co-counsel on *APDHE v. Equatorial Guinea*, before the African Commission on Human and People’s Rights.

13. IOS requires complaints to be credible, specific, material and verifiable to merit investigation.¹⁹ This complaint meets these standards, as detailed below.

Credibility

14. This complaint is brought by four organizations, two of which are organized under and regulated by the laws of the United States, one under the laws of Spain, and one under the laws of France. While EG Justice is a relatively young organization, the other three undersigned have well-established records of monitoring, reporting and advocating in a truthful, professional manner and all four include esteemed members of the international human rights and anticorruption community in their staffs and advisory boards.

15. Further, investigations underlying some of the concerns relayed in this complaint have been conducted by reliable government authorities in the United States, France and Spain, substantiating allegations made herein. Moreover, much of the information set out in this complaint has been widely reported by respected independent journalists and constitutes a body of public knowledge respecting President Obiang and his family.

Specificity

16. This complaint includes specific reference to relevant standards of conduct, and factual allegations herein are supplemented by a series of Annexes, including documentation and evidence generated in connection with the investigations referred to herein, including::

- a) Criminal Complaint (*Querrela Criminal*), *APDHE v. Obiang Family*, Audiencia Nacional, Las Palmas, España (October 22, 2008) (**Annex 1**);
- b) Criminal Complaint (*Plainte avec Constitution de Partie Civile*), *Transparence International France*, Tribunal de Grande Instance de Paris (December 2, 2008) (**Annex 2**);
- c) Communication, *APDHE v. Equatorial Guinea*, African Commission on Human and Peoples' Rights (October 12, 2007) (**Annex 3**);
- d) United States Senate Permanent Subcommittee on Investigations, *Money Laundering and Foreign Corruption: Enforcement and Effectiveness of the Patriot Act, Case Study Involving Riggs Bank*, Report (July 14, 2004) (**Annex 4**); and
- e) United States Senate Permanent Subcommittee on Investigations, *Keeping Foreign Corruption Out of the United States: Four Case Histories*, Report (February 4, 2010) (**Annex 5**).

Materiality

17. The Prize is material to UNESCO, as are all of its prizes, due to the prestige and reputational investment attached to them. The Director General's 2005 Overall Review of UNESCO Prizes stressed that UNESCO prizes are "understood as prestigious" and need to be clearly distinguished from other types of recognition.²⁰

¹⁹ Internal Oversight Service (IOS): Annual Report 2009, Paris, 26 February 2010, 184 EX/27, para. 14.

²⁰ Report by the Director-General on the Overall Review of UNESCO Prizes, Paris 9 March 2005, 171 EX/19, p.1.

18. The creation of UNESCO prizes should, according to this Review be approved by the Executive Board, and meet several criteria, including that they “carry moral and symbolic value” and that “in the case of non-governmental, private and individual donors, the Director General shall ensure that *all necessary ethical considerations have been undertaken regarding the integrity of a donor* before a prize donation is accepted,” highlighting the high standard required for UNESCO’s review of sources for funding of prize donations.²¹
19. Additionally, the amount of the donation to UNESCO for the establishment of the Prize, \$3 million for an initial 5-year period, makes it the largest prize administered by UNESCO.²²

Verifiability

20. The information provided herein does not emanate from the undersigned alone. As mentioned above, and discussed in greater detail below, investigations conducted by the United States Senate Permanent Subcommittee on Investigations (“Senate Subcommittee”) in 2004 produced significant evidence of money laundering or other suspicious transaction by President Obiang, members of his family, and other senior officials of his government, through the use of U.S.-based Riggs Bank.²³ In March 2010, further investigations of the Subcommittee into foreign corruption entering the United States focused heavily on the purchases of multi-million dollar assets in the U.S. by Teodoro Nguema Obiang (President Obiang’s oldest son, known as Teodorin).
21. Building on this evidence, an investigative judge in Spain has determined there are sufficient grounds to open a criminal investigation of the President’s close family members and associates on related money laundering charges following a complaint filed by Asociación Pro Derechos Humanos de España (“APDHE”) with assistance from the Open Society Justice Initiative.²⁴ Meanwhile, Paris police investigations related to the legal proceeding filed by Association Sherpa on behalf of Transparency International France also produced additional evidence of *biens mals acquis*, or unexplained wealth, suggesting misappropriation by the Obiang family of public assets.
22. Additionally, in a front-page 2009 article, the *New York Times* uncovered apparent attempts by the United States government to work with French authorities to investigate

²¹ Report by the Director-General on the Overall Review of UNESCO Prizes, Paris 9 March 2005, 171 EX/19, p.3, para. 15(c), (e) (emphasis added). See Decision approving Review, 171 EX/Decisions, Paris, 25 May 2005, p. 41.

²² UNESCO Annex I Summary List of UNESCO Prizes, 182 EX/25 Annex I.

²³ United States Senate, Permanent Subcommittee on Investigations, Committee on Governmental Affairs, Minority Staff Report, *Money Laundering and Foreign Corruption: Enforcement and Effectiveness of the PATRIOT Act, Case Study Involving Riggs Bank* (July 15, 2004), available at: <http://levin.senate.gov/newsroom/supporting/2004/071504psireport.pdf> (“2004 Senate Report”). Riggs was ultimately fined for its failure to comply with safeguards designed to prevent money laundering, as reported in a Washington Post article, available at <http://www.washingtonpost.com/wp-dyn/articles/A13112-2004Sep10.html>.

²⁴ See **Annex 1**.

the multi-million dollar purchases of the President's son, Teodorin.²⁵ Finally, the African Commission on Human and Peoples' Rights is currently considering a complaint filed by EG Justice and the Open Society Justice Initiative on behalf of APDHE alleging spoliation of wealth and natural resources by the Obiang government. The Commission has already rejected the Equatoguinean government's attempt to have the case dismissed on technical standing grounds.²⁶

23. INV therefore has governmental sources, investigations, and proceedings from three countries, and an inter-governmental tribunal that it may consult regarding the information presented here.

LAW AND STANDARDS

United Nations Standards of Conduct

24. According to UNESCO's Constitution, it is a specialized agency of the United Nations, referred to in Article 57 of the UN Charter.²⁷ The United Nations Staff Rules and Regulations ("UN Staff Regulations") "apply to all staff at all levels, including staff of the separately funded organs..." and are therefore applicable to UNESCO staff.²⁸

25. The UN Staff Regulations provide that the Secretary General "shall seek to ensure that the paramount consideration in the determination of conditions of service shall be the necessity of securing staff of the highest standards of efficiency, competence and integrity"²⁹ and that "staff members are required to uphold the highest standards of ... integrity..." to be held accountable to the Secretary-General for such proper discharge of their functions.³⁰ Staff members are also required to "discharge their functions and regulate their conduct with the interests of the Organization only in view."³¹ Employees, by accepting appointment within the UN, "pledge themselves to discharge their functions and regulate their conduct with the interests of the Organization only in view. Loyalty to the aims, principles and purposes of the United Nations...is a fundamental obligation of all staff members by virtue of their status as international civil servants..."³² Some sources of such relevant aims, principles and purposes related to anticorruption are set out below.

26. Further, to assist INV in addressing whether there could have been an underlying criminal offense in the acquisition of funds which have been or may be transferred to

²⁵ Urbina, Ian, "Taint of Corruption Is No Barrier to U.S. Visa," New York Times, A1, November 16, 2009, available at: <http://www.nytimes.com/2009/11/17/us/17visa.html>.

²⁶ See **Annex 3**.

²⁷ See Constitution of the United Nations Educational, Scientific and Cultural Organization, Article X

²⁸ See UN Staff Rules: Staff Regulations of the United Nations and provisional Staff Rules ("UN Staff Rules"), Regulation 1.1(e).

²⁹ UN Staff Rules, Regulation 1.1(d).

³⁰ UN Staff Rules, Regulation 1.3(a).

³¹ UN Staff Rules, Regulation 1.2(e).

³² UN Staff Rules, Regulation 1.2(e).

UNESCO via the Foundation's donation, the undersigned provide below relevant provisions of Equatoguinean anticorruption law.

International Anticorruption Law and Standards

27. At its outset, the United Nations Charter expresses the aim “to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained.”³³ With regard to corruption, the most relevant treaty is the United Nations Convention against Corruption (“UNCAC”).³⁴
28. UNCAC provides that states, along with international and regional organizations, should collaborate to “develop and implement or maintain effective, coordinated anti-corruption policies that promote the participation of society and reflect the principles of the rule of law, proper management of public affairs and public property, integrity, transparency and accountability” and to “promote and develop measures to establish and promote effective practices aimed at the prevention of corruption.”³⁵
29. Founded in 1989, the Financial Action Task Force - Groupe d'action financière (“FATF”) is perhaps the most prominent inter-governmental body promoting effective practices aimed at preventing corruption. With 29 countries and two regional organizations as members, it develops and promotes policies, both nationally and internationally, to combat money laundering. It works in close cooperation with other international bodies involved in this area such as the United Nations Office for Drug Control and Crime Prevention, the Council of Europe, the Asia-Pacific Group on Money Laundering and the Caribbean Financial Action Task Force.³⁶
30. FATF produced a set of Forty Recommendations (“the Recommendations”) to be implemented by countries, financial institutions and “designated non-financial businesses and professions” in order to combat money laundering and terrorist financing.³⁷
31. The Recommendations have been widely acknowledged as *de rigueur* international standards to be followed in the prevention of money laundering, and the International Monetary Fund and the World Bank both monitor states' implementation of and compliance with them.³⁸

³³ See UN Charter, Preamble.

³⁴ United Nations Convention Against Corruption, General Assembly resolution 58/4 of 31 October 2003 (“UNCAC”).

³⁵ UNCAC Article 5.

³⁶ “FATF Members and Observers,” FATF website: http://www.fatf-gafi.org/document/52/0,3343,en_32250379_32236869_34027188_1_1_1_1,00.html

³⁷ FATF 40 Recommendations: Introduction, available at: http://www.fatf-gafi.org/document/40/0,3343,en_32250379_32236920_43683560_1_1_1_1,00.html

³⁸ *Id.*

32. In 2005, the UN Security Council, “strongly urge[d]” Member States to implement them.³⁹
33. Included in the category of “designated non-financial businesses and professionals” is any entity which provides to third parties the service of “acting as (or arranging for another person to act as) a trustee of an express trust.”⁴⁰ UNESCO functions much in the manner of such a trustee in creating a special account or trust fund, pursuant to its internal financial regulations, for the administration of a prize, as was done with the establishment of this Prize.⁴¹
34. In fact, the UNESCO Financial Regulations specifically provide for special regulations to be prepared “when necessary in connection with the purposes of a Trust Fund, Reserve or Special Account” to govern “the operations of such funds and accounts” and for those regulations to be reported to the Executive Board so it may be able to make “appropriate recommendations thereon.”⁴² This provision evidences UNESCO’s recognition that, at times, these accounts may require special attention.
35. The FATF Recommendations specify measures to be taken by both financial institutions and “designated non-financial businesses and professions”—including trustees, as mentioned above—to prevent money laundering. The Recommendations focus on “customer due diligence” and record-keeping.⁴³
36. Of particular relevance, Recommendation 5 provides, in part, the following “customer due diligence” measures to be taken, generally, before the institution enters into a transaction or relationship with a customer:
- a) Identifying the customer and verifying that customer’s identity using reliable, independent source documents, data or information.⁴⁴

³⁹ See UN Security Council Resolution 1617 Adopted by the Security Council at its 5244th meeting, on 29 July 2005, S/RES/1617 (2005), para. 7 stating the Security Council “[s]trongly urges all Member States to implement the comprehensive, international standards embodied in the Financial Action Task Force’s (FATF) Forty Recommendations on Money Laundering....”

⁴⁰ FATF 40 Recommendations Glossary, definition of “Designated non-financial businesses and professions”, (f) Trust and Company Service Providers, p. 13.

⁴¹ See UNESCO Financial Regulations 7.4, 6.5 and 6.6, UNESCO Basic Texts 2010 Edition: Financial Regulations, p. 101-102, and UNESCO Establishment of the UNESCO-Obiang Nguema Mbasogo International Prize for Research in the Life Sciences, 180EX/57, Paris, 29 September 2008, Annex II, Art. 1.1.

⁴² Financial Regulation 7.4 provides that “[m]oneys accepted for purposes specified by the donor shall be treated as Trust Funds or Special Accounts under Regulations 6.5 and 6.6.” Regulation 6.5 provides for the establishment of “Trust Funds, Reserve and Special Accounts” by the Director General and that such establishment shall be reported to the Executive Board and Regulation 6.6 provides for the “purpose and limit of each Trust Fund, Reserve and Special Account” to be “clearly defined by the appropriate authority.” It also states “[t]he Director-General may, when necessary in connection with the purposes of a Trust Fund, Reserve or Special Account, prepare special financial regulations to govern the operations of such funds and accounts, which shall be reported to the Executive Board; the Executive Board may make appropriate recommendations to the Director-General thereon.”

⁴³ FATF Recommendation 5 “Customer due diligence and record-keeping.”

⁴⁴ FATF Recommendation 5(a).

- b) Identifying the beneficial owner, and taking reasonable measures to verify the identity of the beneficial owner such that the financial institution is satisfied that it knows who the beneficial owner is. For legal persons and arrangements this should include financial institutions taking reasonable measures to understand the ownership and control structure of the customer.⁴⁵
 - c) Conducting ongoing due diligence ... to ensure that the transactions being conducted are consistent with the institution's knowledge of the customer, the customer's business and *risk profile, including, where necessary, the source of funds*.⁴⁶
37. In addition to standard customer due diligence, FATF sets out certain circumstances that may trigger a need for more careful scrutiny. The financing of the Prize involves three factors identified by FATF as requiring enhanced due diligence or special attention: (i) the donor is or is closely related to/controlled by a "politically exposed person" (including heads of state and senior politicians)⁴⁷; (ii) the donor makes use of a "legal person" (including foundations) to facilitate the transaction⁴⁸ and (iii) the donor resides in a country that likely does not sufficiently comply with the FATF Recommendations⁴⁹.
38. As defined by FATF, politically exposed persons ("PEPs") are "individuals who are or have been entrusted with prominent public functions in a foreign country, for example Heads of State of government, senior politicians ... senior executives of state owned corporations...."⁵⁰ "Business relationships with family members or close associates of PEPs involve reputational risk similar to those with PEPs themselves."⁵¹
39. Recommendation 6 provides, in part, that in relation to *politically exposed persons*, in addition to performing normal due diligence measures, institutions should:
- a) Take reasonable measures to establish the source of wealth and source of funds.⁵²
 - b) Conduct enhanced ongoing monitoring of the business relationship.⁵³

⁴⁵ FATF Recommendation 5(b).

⁴⁶ FATF Recommendation 5(d) (emphasis added).

⁴⁷ FATF Recommendation 6; "Politically exposed persons," FATF 40 Recommendations (on Money Laundering), June 2003, incorporating October 2004 amendments, Glossary, p. 14, available at: <http://www.fatf-gafi.org/dataoecd/7/40/34849567.pdf>.

⁴⁸ "Legal persons," FATF 40 Recommendations (on Money Laundering), June 2003, incorporating October 2004 amendments, Glossary, p. 14, available at: <http://www.fatf-gafi.org/dataoecd/7/40/34849567.pdf>. (Money laundering methods and techniques change in response to developing counter-measures. In recent years, the Financial Action Task Force (FATF) has noted increasingly sophisticated combinations of techniques, such as the increased use of legal persons to disguise the true ownership and control of illegal proceeds. FATF 40 Recommendations Introduction, available at: http://www.fatf-gafi.org/document/40/0,3343,en_32250379_32236920_43683560_1_1_1_1,00.html)

⁴⁹ FATF Recommendation 21

⁵⁰ "Politically exposed persons," FATF 40 Recommendations (on Money Laundering), June 2003, incorporating October 2004 amendments, Glossary, p. 14, available at: <http://www.fatf-gafi.org/dataoecd/7/40/34849567.pdf>.

⁵¹ *Id.*

⁵² FATF Recommendation 6(c).

⁵³ FATF Recommendation 6(d).

40. FATF defines legal persons as “bodies corporate, foundations, anstalt, partnerships, or associations, or any similar bodies that can establish a permanent customer relationship with a financial institution or otherwise own property.”⁵⁴
41. An interpretative note on Recommendation 5 provides guidelines for due diligence particular to *legal persons* and arrangements:
- a) Verify that any person purporting to act on behalf of the customer is so authorised, and identify that person.
 - b) Identify the customer and verify its identity—the types of measures that would be normally needed to satisfactorily perform this function would require obtaining proof of incorporation or similar evidence of the legal status of the legal person or arrangement, as well as information concerning the customer’s name, the names of trustees, legal form, address, directors, and provisions regulating the power to bind the legal person or arrangement.
 - c) Identify the beneficial owners, including forming an understanding of the ownership and control structure, and take reasonable measures to verify the identity of such persons. The types of measures that would be normally needed to satisfactorily perform this function would require identifying the natural persons with a controlling interest and identifying the natural persons who comprise the mind and management of the legal person or arrangement.⁵⁵
42. Recommendation 21 provides that, in relation to transactions emanating from countries that do not or *insufficiently comply with the FATF*, institutions should “give special attention” to such business relationships and transactions with persons, including companies and financial institutions.⁵⁶
43. There are no statements or evaluations on Equatorial Guinea’s FATF compliance in FATF’s online collection of country reviews.⁵⁷ It appears that the country may have never been evaluated. There has, however, been significant reporting by governmental and inter-governmental bodies on Equatorial Guinea’s official corruption, poor governance and almost non-existent revenue and expenditure transparency. This context, without an evaluation to otherwise show FATF compliance, argues for transactions with persons or entities in Equatorial Guinea to be treated with the “special attention” provided for in Recommendation 21.⁵⁸

⁵⁴ “Legal persons,” FATF 40 Recommendations (on Money Laundering), June 2003, incorporating October 2004 amendments, Glossary, p. 14, available at: <http://www.fatf-gafi.org/dataoecd/7/40/34849567.pdf>.

⁵⁵ FATF Recommendation 5 Interpretative Note, “CDD for legal persons and arrangements”. The Note also provides, “[w]here the customer or the owner of the controlling interest is a public company that is subject to regulatory disclosure requirements, it is not necessary to seek to identify and verify the identity of any shareholder of that company. The relevant information or data may be obtained from a public register, from the customer or from other reliable sources”.

⁵⁶ FATF Recommendation 21.

⁵⁷ See FATF website, Reports by Country, available at: http://www.fatf-gafi.org/infobycountry/0,3380,en_32250379_32236963_1_1_1_1,00.html#E (emphasis added).

⁵⁸ According to the United States 2009 Human Rights Report on Equatorial Guinea, “officials frequently engaged in corrupt practices with impunity” and “[c]orruption continued to be a severe problem.” The United States

Equatoguinean Anticorruption Law

44. Equatoguinean law prohibits a number of types of corrupt conduct, including abuse of office for personal gain; offering, giving, soliciting or receiving bribes; misappropriating, or permitting others to misappropriate, public funds or property; defrauding the state; receiving undue personal benefits connected to performance or non-performance of official duties; abusing inside information for unauthorized purposes, etc.
45. These prohibitions are contained in the colonial-era Spanish Penal Code of 1963,⁵⁹ as well as the Decree-Law No. 1/2004, of February 5, on Ethics and Dignity in the Performance of Public Functions. Copies of relevant provisions of the 1963 Penal Code, and of the entire Decree-Law No. 1/2004, together with English translations, are attached hereto as **Annex 7** and **Annex 8**, respectively.
46. Among the provisions in the 1963 Penal code that could be relevant to a consideration of corrupt practices by Equatoguinean officials are:
- a) Section 196 (prohibiting unlawful confiscation of property);
 - b) Section 198 (prohibiting taking advantage of official position);
 - c) Section 200 (prohibiting ordering payment of a tax not prescribed by law);
 - d) Sections 385-386 (prohibiting soliciting or receiving a bribe to perform an act relating to official duties);
 - e) Section 391 (prohibiting bribing or offering to bribe officials);
 - f) Sections 394-395 (prohibiting appropriating, as a public official, or permitting another to appropriate public funds or property);
 - g) Section 396 (prohibiting applying public funds or property to an official's own private use or that of third parties).

Department of State Human Rights Report 2009: Equatorial Guinea, Section 4 Official Corruption and Government Transparency, 11 March 2010, available at:

<http://www.state.gov/g/drl/rls/hrrpt/2009/af/135951.htm>. Equatorial Guinea hovered around the second percentile on the World Bank's indicator for control of corruption. See World Bank, Governance Matters 2009, "Country Data Report for EQUATORIAL GUINEA, 1996-2008, Aggregate Indicator: Control of Corruption", available at <http://info.worldbank.org/governance/wgi/pdf/c88.pdf>. And the country tied with Burundi, Guinea, Haiti, Iran and Turkmenistan for a ranking of 168 out of 180 on Transparency International's 2009 Corruption Index, available at http://www.transparency.org/policy_research/surveys_indices/cpi/2009/cpi_2009_table.

⁵⁹ Spanish Colonial Penal Code of 1963, available in *Compendio de Leyes Declaradas vigentes por el Decreto-Ley 4/1980, de 3 de abril*. Under Decree Law 4/1980, of 3 April 1980, the Spanish colonial law in effect as of October 12, 1968 remains generally applicable in post-independence Equatorial Guinea to the extent not contradicted or superseded by superior law. ("[S]e aplicarán subsidiariamente en todo el territorio nacional solamente las leyes penales, civiles, mercantiles, administrativas, laborales y militares que existían en Guinea Ecuatorial hasta el 12 de octubre de 1968 en lo que éstas no se opongan a lo legislado por el Consejo Militar Supremo desde el 3 de agosto de 1979, hasta la fecha de entrada en vigor del presente Decreto-ley") (quoted in Naciones Unidas, Consejo Económico y Social, *Informe sobre la situación de los derechos humanos en la República de Guinea Ecuatorial*, E/CN.4/1994/56 (January 1, 1994), para. 29, available at <http://www.unhchr.ch/Huridocda/Huridoca.nsf/0/9326d0586941394d80256732004d6858?Opendocument>. Relevant sections of the 1963 Penal Code, in Spanish and in English translation, are appended to this petition as **Annex 7**.

47. Among the provisions in the 2004 Decree-Law that could be relevant to a consideration of corrupt practices by Equatoguinean officials are:

- a) Article 3(c) (requiring officials to put public interest before personal interests);
- b) Article 3(d) (requiring officials to refrain from receiving undue personal benefits connected to official duties);
- c) Article 3(e) (requiring officials to act with greatest degree of transparency and without unreasonably restricting access to information);
- d) Article 3(g) (requiring officials to refrain from using facilities or services of the state for personal benefit of themselves or of others);
- e) Article 3 (h) (requiring officials to respect principles of openness, fair competition and suitability in public procurement);
- f) Article 12 (prohibiting incompatibilities and conflicts of interest);
- g) Article 17 (prohibiting receipt by officials of material presents, gifts or donations by reason or occasion of performance of their duties).

STATEMENT OF FACTS/EVIDENCE

48. In September 2008, the UNESCO Executive Board established the UNESCO-Obiang Nguema Mbasogo International Prize for Research in the Life Sciences (“the Prize”), purportedly pursuant to a proposal to fund the Prize from the Government of the Republic of Equatorial Guinea.⁶⁰ The establishing resolution states both that the “government” proposed to fund the Prize, *and* that the donor is the Foundation, yet there is no publicly available explanation as to the identity of the Foundation.⁶¹ To the knowledge of the complainants, who have knowledgeable contacts within Equatorial Guinea, the Foundation is unknown to the public.

49. Much is known, however, about President Obiang, his family, and his administration’s reputation for corruption and secrecy.

General Reputation of Equatorial Guinea and its Government and Head of State with respect to Corruption

50. A due diligence inquiry into President Teodoro Obiang would quickly uncover his government’s globally acknowledged reputation as a haven for corruption. In the view of Edgardo Buscaglia, an expert on criminality and Advisor to the United Nations Institute for Training and Research, Equatorial Guinea ranks fifth in the world for presence of organized crime.⁶²

⁶⁰ Establishment of the UNESCO-Obiang Nguema Mbasogo International Prize for Research in the Life Sciences, 180 EX/57, Paris, 29 September 2008, pp. 1-2.

⁶¹ *Id.*

⁶² *La Crónica de Hoy* (Mexico), “México 6º país con mayor delincuencia organizada; hay fallas en 87% de expedientes: experto de la ONU” (June 26, 2008), available at http://www.cronical.com.mx/notaImprimir.php?id_notas=369343.

51. Equatorial Guinea routinely places near the bottom of Transparency International's "Corruption Perception Index." In 2009 it ranked 168, with only seven countries placing lower.⁶³
52. According to the World Bank's Governance Matters 2009 metric, "Country Data Report for Equatorial Guinea, 1996-2008, Aggregate Indicator: Control of Corruption," Equatorial Guinea falls around the second percentile, very close to the bottom.⁶⁴
53. The U.S. Department of State minces no words on the reputation of the Equatoguinean government and its President:

Laws provide severe criminal penalties for official corruption; however, the government did not implement these laws effectively, and officials frequently engaged in corrupt practices with impunity. Corruption continued to be a severe problem....There was no requirement that officials divest themselves of business interests that were in potential conflict with official responsibilities, and no law prohibiting conflict of interest.⁶⁵ The presidency and prime minister's office were the lead agencies for anticorruption efforts.⁶⁶

Excerpts from the U.S. Department of State human rights reports for years 2006 and 2009 highlighting rampant corruption in Equatorial Guinea are attached as **Annex 6** hereto.

54. The NGO Freedom House ranks Equatorial Guinea among the nine least free countries in the world. Freedom House notes that "Equatorial Guinea is considered one of the most corrupt countries in the world, and [President] Obiang and members of his inner circle continue to amass huge personal profits from the country's oil windfall."⁶⁷ NGOs such as Human Rights Watch⁶⁸ and Global Witness⁶⁹ have published amply on the extreme corruption of the Obiang government.

⁶³ In 2009, Equatorial Guinea tied with Burundi, Guinea, Haiti, Iran and Turkmenistan for a ranking of 168 out of 180, available at http://www.transparency.org/policy_research/surveys_indices/cpi/2009/cpi_2009_table.

⁶⁴ Available at <http://info.worldbank.org/governance/wgi/pdf/c88.pdf>.

⁶⁵ As discussed above, Equatorial Guinea does have a conflict of interest law, of which perhaps the Department of State was unaware. See **Annex 8**.

⁶⁶ *Country Reports on Human Rights Practices 2008* (February 25, 2009) (hereafter, "Department of State 2008 Report"), available at <http://www.state.gov/g/drl/rls/hrrpt/2008/af/118999.htm>. See generally International Bar Association, *Equatorial Guinea At the Crossroads, Report of a Mission to Equatorial Guinea by the International Bar Association, Human Rights Institute* (October 2003) ("little respect for the rule of law...no separation of powers....Executive exercises considerable control over both the legislature and the judiciary"), available at http://www.ibanet.org/Human_Rights_Institute/Work_by_regions/Africa/Equatorial_Guinea.aspx.

⁶⁷ Freedom House, "Worst of the Worst 2010" (June 3, 2010), available at <http://www.freedomhouse.org/uploads/WoW/2010/WorstOfTheWorst2010.pdf>.

⁶⁸ Human Rights Watch, *Well Oiled: Oil and Human Rights in Equatorial Guinea* (July 2009), available at <http://www.hrw.org/en/reports/2009/07/09/well-oiled>.

55. As discussed further below, a due diligence search would also locate specific investigations of alleged corrupt acts by the President and his close associates, including the two U.S. Senate investigations, and the Spanish and French criminal proceedings discussed further below.

Secrecy and Opportunity for Corruption

56. President Obiang has famously described the amount and use of Equatorial Guinea's vast oil revenues as a "state secret."⁷⁰ While some hope for a change of direction followed Equatorial Guinea's decision to seek admission to the Extractive Industries Transparency Initiative ("EITI") and its acceptance as a candidate country in 2007, Equatorial Guinea was recently ejected from the EITI for failure to satisfy minimum validation process conditions.⁷¹ Unsurprisingly, this financial murkiness yielded Equatorial Guinea a score of zero in the International Budget Project's Open Budget Index,⁷² which notes in the accompanying country report that "[t]here is no Supreme Audit Institution in Equatorial Guinea; therefore, there is no independent institution that can review the annual attestation audit of the final accounts performed at the end of the year."

57. Such an opaque fiscal environment offers great opportunity for illicit diversion of government assets; and several investigations have produced strong evidence of just such activity by President Obiang, his family and close associates. Most important of these are two investigations conducted by the United States Senate, Permanent Subcommittee on Investigations, Committee on Governmental Affairs ("Senate Subcommittee"); and criminal investigations carried out in Spain and France.

Biens Mals Acquis/ Unjust Enrichment / Unexplained Wealth

58. In a series of criminal complaints, the French NGO Association Sherpa, representing several NGOs and individuals, has moved to initiate criminal investigation into the activities of several African heads of state and their families on suspicion of concealment of diversion of public funds ("*recel de détournement de fonds publics vise par les articles 321-1 et 432-15 du Code pénal français*"). The first complaint of March 2007 alleged that the leaders of Angola, Burkina Faso, Congo-Brazzaville, Equatorial Guinea and Gabon possessed considerable real properties on French soil that could not be explained by virtue solely of their lawful official salaries and benefits.

59. A police investigation commenced in June 2007 confirmed the bulk of these allegations and uncovered a number of other real and personal assets as well. The investigation

⁶⁹ Global Witness, *Undue Diligence, How Banks do Business with Corrupt Regimes*, chapters 3-4 (March 2009), available at http://www.globalwitness.org/media_library_detail.php/735/en/undue_diligence_how_banks_do_business_with_corrupt.

⁷⁰ BBC Country Profile: Equatorial Guinea (updated August 12, 2009), available at http://news.bbc.co.uk/2/hi/africa/country_profiles/1023151.stm.

⁷¹ See letter to President Obiang from EITI Chairman Dr. Peter Eigen (April 29, 2010), available at http://eiti.org/files/2010_04_29_letter_he_president_obiang_equatorial_guinea.pdf.

⁷² Available at the Open Budget Initiative website, <http://www.openbudgetindex.org/cms/index.cfm?fa=view&id=2390&hd=1>. (Score is for 2008, the most recent year available.)

confirmed President Obiang's ownership of a high-end residence in Paris. The President's oldest son, and heir apparent, Teodorin Nguema Obiang, was found to possess eight luxury automobiles, including two Ferraris, two Bugattis, two Maseratis, a Maybach and a Rolls Royce, for a total value of €4,213,618.⁷³

60. A second complaint was filed in July 2008, on behalf of Transparence International France and individual citizens, as taxpayers, of Congo-Brazzaville and Gabon. This complaint, essentially identical to the prior one, was dismissed by the Prosecutor in September 2008, paving the way for filing of a third complaint in December 2008, this time with constitution of Transparence International France and the individual Gabonese taxpayer Gregory Ngbwa Mintsas as civil parties. On May 5, 2009 the *Doyen des juges d'instruction du Tribunal de grande instance de Paris* accepted the standing of Transparence International France as civil party, while rejecting such status for Mr. Mintsas. Following a successful appeal by the Prosecutor at the *Cour d'appel*, on technical grounds related to standing, the case is now before the *Cour de cassation*, where it is expected to be decided shortly. Copies of materials relating to the Sherpa/Transparence International France "*Biens Mal Acquis*" case, including the December 2008 complaint, the May 2009 decision of the *Doyen des juges d'instruction du Tribunal de grande instance de Paris*, the October 2009 decision of the *Cour d'appel*, and related press materials are attached as **Annex 2**.
61. The multi-million dollar spendthrift habits of the President's son Teodorin have received the widest publicity, both before and after the Sherpa investigations. In February 2010 the Senate Subcommittee that had investigated Riggs issued a follow-up report, revealing that "between 2004 and 2008, Teodoro Nguema Obiang [Teodorin] used U.S. lawyers, bankers, and real estate and escrow agents to move more than \$110 million in suspect funds through U.S. bank accounts, including \$30 million to purchase a luxury residence in Malibu, California, and \$38.5 million to purchase a Gulfstream V jet aircraft."⁷⁴ The Malibu property was the sixth most expensive home purchase in the United States in 2006, according to *Forbes* magazine, which described it as "an eight-bedroom ocean front mansion...[on a] 15,000-square-foot estate, just off the Pacific Coast Highway...[with] a four-hole golf course, tennis court and pools. Obiang has views of the

⁷³ See, e.g., *Jeune Afrique*, "Le détail des biens présumés mal acquis de Bongo, Sassou et Obiang" (May 7, 2009), available at <http://www.jeuneafrique.com/Article/ARTJAWEB20090507150950/-justice-Denis-Sassou-Nguesso-Teodoro-Obiang-Omar-Bongo-Le-detail-des-biens-presumes-mal-acquis-de-Bongo-Sassou-et-Obiang.html>.

⁷⁴ United States Senate, Permanent Subcommittee on Investigations, Committee on Homeland Security and Governmental Affairs, Majority and Minority Staff Report, *Keeping Foreign Corruption Out of the United States: Four Case Histories* (February 4, 2010) (hereafter, "Senate 2010 Report"), available at http://hsgac.senate.gov/public/index.cfm?FuseAction=Hearings.Hearing&Hearing_ID=dd873712-eb12-4ff7-ae1a-cbbc99b19b52. See also Ian Urbina, "Taint of Corruption is No Barrier to US Visa for Millionaire," *New York Times* (November 17, 2009), available at <http://www.nytimes.com/2009/11/17/us/17visa.html>; Global Witness, *The Secret Life of a Shopaholic: How an African dictator's playboy son went on a multi-million dollar shopping spree in the U.S.* (November 17, 2009) (describing in detail Teodorin's movement of monies to purchase luxury properties and the involvement of banks and lawyers in facilitating and covering up the transactions), available at http://www.globalwitness.org/media_library_get.php/1146/1274457519/gw_obiang_low.pdf

ocean and, when the smog isn't too bad, of downtown Los Angeles.”⁷⁵ The 2010 Senate report also mentions Teodorin's two \$867 wine glasses⁷⁶ and his fleet of 32 motorcycles and automobiles, including “seven Ferraris, five Bentleys, four Rolls Royces, two Lamborghinis, two Maybachs, two Mercedes, two Porches, one Aston-Martin, and one Bugatti, with a collective insured value of \$9.5 million.”⁷⁷ Information regarding these and other transactions of Teodorin is attached hereto as **Annex 5** and **Annex 9**.

62. The 2004 Senate Riggs investigation also uncovered a number of luxury housing purchases made by Teodorin's father and other close relations, including a \$2.6 million residence purchased by the President in Potomac, Maryland in 1999; a separate \$1.15 million Potomac Maryland residence purchased by the President's wife; and a \$349,000 residence purchased by the President's brother, Armengol Ondo Nguema (Director of National Security).⁷⁸ Internal Riggs memoranda from September 2001 and April 2002, respectively, also reported that President Obiang had sold “two properties in Spain in the amount of \$5 million,” and “the properties in France in the amount of \$3 million,” sending the proceeds of each sale to Riggs. The latter memo notes that the “President has maintained multiple properties in France, Switzerland, Spain and now Washington.” (Proceeds from these claimed sales were, the Senate Subcommittee concluded, deposited in Riggs entirely in cash.) Information about these matters is attached hereto as **Annex 10**.

63. While the purchase moneys for these properties had not been traced to government accounts, these assets appeared substantially to exceed the official salaries of the individuals' involved. President Obiang's salary as President, and that of his son Teodorin as Minister of Forestry, have each been reported to be approximately \$60,000 per year.⁷⁹

High Value Cash Deposits

64. The Senate investigators further found that “over a three-year period, from 2000 to 2002, [Riggs] facilitated nearly \$13 million in cash deposits into Riggs accounts controlled by the E.G. President and his wife. On two of those occasions, Riggs accepted without due diligence \$3 million in cash deposits for an account opened in the name of the E.G. President's offshore shell corporation, Otong, S.A.”⁸⁰ Such transactions in themselves can raise suspicions of criminality, as reflected in common national rules requiring

⁷⁵ Matt Woolsey, “Most Expensive Home Sales 2006,” *Forbes* (December 12, 2006), available at http://www.forbes.com/home/2006/12/11/most-expensive-sales-forbeslifecx_mw_1212 mostexpensivehomesales.html.

⁷⁶ 2010 Senate Report, p. 41.

⁷⁷ *Id.*, pp. 70-71.

⁷⁸ 2004 Senate Report, pp. 58-59.

⁷⁹ For the president's salary, see Ken Silverstein, “Our Friend Teodoro,” *Harper's* (April 18, 2006), available at <http://www.harpers.org/archive/2006/04/sb-obiang-eg>. For Teodorin's salary, see Ken Silverstein, “U.S. Government Documents Crime Spree by Dictator's Son: Why no action by the feds?” *Harper's* (November 16, 2009), available at <http://harpers.org/archive/2009/11/hbc-90006022>; for Teodorin, see also Matt Woolsey, “Most Expensive Home Sales 2006,” *Forbes* (December 12, 2006).

⁸⁰ 2004 Senate Report, p. 3.

suspicious transaction reporting for cash transactions above a designated threshold. Information regarding these large cash deposits is attached hereto as **Annex 11**.

Direct Disbursement—Riggs Bank Investigation

65. In 2004, the United States Senate published findings suggesting that large portions of oil revenues never even made their way to Equatorial Guinea, instead being deposited into personal accounts in banks in the United States, Spain, Luxembourg, and elsewhere.⁸¹
66. The Senate Subcommittee found that the Republic of Equatorial Guinea maintained an account at the former Riggs Bank, in Washington, D.C., for receipt of payment of oil revenues from Marathon Oil, Exxon Mobil and Amerada Hess. This account was entirely under the personal control of President Obiang. Two signatures were required to move moneys from this account: the President's signature was always required, together with one of either (i) Melchor Esono Edjo, Secretary of State for Treasury and Budget, and (ii) Gabriel M. Obiang Lima, Minister of Mines. Mr. Esono Edjo is President Obiang's nephew; Mr. Obiang Lima is his son.
67. The Senate Subcommittee found that between 2000 and 2003, these signatories had in this manner moved approximately U.S. \$34 million from the Government Oil Revenues Account into shell corporations in bank secrecy jurisdictions. More than \$26 million of that was transferred in 16 operations into an account in Spain, at Banco Santander, held in the name of a Panama corporation named Kalunga S.A. Similarly, more than \$8 million was transferred in a series of ten transactions into an account at HSBC Luxembourg, owned by a second shell company, Apexside Trading Ltd. The Senate investigators concluded they had "reason to believe that at least one of these recipient companies [was] controlled in whole or in part by the E.G. President." When Riggs managers "requested more information about the two companies from the E.G. President, he declined to provide it, except to say the wire transfers to them had been authorized."⁸²
68. The Riggs Senate investigators also found that Melchor Esono Edjo, the President's nephew and Secretary of State for Treasury and Budget – and Oil Revenues Account co-signatory – had received from that account a total of \$499,000 in three transfers between 1998 and 2002.
69. Information regarding the EG Government Oil Revenues Account, and the transfers to Kalunga, Apexside, and Mr. Esono Edjo is attached as **Annex 12**.

Spanish Money Laundering Investigation

70. Subsequent investigations by the Spanish NGO Asociación pro Derechos Humanos de España (APDHE) and the Open Society Justice Initiative uncovered strong indications that millions of dollars from the Kalunga transfers were applied to the purchase of real properties in Spain for the account of President Obiang, Miguel Abia (former Prime

⁸¹ See generally 2004 Senate Report.

⁸² 2004 Senate Report, pp. 3, 54-55.

Minister), Atanasio Eca (former Minister of Mines), Teodoro Biyogo (brother-in-law of the President and Ambassador to Brazil), Pastor Micha (Minister of Foreign Affairs), and Gabriel M. Obiang Lima (the President's son and Oil Revenues Account co-signatory). Instructing magistrates in Grand Canary, Spain are now investigating these allegations.

71. As set out in the APDHE *Querella*, the relevant transfers from the EG Oil Revenues Account to Kalunga and the apparent corresponding real estate purchases in Spain are as follows:

The Obiang family accounts

Relationship of the transfers made from Riggs Bank (Oil account of Equatorial Guinea) to Banco Santander (Madrid) and from the relatives of President Obiang and members of the Guinean government, who have benefited from that money.

Transfers	Transfer Amount (\$)	Owner	Real Estate	Deed
06/07/2000	1,332,000	Miguel Abia (former prime minister)	32 m ² Garage, Madrid	06/08/2000
08/10/2000	1,110,000			
09/05/2000	292,200			
10/16/2000	1,362,000	Teodoro Obiang Nguema (President)	90 m ² Apartment Las Palmas de Gran Canaria	11/29/2000
		Teodoro Obiang Nguema (President)	24 m ² Garage, Palmas de Gran Canaria	11/29/ 2000
01/30/2001	2,698,900			
04/10/2001	1,349,700			
05/09/2001	1,349,700	Atanasio Eca (former minister of Mines)	89 m ² residence Móstoles	07/30/2001
		Teodoro Blyogo (brother-in-law of the president and ambassador to Brazil)	600 m ² single-family residence. Gijón	05/15/2001
		Pastor Michá (Minister of Foreign Affairs)	225 m ² single-family residence. Alcalá de Henares	12/27/2001
05/07/2002	798,000	Gabriel Nguema (president's son)	193 m ² residence. Móstoles	06/25/2002
05/07/2002	798,000	Gabriel Nguema (president's son)	Garage. Móstoles	06/25/2002
06/26/2002	167,000			
10/31/2002	336,934.57			
04/07/2003	7,425,000			
07/24/2003	770,567			
09/03/2003	335,137	Marcelino Owono (minister of Mines)	184.25 m ² residence Torrejón de Ardoz	10/03/2003
10/21/2003	4,800,000			
12/11/2003	1,637,000			
12/11/2003	720,000			
TOTAL	26,483,982.57			

SOURCE: Office of the Attorney General, Anticorruption Division.

EL MUNDO

Information regarding the Spanish proceedings is available at [Annex 1](#), attached hereto.

Sham or Sweetheart “Co-Investment” Transactions

72. The Senate Subcommittee investigation found that the President and his family were able to ensure themselves access to profitable co-investment opportunities with the international hydrocarbon companies, often with little or no capital invested or at risk. Several such deals examined by the Senate Subcommittee revealed little indication of rational business purpose for the international enterprises to include the interests of the President and other senior officials in the investment projects other than to comply with apparent express or implied governmental pressure.
73. Senate investigators uncovered, for example, a transaction involving the sale by Mobil Oil Corporation of a 15% stake in a joint oil-trading business, Mobil Oil Guinea Ecuatorial (MOGE), to President Obiang's holding company, Socio Abayak, S.A., in 1998 and 1999, for an aggregate of US\$ 2,300. Dividends declared by MOGE in 2001, 2002 and 2003 resulted in payments to Abayak of approximately \$10,500 in each of those years. By 2004, Abayak's MOGE investment was worth \$645,000. ExxonMobil was unable to explain to the Senate Subcommittee why Abayak had been brought into the investment, or whether Abayak or Mobil had proposed it.
74. A related December 23, 1997 Mobil internal memorandum suggests that legal or political, rather than business, considerations may have motivated inclusion of the President's company. Under the heading "LEGAL REQUIREMENTS AND ADVANTAGES, Capital Structure," the memo says that "Mobil has to be in partnership with local Guineans. Abayak, a local company will be our partner, with 15% share."⁸³ As the autocratic President's flagship business vehicle, however, Abayak was, of course, far from just any "local company." Information regarding the MOGE/Abayak partnership is attached hereto as **Annex 13**.
75. Marathon Oil Company initially testified to the Senate Subcommittee that it had been told by a representative of the "state-owned" Guinea Equatorial Oil & Gas Marketing Ltd. (GEOGAM) that President Obiang, through Abayak, owned a 75% interest in GEOGAM (the other 25% being held by the state). It appears that on further investigation, Marathon concluded that Abayak's interest was only 25%, the remainder being held by the government. GEOGAM, in turn, was a 20% owner of a liquid petroleum gas facility on Bioko Island, and a 10% owner of a methanol plant there. The 2004 Senate Subcommittee report indicates that the liquid petroleum venture paid dividends to GEOGAM totaling more than \$87,000 in 2002, and that the methanol

⁸³ Responses to Supplemental Questions for the Record Submitted to Exxon-Mobil, including Attachments (no date, presumably 2004), Exhibit 54, in *Money Laundering and Foreign Corruption: Enforcement and Effectiveness of the PATRIOT Act, Hearing Before the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, United States Senate, 108th Cong., 2d Sess. (July 15, 2004)*, pages 834-40 (the memorandum is at page 840). Mobil merged with Exxon Corporation in 1999 to form ExxonMobil Corporation. While it is not unusual for governments to require local participation in foreign investments, as a means of providing opportunity for the country's nationals, the secretive and centralized control of power and information in the hands of the President and a small number of associates suggests a high risk that such rules are abused to steer unearned income unlawfully to a small circle within the government elite.

company paid dividends to GEOGAM totaling over \$4 million between 2002 and 2004.⁸⁴ Assuming the Abayak interest in GEOGAM as 25%, that represented, respectively, \$21,750 and \$1 million for the President and/or his family. (It is possible these figures represent gross amounts from which carried interest obligations discussed in the following paragraph below were deducted.) Marathon initially (July 2004) estimated for the Senate Subcommittee that “the interest currently owned by GEOGAM in the [liquid petroleum gas] plant has a present net value of \$75 million to \$95 million and the interest currently owned by GEOGAM in the [methanol] plant has a net present value of \$15 million to \$20 million.” Assuming, again, that Abayak's share of GEOGAM was 25%, that represents interests for the President valued, respectively at at least \$18,750,000 and \$3,750,000.

76. Marathon explained to the Senate Subcommittee that some or, perhaps all, of the interest of GEOGAM in the liquid petroleum gas and methanol plants were “carried amounts, [which] plus interest are recovered out of 75% of the dividends otherwise payable to GEOGAM. In addition, GEOGAM has traditionally paid for [liquid petroleum gas] supplies it receives ... out of the remaining dividends paid or to be paid to GEOGAM.” GEOGAM, in turn, was the sole supplier of liquid petroleum gas to residents on Equatorial Guinea's main commercial center, Bioko Island. The upshot of this carried interest arrangement appears to be that multi-million dollar assets were acquired by the President's company on the basis of ownership interests for which he had advanced little or no capital and had placed little or no capital at risk. Information about the GEOGAM transaction is attached hereto as **Annex 14**.
77. The 2004 Riggs investigation uncovered a company called Nusiteles, G.E., established in 2000 “as an E.G. telecommunications company intended to establish telephone and computer services within Equatorial Guinea.” It is jointly owned by a number of parties, including the E.G. President through Abayak, the E.G. Minister of Foreign Affairs, the E.G. Director of National Security, the E.G. Minister of Justice and Religion, and International Decision Strategies, a Virginia corporation.⁸⁵ The E.G. government is also listed as a shareholder of the company.⁸⁶ While it appears that the contemplated telecommunications venture represented by the Nusiteles documentation may not have gone forward, there appears no reason to believe that the deal was not initiated with serious business intentions; nor do the conflicts of interest involved in the senior officials' participation seem to have raised any eyebrows among the deal participants or any governmental officials. Information about the Nusiteles deal is attached hereto as **Annex 15**.

⁸⁴ 2004 Senate Report, pp.78-79; Responses to Supplemental Questions for the Record Submitted to Marathon Oil Company, July 2004; Letter to the Senate Subcommittee from Robert A. Wegman, Counsel to Marathon Oil Company, dated September 21, 2004.

⁸⁵ 2004 Senate Report, p. 50.

⁸⁶ See Foley Hoag complaint, *Foley Hoag LLP v. Republic of Equatorial Guinea, Et al.* (U.S. Dist. D.C.) contained in **Annex 15**.

Rigged Government Procurement, Construction, and Licensing Contracts Tainted by Conflict of Interest

78. The Senate Subcommittee found that much of the disbursement transactions from the EG Treasury Account went to payment of vendor, and particularly construction related, costs incurred by the Equatoguinean government. While Riggs Bank management claimed to find nothing suspicious in these transactions, Riggs documentation also shows that the President reserved control over the construction industry in Equatorial Guinea to himself and/or his immediate family: A November 28, 2001 Riggs memorandum notes that Abayak S.A., a company “controlled by the President and his family...[was f]or many years...and still is the only Construction Company and importer of construction related goods [in Equatorial Guinea]... Abayak is the sole importer of every construction material ranging from cement, electrical goods to nails. This enterprise has become a significant earner of income for the President.”⁸⁷
79. Riggs files indicated that “the President also own[ed] the only two supermarkets in the country.” Outside the subsistence economy, most food in Equatorial Guinea is imported,⁸⁸ which suggests the possibility that governmental decision-making respecting import licensing, access to port, border, and transportation facilities, and so on may play a significant role in the viability of such businesses. Riggs files also note the President's ownership of four hotels. Information about Abayak's business and land-holdings is attached hereto as **Annex 16**.
80. According to the U.S. Department of State, the norm of official self-dealing continues. In 2009, “[m]ost ministers continued to moonlight and conduct businesses they conflated with their government responsibilities. For example, the minister of justice had his own private law firm, and the minister of transport and communications was director of the board and owned shares in the parastatal airline and the national telephone company.... In October 2008 the government began disbursing funds for social projects under the social development fund (SDF), a mechanism developed jointly with a foreign donor designed to enhance the transparency of social spending in line with international development norms.... One minister reportedly ignored the bids of companies responding to an open solicitation and selected a company he owned, although his company had not

⁸⁷ The scale of new construction in Equatorial Guinea has exploded since 2001, and a large number of new national and international concerns have entered the field as leading players. The precise role that Abayak or others of President Obiang's interests play in the new scheme of things has not been well documented. As an illustration of the apparent willingness and ability of the President to use official power to steer business opportunity to himself or those he favors, however, the 2001 Riggs file documentation remains highly relevant.

⁸⁸ “The different programmes set up to improve food security have not had the desired effects. The reasons for this, in large part, are the persistence of an insufficient level of management staff, the lack of material and financial support to farmers, and the condition of the road infrastructure.... The country imports most of its products and consumer goods, especially food and clothes, and capital equipment.” Organization for Economic Cooperation and Development and African Development Bank, *African Economic Outlook: Equatorial Guinea* (2008), pp. 288, 291-392, available at <http://www.oecd.org/dataoecd/12/56/40577917.pdf>.

submitted a bid; the minister claimed his company was eligible to accept SDF money from the account he controlled.”⁸⁹

81. If the President apparently retained control of the construction industry for himself, in other cases, whole industries have been handed over to his relatives or friends. Riggs Bank credit files unearthed by the Senate investigators also revealed, for example, that Teodorin Nguema Obiang, the President’s oldest son (and Forestry Minister), was, in 2002, “the sole owner of a company called Grupo Sofana...a forestry company, which has exclusive rights of exploiting and exporting timber in Equatorial Guinea...the main source of foreign exchange after oil.”⁹⁰ Sofana company accounts presented to Riggs at that time showed total revenues for years 1999, 2000, and 2001 as, respectively, \$16.2 million, \$24.92 million, and \$30.3 million USD.⁹¹ Follow-up investigation by the Senate Subcommittee in 2010 revealed that Sofana and/or other wholly owned affiliates paid for almost \$100 million worth of Teodorin's luxury purchases in the United States, including his February 2006 purchase of a \$30 million Malibu, California mansion,⁹² and the June 2006 \$38.5 million acquisition of a Gulf Stream G- V jet.⁹³
82. The U.S. Department of Justice has identified “sources [who] have informed investigators that Teodoro Nguema OBIANG [the President’s son, Teodorin], in his official capacity, has instituted a large ‘revolutionary tax’ on timber, but insisted that the payments be made directly to him, either in cash or through checks to [Grupo Sofana affiliate] SOMAGUI FORESTAL, a forestry company owned by Teodoro Nguema OBIANG.”⁹⁴

Use of Political and Economic Power to Ensure the Elite Private Enterprises Receive Sole Authorization for Provision of Important Local Goods and Services – Particularly Land and Labor – Particularly those Required for Hydrocarbon Extraction Activities

83. While most Equatoguineans survive from subsistence farming, living almost entirely outside the monetary economy, senior government officials strictly control participation in the formal economy, allocating licenses and other business opportunities to themselves or other members of the elite in exchange for a share of the revenues, and channeling access to hydrocarbon-related jobs through a handful of highly profitable politically connected “employment agencies.” As the U.S. Department of State reported in its 2006 Country Report on Human Rights regarding Equatorial Guinea:

⁸⁹ United States Department of State, Bureau of Democracy, Human Rights and Labor, Country Reports on Human Rights Practices 2009: Equatorial Guinea (March 11, 2010), available at <http://www.state.gov/g/drl/rls/hrrpt/2009/af/135951.htm>.

⁹⁰ 2004 Senate Hearing, p. 1298. See [Annex 9](#).

⁹¹ Internal Riggs memo, dated July 22, 2002 re; background/relationship summary. See [Annex 11](#).

⁹² 2010 Senate Report pp. 75-87. See [Annex 9](#).

⁹³ 2010 Senate Report pp. 87-99. See [Annex 9](#).

⁹⁴ Department of Justice, Criminal Division, Memorandum to The Central Authority of France re Request for Assistance in the Investigation of Teodoro Nguema OBIANG and his associates (September 4, 2007), p. 5, available at <http://documents.nytimes.com/investigating-teodoro-nguema-obiang#p=1>.

Wealthy individuals were able to buy the licenses needed to operate and had the influence to squeeze out competitors....According to regional representatives of the International Labor Organization, the government continued to influence employment in all sectors. Requirements to utilize employment and security agencies controlled largely by the president's relatives continued.

84. The Senate Subcommittee learned in 2004, for example, about APEGESA, an agency owned in part by Juan Olo Mba Nzing, former Equatoguinean energy minister and long-time close associate – and brother-in-law – to President Obiang. Marathon Oil Corp. told the Subcommittee that it “reimburses APEGESA for the compensation [APEGESA] pays to [Marathon’s] workers, and also pays [to APEGESA] a fee of approximately 20% of the salaries of the workers.” Over approximately two years, Marathon had paid APEGESA \$7.5 million.⁹⁵ Marathon also told the subcommittee that in approximately the same period it also engaged on similar terms another employment agency, Multi-Services Systems (MSS), a company the Senate Subcommittee believed was controlled by Equatoguinean officials, at a cost of \$6.9 million.⁹⁶ Other important “first family held” employment agencies include:

- AMLOCASER (owned by Armengol Ondo Nguema, the President’s brother, army general and national Director of Security);
- NOMEX (owned by Gabriel Mbega Obiang Lima, the President’s son and Vice-Minister of Mining and Energy);
- ATSIGE (owned by Manuel Nguema Mba, the President’s uncle, army general, and Minister of Security).⁹⁷

85. “Hess and ExxonMobil...told the Subcommittee that they buy their security services through Sociedad Nacional de Vigilancia (Sonavi), a company owned by the President’s brother, Armengol Ondo Nguema. These companies told the Subcommittee staff that Sonavi has a monopoly on security services in E.G., and Hess told the Subcommittee that Sonavi’s rates were not negotiable as they are driven by E.G. law. Between January 2000

⁹⁵ 2004 Senate Report, p. 103.

⁹⁶ *Id.* If accurate, the 20% mark-up would be less onerous than APEGESA’s reported take a few years earlier. “Independent sources confirm that APEGESA, in screening applicants for positions, excludes those whom it considers unfriendly or indifferent to the [ruling political party] PDGE. APEGESA reportedly keeps nearly two-thirds of employees’ wages. Oil workers earning \$47 per day reportedly receive only \$16; the remainder is kept by APEGESA, which is allegedly managed by the Minister of Mines and Energy. When several employees signed a petition complaining of this treatment, they were fired. *See* United States Department of State, Bureau of Democracy, Human Rights, and Labor, *Country Reports on Human Rights Practices 1997* (January 30, 1998) available at <http://www.unhcr.org/refworld/type,ANNUALREPORT,,GNQ,3ae6aa3d2c,0.html>.

⁹⁷ Alicia Campos Serrano and Placido Mico Abogo, *Labour and Trade Union Freedom in Equatorial Guinea* (2006), pp. 59-60, available at http://www.cpds-gq.org/images/stories/derechos_humanos/informetrabajoenglish.pdf. (Alicia Campos is a researcher and lecturer at the Universidad Autónoma de Madrid. Placido Mico is a lawyer and the Secretary General of the Convergencia para la Democracia Social, the major legal opposition party in Equatorial Guinea, and he holds the one opposition seat in the 100-member national Parliament.)

and May 2004, Hess paid a total of about \$300,500 to Sonavi.” (Four other oil companies told the Subcommittee that they were not required to deal with Sonavi.)⁹⁸ Further information regarding provision to the oil companies of labor and security services by companies controlled by politically exposed persons is available at **Annex 17**.

86. The Senate Subcommittee investigators into Riggs found that the President’s holding company, Abayak, in addition to its construction industry endeavors, also acted, as “a participant in real estate deals on behalf of the E.G. President and his wife.”⁹⁹
87. The Senate Riggs investigators found that ExxonMobil’s Equatorial Guinea subsidiary was leasing building and land on the 50-acre “Abayak Compound,” with total lease payments ranging from \$137,000 per year (in 1996) to \$185,000 per year (in 2001). Until 2001, the lessor was the President’s wife; after which the lessor became Abayak.”¹⁰⁰
88. Marathon has paid or agreed to pay the E.G. President over \$2 million for the purchase of land.”¹⁰¹
89. Amerada Hess paid Equatoguinean officials and their relatives nearly \$1 million for building leases. Of 28 leases Hess identified to the investigators, 18 were properties leased from “persons connected to the government or the Obiang family.”¹⁰² Further information regarding land-holdings of the President and his family is attached hereto as **Annex 18**.

Secret Off the Books Contributions by Foreign Companies to or for the Benefit of Leading Members of the Elite

90. In light of the educational and scientific focus of UNESCO's mission generally, and the invocation of such values by the donor of the UNESCO Obiang Prize itself, there is particular irony in the findings of the Riggs investigators regarding the oil company-financed EG student education program. Under the terms of the oil company agreements with the EG government, the companies were apparently obliged to finance the education of EG students abroad. Riggs managed two accounts for this purpose. Senate Subcommittee investigators found, according to Riggs' records, “from 2001 until 2003, more than 100 E.G. students received funding to study abroad, often in the United States....[M]any of [the]m appeared to be children or relatives of wealthy or powerful E.G. officials.” Marathon Oil Company, alerted to the problem in 2003, conducted an investigation and concluded that there was sufficient evidence suggesting that “at least a few of the students [Marathon had] been funding are related to the president.” As in other arrangements described above, in this program, again, the proceeds of the Equatoguinean people's oil wealth were being diverted to the benefit of the wealthy and the powerful, while the unprivileged Equatoguinean school children back home

⁹⁸ 2004 Senate Report, pp. 102-104.

⁹⁹ *Id.*, p. 49.

¹⁰⁰ *Id.*, pp. 100-101

¹⁰¹ *Id.*, p. 102.

¹⁰² *Id.* p. 101

contended with an educational system rife with corruption and incompetence, in which “[t]eachers with political connections but no experience or accreditation were hired, even though they seldom appeared at the classes they purportedly taught...and teaching positions were available only to [the ruling party] PDGE members.”¹⁰³ Compounding the tragedy of lost opportunity, the great majority of these privileged youngsters took little if any educational advantage of their schooling: “A February 2002 letter [from the Riggs files] reports that only five of the E.G. students were maintaining the required ‘B’ grade average.”¹⁰⁴ “A good number of the students are not serious with their academics,” complained Riggs in a letter to the E.G. government dated September 19, 2001. Information about Riggs' management of the educational program is attached hereto as **Annex 18**.

CONCLUSION

91. UNESCO and its staff are bound by UN rules and principles, including the duty to “safeguard integrity and to foster a culture of rejection of corruption.”¹⁰⁵ In light of the extensive and troubling public record and other material information provided in this complaint regarding the rampant system of corruption over which President Obiang's thirty-year government presides, the undersigned find it difficult to believe that UNESCO officials could have approved proceeding with this Prize if they had conducted a meaningful and duly diligent review of the risks associated with the acceptance of millions of dollars from a purported foundation almost certainly under the control of President Obiang. Such review would have involved the following normal “customer due diligence” measures:

- a) Identifying the foundation and verifying the foundation’s identity using reliable, independent source documents, data or information.¹⁰⁶
- b) Identifying the foundation’s beneficial owner, and taking reasonable measures to verify the identity of the beneficial owner such that UNESCO was satisfied that it knew who the beneficial owner is; UNESCO should also have taken reasonable measures to understand the ownership and control structure of the foundation.¹⁰⁷
- c) Conducting ongoing due diligence to ensure that the transactions being conducted are consistent with UNESCO’s knowledge of the foundation, the foundation’s business and risk profile, including the source of funds.¹⁰⁸

¹⁰³ United States Department of State, Bureau of Democracy, Human Rights and Labor, *Country Reports on Human Rights Practices 2009: Equatorial Guinea* (March 11, 2010), available at <http://www.state.gov/g/drl/rls/hrrpt/2009/af/135951.htm>;

¹⁰⁴ 2004 Senate Report, pp. 59-60.

¹⁰⁵ Preamble, UNCAC.

¹⁰⁶ FATF Recommendation 5(a).

¹⁰⁷ FATF Recommendation 5(b).

¹⁰⁸ FATF Recommendation 5(d) (emphasis added).

In addition, because of the special circumstances of this donor and of Equatorial Guinea and to comport with international standards on due diligence in special cases, UNESCO should:

- a) Take reasonable measures to establish the source of wealth and source of funds.¹⁰⁹
- b) Conduct enhanced ongoing monitoring of the business relationship.¹¹⁰
- c) Verify that any person purporting to act on behalf of the foundation is so authorized, and identified that person.
- d) Identify the foundation and verify its identity, including obtaining proof of incorporation or similar evidence of the legal status of the foundation, as well as information concerning the foundation's name, the names of trustees, legal form, address, directors, and provisions regulating the power to bind the foundation.
- e) Identify the beneficial owners, including forming an understanding of the ownership and control structure, and take reasonable measures to verify the identity of such persons, requiring identification of the natural persons with a controlling interest and identifying the natural persons who comprise the mind and management of the foundation.¹¹¹
- f) “[G]ive special attention” to its relationship and transactions with the foundation.¹¹²

In light of the many concerns raised, the imminence of the decision to award the Prize, and the potential reputational damage to UNESCO and its programs, the complainants urge the Investigator to verify whether UNESCO indeed performed due diligence before agreeing to accept the funds and administer the Prize, and if not, urge UNESCO to undertake such an inquiry before deciding to move forward with administering the Prize.

¹⁰⁹ FATF Recommendation 6(c).

¹¹⁰ FATF Recommendation 6(d).

¹¹¹ FATF Recommendation 5 Interpretative Note, “CDD for legal persons and arrangements”. The Note also provides, “[w]here the customer or the owner of the controlling interest is a public company that is subject to regulatory disclosure requirements, it is not necessary to seek to identify and verify the identity of any shareholder of that company. The relevant information or data may be obtained from a public register, from the customer or from other reliable sources”.

¹¹² FATF Recommendation 21.

ANNEXES: SUPPORTING AND SUPPLEMENTAL INFORMATION

Annex 1. Spanish money laundering case

- A. Querrela Criminal (Criminal Complaint), *APDHE v. Obiang Family*, Audiencia Nacional, Las Palmas, España (October 22, 2008).
- B. English translation.
- C. Related Press Materials.

Annex 2. French misappropriated assets case (*biens mals acquis*)

- A. Plainte avec constitution de partie civile (Criminal Complaint), Transparence International, France et Gregory Ngbwa Mintsu, Tribunal de grande instance de Paris (December 2, 2008).
- B. Ordonnance d'irrecevabilité partielle, Doyen des juges d'instruction, Tribunal de grande instance de Paris (May 5, 2009)
- C. Arrêt, Cour d'appel de Paris, pôle 7 (October 29, 2009)
- D. Association Sherpa, Memorandum, "Topo sur les procédures visant la famille OBIANG" (May 25, 2010).
- E. Association Sherpa, Schedule of assets identified for Obiang family.
- F. Related press materials.

Annex 3. African Commission spoliation case

- A. Communication, *APDHE v. Equatorial Guinea*, African Commission on Human and Peoples' Rights (October 12, 2007).
- B. Admissibility Brief, *APDHE v. Equatorial Guinea*, African Commission on Human and Peoples' Rights (March 19, 2008).
- C. Objection to locus standi by EG government, *APDHE v. Equatorial Guinea*, African Commission on Human and Peoples' Rights (June 3, 2009).
- D. Brief in support of locus standi, *APDHE v. Equatorial Guinea*, African Commission on Human and Peoples' Rights (August 31, 2009).
- E. Commission's decision on locus standi (December 3, 2009).

Annex 4. 2004 Senate Subcommittee Riggs Investigation

- A. *United States Senate Permanent Subcommittee on Investigations, Money Laundering and Foreign Corruption: Enforcement and Effectiveness of the Patriot Act: Case Study Involving Riggs Bank*, Report (July 14, 2004).

Annex 5. 2010 Senate Subcommittee Investigation on Teodorin Nguema Obiang

- A. United States Senate Permanent Subcommittee on Investigations, *Keeping Foreign Corruption Out of the United States: Four Case Histories*, Report (February 4, 2010) (pp.1-107).

Annex 6. 2006 and 2009 U.S. Department of State Human Rights Practices Reports

- A. 2006 U.S. Department of State Country Reports on Human Rights Practices: Equatorial Guinea, Excerpts.

- B. 2009 U.S. Department of State Country Reports on Human Rights Practices: Equatorial Guinea, Excerpts.

Annex 7. 1963 E.G. Penal Code

- A. 1963 EG Penal Code Excerpts (Spanish).
- B. 1963 EG Penal Code Excerpts (English Translation)

Annex 8. 2004 E.G. Ethics Law

- A. Decreto-Ley Numero 1/2004, de fecha 5 de febrero, sobre la Etica y Dignidad en el Ejercicio de la Funcion Publica (Spanish).
- B. Decree-law, Number 1/2004, 5 February 2004, on the Ethics and Dignity in the Performance of Public Functions (English Translation).

Annex 9. Materials on Teodorin Nguema Obiang (President Obiang's oldest son)

- A. Chart prepared by the U.S. Senate Permanent Subcommittee on Investigations, showing U.S. Bank Accounts used by Teodoro [Teodorin Nguema] Obiang [President Obiang's son], 2004-2008 (from exhibits to Senate 2010 report, exhibit 1(a)).
- B. Union Bank of California Case Report, dated June 2007, re: BERGER, M -Wire Review-High Risk/Terrorism; BSA Amount \$4,960,734 (Case Closing Notes: Investigation detected suspicious activity related to the appearance of money laundering on behalf of PEP). (From 2010 Senate report, exhibit 2).
- C. U.S. Department of Justice, Memorandum to The Central Authority of France re Request for Assistance on the Investigation of Teodoro Nguema OBIANG and his associates, September 4, 2007.
- D. U.S. Immigration and Customs Enforcement, Powerpoint Presentation regarding Teodoro Nguema OBIANG, et al., September 2007.
- E. Excerpt (pp. 44 and 49) from 2004 Senate Report (see Annex 4 for more complete text).
- F. Excerpt (p. 1298) from 2004 Senate Hearings.
- G. Press materials related to Teodorin Nguema Obiang.

Annex 10. Residential properties of the president, his wife, and his brother

- A. Excerpt (pp. 51-52 and 58) from 2004 Senate Report (see Annex 4).
- B. Riggs internal memorandum dated September 17, 2001.
- C. Riggs internal memorandum dated April 12, 2002.
- D. Excerpts from draft Riggs internal memorandum dated July 12, 2004 (appears to be a re-working of an earlier memo from March 24, 2003).

Annex 11. Otong, S.A. and other cash deposits

- A. Excerpts (pp. 43, 47-48, and 50-54) from the 2004 Senate Report (Annex 4).
- B. Excerpt (p. 6) from opening statement of Senator Carl Levin (July 15, 2004).
- C. Excerpt (p. 14) from Joint Testimony of Riggs Bank Executives (July 15, 2004).
- D. Excerpts from draft Riggs internal memorandum dated July 12, 2004 (appears to be a re-working of an earlier memo from March 24, 2003).
- E. Various internal Riggs account documents relating to Otong S.A.

Annex 12. E.G. Oil Revenue Account, Kalunga, S.A., Apexside, S.A.

- A. Excerpts (pp. 40-41, 54-59) from Senate 2004 Riggs investigation report.
- B. Excerpt (p. 6) from opening statement of Senator Carl Levin (July 15, 2004).
- C. Excerpt (p. 14) from Joint Testimony of Riggs Bank Executives (July 15, 2004).
- D. Internal Riggs memorandum dated February 26, 2004 regarding Equatorial Guinea Update Meeting.
- E. Senate Subcommittee Staff, schedules of transfers relating to Kalunga Company S.A. And Apexside Trading, Ltd. prepared July 2004.
- F. Excerpts (pp. 30, 39-42) from the 2004 Senate Report.
- G. Authorized signatory card for Republica de Guinea Ecuatorial—Tesoreria General (EG Oil Revenues Treasury Account) (date February 15, 200X).

Annex 13. Mobile Oil Guinea Ecuatorial (MOGE)

- A. Excerpt (p.107) from 2004 Senate Report (see Annex 4).
- B. Responses to Supplemental Questions for the Record Submitted to Exxon-Mobil (July 2004).

Annex 14. Guinea Equatorial Oil & Gas Marketing Ltd. (GEOGAM)

- A. Excerpts (pp. 50, 107-108) from the 2004 Senate Report (see Annex 4).
- B. Responses to Supplemental Questions for the Record Submitted to Marathon Oil Company, July 2004.
- C. Letter to the Senate Subcommittee from Robert A. Wegman, Counsel to Marathon Oil Company, dated September 21, 2004.

Annex 15. Nusiteles, S.A.

- A. Excerpt (pp. 50, 63-64) from 2004 Senate Report.
- B. Complaint, *Foley Hoag LLP v. Republic of Equatorial Guinea, et al.*, U.S. District Court for the District of Columbia, October 2003.

Annex 16. Land ownership and other business interests of Abayak, S.A.

- A. Excerpts (pp. 49, 100-102) from 2004 Senate Report.
- B. Riggs internal memorandum on President's business holdings, November 28, 2001.
- C. Riggs internal Memorandum on Equatorial Guinea, January 17, 2003.
- D. Excerpts from draft Riggs internal memorandum dated July 12, 2004 (appears to be a re-working of an earlier memo from March 24, 2003).

Annex 17. PEP-owned employment and security firms

- A. Excerpts (pp. 102-103) from 2004 Senate Report (see Annex 4).

Annex 18. Student accounts

- A. Excerpts (pp. 59-61 and 104-107) from 2004 Senate Report (see Annex 4).
- B. Testimony of Steven P. Guidry, Central Africa Business Unit Leader, Marathon Oil Company (July 15, 2004) (excerpt p. 72).
- C. Letter from Riggs to Gabriel Nguema Lima dated February 19, 2002.
- D. Internal Riggs memorandum re Posting of International Operations Assistant II, dated (likely) September 17, 2002.

- E. Internal Riggs memorandum re Training Committee for EG students, dated August 23, 2001.
- F. Letter from CMS Energy to Riggs Bank, dated August 23, 2001.
- G. Internal Riggs memorandum on Equatorial Guinea Student Program dated September 19, 2001.