

**Global Magnitsky Human Rights Accountability Act
as implemented by Executive Order 13818**

**EVIDENCE IN SUPPORT OF POSSIBLE SANCTION FOR TEODORO NGUEMA,
VICE PRESIDENT OF EQUATORIAL GUINEA**

SUBMITTED BY: HUMAN RIGHTS WATCH AND EG JUSTICE¹

Section 1. Alleged Perpetrator Information



Full Legal Name of Alleged Perpetrator: Teodoro Nguema Obiang Mangué (known as: Teodorin Nguema)

Country: Equatorial Guinea

Title or Position: Vice President (since June 2016); Second Vice-President (May 2012-June 2016); Minister of Agriculture and Forestry (1997-May 2012).

Date of Birth: June 25, 1968

Other Information: Nguema's primary location appears to be Malabo, Equatorial Guinea. He is a son of Teodoro Obiang Nguema Mbasogo, the President of Equatorial Guinea, by the President's first wife, Constanca Mangué Nsue Okomo.

Section 2. National Interest Argument & Summary of Impact

In the early 1990s, United States oil companies discovered oil off the coast of Equatorial Guinea, an impoverished central African country. Since then, billions of dollars in oil revenues catapulted the small country to among the highest per-capita GDPs on the African continent. Yet, the people of Equatorial Guinea have seen little benefit from this windfall, in large part due to corruption by President Teodoro Obiang, his family, and the ruling elite. Transparency International ranks the country 172 worst out of 180 in its 2018 Corruption Perceptions Index.²

The 2017 US State Department Human Rights Report on Equatorial Guinea notes, "the president and members of his inner circle continued to amass personal fortunes from the revenues associated with monopolies on all domestic commercial ventures, as well as timber and oil exports. Corruption at all levels of government was a severe problem."³ That same year, the US Department of Justice reached a \$238 million settlement with a Netherlands-based oil drilling company that pled guilty to bribing at least nine Equatorial Guinean officials between 2008 and 2012, as well as officials from four other countries, for lucrative contracts with state-owned

¹ Human Rights Watch and EG Justice are the principal drafters of this submission, which is also supported by Human Rights First and Freedom House. Human Rights Watch investigates and exposes human rights violations in over 90 countries. EG Justice is an independent US-based group founded by an Equatorial Guinean to promote human rights and good governance in Equatorial Guinea.

² Transparency International, Corruption Perceptions Index 2018: Equatorial Guinea (Berlin: Transparency International Secretariat, 2019), <https://www.transparency.org/country/GNQ> (accessed September 24, 2019).

³ US State Department, Bureau of Democracy, Human Rights, and Labor, "Country Reports on Human Rights Practices – 2017: Equatorial Guinea," April 20, 2018, <https://www.state.gov/wp-content/uploads/2019/01/Equatorial-Guinea.pdf> (accessed September 24, 2019).

enterprises.⁴ A US Senate investigation in 2004 found that Riggs Bank in Washington, DC had transferred at least \$35 million in oil royalties to shell companies, some of which the investigation had reason to believe were controlled in whole or in part by President Obiang.⁵

President Obiang's eldest son, Teodoro Nguema Obiang Mangue, known as Teodorin Nguema, has been among the most brazen in accumulating personal gain from the nation's oil wealth. In June 2016, he was appointed vice president, and is widely considered a strong contender to succeed his father, who has been in power since 1979, making him the world's longest-serving president. Money laundering investigations and media reports have documented that Nguema spent well over \$500 million since he was appointed Minister of Forestry in 1998. The assets he purchased include a private jet; mansions in California, Paris, and elsewhere; dozens of exotic cars; millions of dollars worth of art, jewelry, watches, and clothes; and, most famously, a million-dollar collection of Michael Jackson memorabilia that includes the crystal-covered glove the pop star wore on his Bad tour. Nguema held political office throughout this time and earned an official salary equivalent to less than \$100,000 per year.

Since 2014, prosecutors in the United States, France, and Switzerland successfully targeted over \$200 million in assets from Nguema as part of money laundering investigations into his conspicuously vast wealth. While the US civil case and Swiss investigation ended in a settlement, a French court convicted Nguema *in absentia* of laundering more than \$120 million stolen from the public treasury. These cases are significant achievements in highlighting the systemic corruption in Equatorial Guinea and wresting a sizable amount of Nguema's ill-gotten gains, yet they have been largely unsuccessful at meaningfully holding Nguema accountable. Not only has Nguema been able to keep upwards of \$300 million in known assets and potential untold millions that have not come to light, but his position as vice president ensures both his impunity at home and ample access to the country's oil revenues.

The money laundering cases are described in detail in the following section. This section describes how corruption in Equatorial Guinea, including by Nguema, contributes to the country's abysmal health and education outcomes and is a driving force for the government's brutal repression of civil society. It then makes the case that it is in the US national interest to sanction Nguema for his kleptocracy under the Global Magnitsky Human Rights Accountability Act and/or Executive Order 13818.

Nguema's corruption robs Equatoguineans of health and education

Corruption is never a victimless crime, but its consequences are especially devastating in Equatorial Guinea, due to the scale of corruption and poverty of the population. In 2016, Human Rights Watch published a report, "*Manna from Heaven*"?: *How Health and Education Pay the*

⁴ "SBM Offshore N.V. And United States-Based Subsidiary Resolve Foreign Corrupt Practices Act Case Involving Bribes in Five Countries," United States Department of Justice press release, November 29, 2017, <https://www.justice.gov/opa/pr/sbm-offshore-nv-and-united-states-based-subsidiary-resolve-foreign-corrupt-practices-act-case>, (accessed September 24, 2019); United States District Court for the Southern District of Texas, Houston Division, United States of America v. SBM Offshore N.V., judgment of November 29, 2017, Criminal No. 17-686, available at <https://www.justice.gov/opa/press-release/file/1014801/download>.

⁵ US Senate Permanent Subcommittee on Investigations, Committee on Governmental Affairs, *Money Laundering and Foreign Corruption: Enforcement and Effectiveness of the Patriot Act – Case Study Involving Riggs Bank* [US Senate Riggs Bank report], July 15, 2004, p. 3.

Price for Self-Dealing in Equatorial Guinea, documenting how corruption by the ruling elite directly contributes to severe neglect of public health and education, leading to outcomes that lag far behind much poorer countries in the region.⁶ Some social indicators, such as vaccination rates, have declined since the oil boom.

According to the IMF, the government spends the vast majority of its oil wealth on infrastructure projects, such as building a new capital, “contributing to low provisions for health and education service delivery.”⁷ A Governance Diagnostic published by the IMF in December 2019 notes that infrastructure makes up around 60 percent of expenditures and reached as high as 80-90 percent in the past.⁸ The IMF has sharply criticized the government’s spending on infrastructure, noting its questionable social value and that “costs and wastage have been high because of limitation in oversight.”⁹ Our organizations’ research affirms these findings and concludes that these projects function as conduits for self-dealing by the ruling elite and violate the government’s human rights obligation to use its resources to improve health and education.

Self-dealing, such as orchestrating kickbacks and officials awarding inflated public contracts to their own companies, enriches many members of the ruling elite at the expense of ordinary Equatorial Guineans, but Nguema stands out as a central figure to benefit from this corrupt system. As one example of how he benefits from budgets so heavily skewed toward infrastructure projects, documents obtained by Human Rights Watch and EG Justice indicate that Nguema owns a ten percent stake in a company with the sole license to import cement to the country – with the president and his wife owning the remaining shares (see Annex).¹⁰ Nguema also owns a company nominally involved in road construction, but the US investigation produced evidence that it was in fact a shell company to which companies paid kickbacks in exchange for being awarded public infrastructure contracts, the value of which they grossly inflated expressly for that purpose.¹¹ French prosecutors found that this company was one of the primary sources of money funding Nguema’s €10 million shopping spree in that country.¹² To put that figure into perspective, it is more than the country’s entire health budget in 2011.¹³

By designing the government budget to enrich the ruling elite, including Nguema, the government robs an impoverished people of their basic rights to health and education. A 2011

⁶ Human Rights Watch, “*Manna from Heaven?*” *How Health and Education Pay the Price for Self-Dealing in Equatorial Guinea* (New York: Human Rights Watch, 2017), <https://www.hrw.org/report/2017/06/15/manna-heaven/how-health-and-education-pay-price-self-dealing-equatorial-guinea>.

⁷ International Monetary Fund, African Department, “IMF Country Report No. 16/341 – Republic of Equatorial Guinea,” November 16, 2016, <https://www.imf.org/en/Publications/CR/Issues/2016/12/31/Republic-of-Equatorial-Guinea-2016-Article-IV-Consultation-Press-Release-Staff-Report-and-44371>, p.11.

⁸ IMF, “Equatorial Guinea: Diagnostic Report on Transparency, Governance and Corruption,” December 2019, p. 20.

⁹ International Monetary Fund, African Department, “IMF Country Report No. 16/341 – Republic of Equatorial Guinea,” November 16, 2016, <https://www.imf.org/en/Publications/CR/Issues/2016/12/31/Republic-of-Equatorial-Guinea-2016-Article-IV-Consultation-Press-Release-Staff-Report-and-44371>, p.19.

¹⁰ The company, Abayak, is heavily involved in several sectors and is a large beneficiary of public contracts. See: Human Rights Watch, “*Manna from Heaven?*” *How Health and Education Pay the Price for Self-Dealing in Equatorial Guinea* (New York: Human Rights Watch, 2017), <https://www.hrw.org/report/2017/06/15/manna-heaven/how-health-and-education-pay-price-self-dealing-equatorial-guinea>.

¹¹ See Section X below.

¹² Ibid.

¹³ Human Rights Watch, “*Manna from Heaven?*” *How Health and Education Pay the Price for Self-Dealing in Equatorial Guinea* (New York: Human Rights Watch, 2017), <https://www.hrw.org/report/2017/06/15/manna-heaven/how-health-and-education-pay-price-self-dealing-equatorial-guinea>.

household survey – the most recent reliable source of health data on the country – found that one in four children are physically stunted due to poor nutrition, and two-thirds are anemic, as are half of women. It also found that half the population lacks access to safe drinking water in or near their homes, a rate that has not changed since 1995.¹⁴ Education outcomes are similarly poor. Enrollment rates have steadily worsened over the last decade; in 2015, the most recent year for which there is data, more than half of primary school-aged children were not in school.¹⁵ Only three countries—Eritrea, Liberia, and South Sudan—fared worse.

Nguema's corruption enabled by civil society repression and opaque governance

The Equatoguinean government aggressively silences dissent and consistently ranks among the world's least transparent, features that are central to sustaining high-level corruption. The president's full control over all branches of government, including law enforcement and the judiciary, allows him to co-opt these systems to punish political opponents and shield loyalists, including Nguema, from investigation. For example, the president is the first magistrate and is empowered to appoint and fire Supreme Court judges at will.¹⁶ While the government's lack of tolerance for free speech enables a wide spectrum of abuses, its systematic targeting of activists who expose corruption and call for greater transparency and accountability contribute to Nguema's ability to help himself to money from the public treasury with impunity.

For example, the heads of the country's leading transparency and human rights organization, Center for Development Studies and Initiatives (CEID), are routinely harassed. In October 2018, four men who appear to have been security officials forced the organization's vice president, Alfredo Okenve, from his car at gunpoint and brought him to a remote area, where they severely beat him and then abandoned him.¹⁷ Six months later, police detained him at the airport and confiscated his passport and phone for several days.¹⁸

Okenve's organization represented civil society in an effort to make Equatorial Guinea a member of the Extractive Industries Transparency Initiative (EITI), a program that commits resource-rich countries to make key financial information public as a means of reducing opportunities for corruption. Despite CEID's role as a member of the national multi-stakeholder group working toward EITI candidacy, in 2017, authorities suspended the organization's legal status, and formally ordered its dissolution in July 2019. Police later arbitrarily detained Okenve, along with CEID's president, Enrique Asumu, for several weeks until they agreed to pay a fine of more than

¹⁴ ICF International, "República de Guinea Ecuatorial: Encuesta Demográfica y de Salud (EDSGE-I) 2011," November 2012.

¹⁵ "UIS Education Statistics," n.d., <http://data.uis.unesco.org/>.

¹⁶ The American Bar Association recently monitored a mass trial in Equatorial Guinea and published a report describing judicial interference, torture, and other grave violations of due process. American Bar Association, "Monitoring of Mass Trial in Equatorial Guinea," September 2019, https://www.americanbar.org/content/dam/aba/administrative/human_rights/trialwatch/fair-trial-report-equatorial-guinea-mass-trial.pdf.

¹⁷ "Equatorial Guinea: Prominent Activist Severely Beaten," Human Rights Watch news release, October 31, 2018, <https://www.hrw.org/news/2018/10/31/equatorial-guinea-prominent-activist-severely-beaten>.

¹⁸ "Equatorial Guinea: Prominent Human Rights Activist Banned from Receiving Franco-German Prize," Amnesty International press release, March 19, 2019, <https://www.amnesty.org/en/latest/news/2019/03/equatorial-guinea-prominent-human-rights-activist-banned/>.

\$3,000.¹⁹ Also in 2017, police arrested a cartoonist living abroad who uses his art to criticize corrupt senior government officials while he was in the country to renew his passport.²⁰ He was held for more than six months until the accusing officer admitted at trial he had acted on orders from superiors and recanted his claims.²¹ The artist was then released and acquitted of all charges, following intense international pressure including from US officials.

At the same time that it seeks to silence transparency advocates, the Equatorial Guinean government has sided with shielded Nguema at key points in the face of international investigations despite the vast amount of evidence of his corruption.²² For example, after a French court ruled to allow a criminal money laundering case against Nguema to move forward, the president appointed his son to vice president and filed a case in the International Court of Justice claiming the prosecution violated Nguema's diplomatic immunity.²³

Sanctioning Nguema under the Global Magnitsky Act offers the potential for piercing the impunity with which Nguema has corruptly amassed a fortune at the expense of ordinary Equatoguineans. It would send a powerful message to the ruling elite in Equatorial Guinea, and kleptocrats around the world, that the United States is unwilling to do business as usual with government officials who abuse their power to rob from the public.

Nguema's ongoing corruption harms US economic interests

The US has a strong economic interest in promoting good governance, which is key to creating stable societies and an environment for American businesses that both secures their investment and reduces their risks of contributing to serious human rights abuses. This is especially the case in Equatorial Guinea, where US oil companies such as ExxonMobil, Kosmos Energy, Marathon Oil and Noble play a dominant role in the economy. According to the US Department of Commerce, US companies owned almost \$22 billion worth of assets in Equatorial Guinea in 2016, the most recent year for which data is available.²⁴ The US State Department's 2017

¹⁹ "Equatorial Guinea: Free Human Rights Defenders," Human Rights Watch news release, April 21, 2017, <https://www.hrw.org/news/2017/04/21/equatorial-guinea-free-human-rights-defenders>.

²⁰ "Equatorial Guinea: Political Cartoonist Arrested," Human Rights Watch news release, September 19, 2017, <https://www.hrw.org/news/2017/09/19/equatorial-guinea-political-cartoonist-arrested>.

²¹ "Equatorial Guinea: Artist Freed from Prison," Human Rights Watch news release, March 7, 2018, <https://www.hrw.org/news/2018/03/07/equatorial-guinea-artist-freed-prison>.

²² The government repeatedly denounced the trial as a sham, including a statement by the ruling party calling it a "masquerade of justice" and affirming "total support and unconditional solidarity" with Nguema. See Equatorial Guinea Press, "Manifesto of Condemnation by PDGE regarding illegitimate judicial process against Teodoro Nguema Obiang Mangué," June 19, 2017, <https://www.guineaecuatorialpress.com/noticia.php?id=9918>. The only judicial proceeding related to the claims against Nguema in Equatorial Guinea occurred days prior to the French trial. The brief oral proceedings in the Supreme Court ended in an immediate acquittal, which the Court's president delivered to diplomats, insisting that the decision means "the procedure currently in progress in France must be dropped, because there is no principal crime." Equatorial Guinea Press, Ondo Angue delivers acquittal sentence for representatives of Somagui, Socage, and Edum," June 19, 2017, <https://www.guineaecuatorialpress.com/noticia.php?id=9920>.

²³ On May 23, 2017, the French prosecutor dismissed Nguema's immunity claims and allowed the court to order him to stand trial on any date after June 25, 2016. Before that order could go into effect, on June 13, Equatorial Guinea instituted proceedings against France at the ICJ and one week later, on June 21, the president promoted his son to vice president. See International Court of Justice Press Release 2016/18, <https://www.icj-cij.org/files/case-related/163/19028.pdf> and Equatorial Guinea Press, "Presidential Decree naming Vice-President of the Council of the Republic," June 22, 2016, <https://www.guineaecuatorialpress.com/noticia.php?id=8024>.

²⁴ "All Countries Total: US International Trade in Goods and Services Factsheet," US Bureau of Economic Analysis, September 19, 2019, <https://apps.bea.gov/international/factsheet/factsheet.cfm>.

Investment Climate Statement on Equatorial Guinea repeatedly warns that endemic corruption in the country puts these investments at risk: “Corruption exists throughout the government, including the judiciary, making it difficult for US businesses to protect their investments, and raising the risk of doing business in Equatorial Guinea.”²⁵ The 2004 Senate investigation into Equatorial Guinea noted that the president, Nguema, and other members of his family hold large stakes in the country’s economy, including companies that have a monopoly on entire sectors.²⁶ This arrangement “compels foreign companies wishing to operate in Equatorial Guinea to do business with the E.G. President, his relatives, or the entities they control, at times providing them with lucrative returns.” Our organizations’ conversations with oil company representatives suggest that this remains a serious problem today.

As the US State Department and Senate investigations make clear, the problem of corruption in Equatorial Guinea is in no way limited to Nguema. Rather, Nguema’s corruption is one manifestation of a government whose legal, financial and political organization is built around enriching a family that has ruled with an iron fist for four decades. The investigations by the US Senate, Department of Justice and others have produced evidence of grand corruption not only by Nguema, but also the president, his wife and other family members, and other senior officials, and these figures may be appropriate targets for sanctions.²⁷

Nguema is especially deserving of sanctions because of the documented scale of his corruption, coupled with the impunity and power he enjoys as vice president and the president’s son. Moreover, his track record of leveraging ~~shamelessly abusing~~ his position of power makes him particularly dangerous to those who advocate for good governance, human rights, or political reform in the country, as well as to American business interests. Other members of the regime may be similarly suitable for sanction.

Nguema’s exorbitant international spending has spurred legal cases that have produced detailed evidence of large-scale corruption, described in Section 4 of this submission, that provides an ample basis for sanctions. Moreover, his habit of publicizing his purchases—including two yachts that each cost as much as Equatorial Guinea’s entire health budget—has turned him into a symbol of kleptocracy around the world.²⁸ By holding him personally accountable for his corruption, the US government would send a powerful message to other kleptocrats in Equatorial Guinea and around the world that it takes seriously its commitment to fight corruption.

Moreover, the method of Nguema’s corruption uncovered by these investigations indicates that he has engaged in a pattern of extorting money from foreign companies, potentially implicating US businesses in his practices. He allegedly demanded stakes in foreign companies as a precondition for receiving government permits or public contracts and required businesses to

²⁵ US State Department, Bureau of Economic and Business Affairs, “2017 Investment Climate Statements – Equatorial Guinea,” June 29, 2017, <https://www.state.gov/reports/2017-investment-climate-statements/equatorial-guinea/> (accessed September 24, 2019).

²⁶ US Senate Permanent Subcommittee on Investigations, Committee on Governmental Affairs, *Money Laundering and Foreign Corruption: Enforcement and Effectiveness of the Patriot Act – Case Study Involving Riggs Bank* [US Senate Riggs Bank report], July 15, 2004, p. 49.

²⁷ Ibid.

²⁸ Note that the government of Equatorial Guinea claims it purchased the yachts for state use after they were implicated in a Swiss money laundering investigation detailed below. See Ordonnance de Classement, Pouvoir judiciaire de la République et Canton de Genève, Vu la procédure P/20342/2016, 7 février 2019 (see annex for English translation).

provide him with kickbacks through shell companies he owned. For example, in 2006, Nguema acknowledged that a major source of his wealth was a road construction company, SOCAGE, that relied on public contracts. Businesspeople interviewed by US investigators in 2011 alleged that SOCAGE did no actual work and was set up to take a cut of public contracts awarded to foreign companies. Nguema's appetite for corruption may even endanger US businesspeople working in the country. An Italian businessman, Roberto Berardi, who jointly owned a construction company with Nguema and served a two year prison sentence in Equatorial Guinea between 2013 and 2015, contends that Nguema ordered his arrest after Berardi confronted him after the DOJ named their company as a conduit for laundering funds.²⁹ Two directors of Société Générale de Banques en Guinée Equatoriale told French investigators that they transferred millions of dollars from government accounts into those of Nguema because they feared for their physical safety.³⁰ Many more examples are detailed in Section 4 below.

Nguema's power and impunity also militate in favor of sanctions. In recent years, Nguema rose from minister of forestry and agriculture, a position held since 1997, to Second Vice President in 2012 and then to vice president in 2016. This ascent has only increased his considerable influence over governance and economic policy decisions. While Nguema has been afforded absolute impunity for his rampant corruption inside Equatorial Guinea, at present there are powerful political counterforces limiting the extent of his power, especially over the country's oil sector. Gabriel Mbaga Obiang Lima, the president's son from another wife, is Minister of Mines and Energy, and is widely viewed as Nguema's political opponent and as a check on his half-brother's control over the country's most valuable resource. However, those restraints will disappear in the event Nguema becomes president. Under Equatoguinean law, he would automatically become president should his father, who is approximately 80 years old, resign, become incapacitated, or die. The current president has virtually unfettered control over the country's resources. If Ngeuma succeeds his father, he will likely have similarly broad powers, exponentially increasing his opportunities to plunder the public fisc and retaliate against perceived political enemies and citizens who criticize him.

Yet his ascent to the presidency is far from guaranteed, as there is considerable internal opposition to the possibility of Nguema becoming president, as well as concern from the foreign business and diplomatic communities. Sanctions may also help support voices in the government who believe that governance reform and greater respect for civil society are key to realizing Equatorial Guinean's ambitions for becoming an important player in regional—and even global—politics.

Section 3. Case Type

We submit that Teodorin Nguema is subject to Executive Order 13818, Section 1(a)(ii)(B)(1) as a “current government official” who has engaged in corruption.

²⁹ Human Rights Watch, “*Manna from Heaven?*” *How Health and Education Pay the Price for Self-Dealing in Equatorial Guinea* (New York: Human Rights Watch, 2017), <https://www.hrw.org/report/2017/06/15/manna-heaven/how-health-and-education-pay-price-self-dealing-equatorial-guinea>.

³⁰ “Requisitoire Definitif aux Fins de Disjonction, de Non-Lieu et de Renvoi Partiels Devant le Tribunal Correctionnel,” Cour D’appel de Paris, No. Parquet: 08.337096017, p. 25.

Section 4. Summary of Evidence

Summary of Evidence

The primary source of evidence of Nguema's corruption comes from money laundering investigations in the United States and France. A Department of Justice civil lawsuit against Nguema concluded in 2014, after he agreed to relinquish \$30 million. In 2016, a French trial court criminally convicted Nguema *in absentia* of money laundering, handing down a suspended prison sentence and a €30 million fine. These investigations largely scrutinize the period between 1997 and 2012 when Nguema served as Minister of Forestry and Agriculture, limiting much of the evidence to those years.

But there is every reason to believe Nguema continues to use his power to enrich himself. First, he has repeatedly defended himself from corruption allegations by claiming that no law prohibits him from profiting from his official position, suggesting he views using his office for self-enrichment as legitimate.³¹ Second, the government has continued to defend that position and ensure Nguema's absolute impunity, going so far as to promote him to vice president in an apparent effort to shield him from prosecution. Third, he continues to display exorbitantly expensive assets without any apparent legitimate source for his income. For example, in October 2018, Brazilian authorities seized \$1.5 million in cash and another \$15 million worth of watches after he landed near São Paulo, claiming he failed to declare these assets as required by law.

In 2016, Swiss authorities opened a corruption investigation against Nguema, during which they seized 25 luxury cars, several worth more than \$1 million, and a yacht valued at \$120 million.³² Nguema used the yacht as a pleasure boat but the Equatorial Guinean government claimed to be its owner following its seizure. Swiss authorities settled the case in February 2019, after reaching an agreement that included forfeiting the cars to Switzerland in exchange for release of the yacht.³³ In any event, Nguema's rise from minister to vice president only increases his power and thereby potential to engage in corrupt acts.

United States

On February 4, 2010, the US Senate issued a report concluding that between 2004 and 2008 Teodorin Nguema used US lawyers, bankers, real estate agents, and escrow agents to circumvent

³¹ For the use of this defense in the US case, see: Claimant Motion to Dismiss Complaint for Forfeiture *In Rem, US v. One Gulfstream G-V Jet Aircraft* (January 23, 2012, Case 1:11-cv-01874-ABJ) and Office of the Government Spokesperson, "The Government of Equatorial Guinea Regarding the Information Featured in the International Press about the Report, 'Keeping Foreign Corruption Out of the United States: Four Case Histories'," February 15, 2015. In the French case, see "Day Six of the Trial of Teodorin Obiang," Global Anti-Corruption Blog, July 20, 2017, <https://globalanticorruptionblog.com/2017/07/20/day-six-of-the-trial-of-teodorin-obiang/>. In the South African case, see Affidavit, *Maseve Investments 7 v. Equatorial Guinea and Teodoro Nguema Obiang* (High Court of South Africa, No. 1407/2006, paras 11.2 and 11.2.1).

³² Ordonnance de Classement, Pouvoir judiciaire de la République et Canton de Genève, Vu la procédure P/20342/2016, 7 février 2019 (see annex for English translation).

³³ Ibid. See also Sarah Saadoun, "Swiss Prosecutors Squander Opportunity to Counter Kleptocracy," Human Rights Watch Dispatch, February 8, 2019, <https://www.hrw.org/news/2019/02/08/swiss-prosecutors-squander-opportunity-counter-kleptocracy>.

US anti-money laundering laws and move over \$110 million in suspect funds into the country.³⁴ At the time, Nguema was a minister earning less than \$100,000 annually. According to the report, he used the money to purchase a \$38.5 million Gulfstream jet, a \$30 million mansion in Malibu, California, \$1 million worth of Michael Jackson memorabilia and other valuables.

This report followed a 2004 Senate report that revealed that Riggs Bank in Washington, DC, which held Equatorial Guinea's government accounts, had opened 60 bank accounts worth as much as \$700 million belonging to government officials. The report found that the bank had transferred tens of millions of dollars from government accounts into officials' personal accounts, and had also accepted deposits in literal suitcases full of cash from unknown origins into these accounts.³⁵ In response to these and other findings, the US government imposed a \$25 million fine on Riggs Bank for "willfully violating its legal obligations to implement an adequate anti-money laundering program."³⁶

Building on the initial findings of the Senate's 2010 report, the DOJ Anti-Kleptocracy Initiative filed a complaint to seize \$70.8 million worth of Nguema's assets, alleging that they were bought with the proceeds of foreign corruption in violation of US law.³⁷ Interviews conducted over the course of the DOJ's investigation offer a revealing window into how Nguema used his official position as Minister of Forestry to extort millions of dollars in kickbacks.

Selected examples of evidence of corruption:

- **General Works** was at one point in time one of the largest construction companies operating in Equatorial Guinea, although it appears to have been dissolved in 2016. It was awarded dozens of public projects including constructing highways, bridges, public buildings, and military barracks.³⁸

According to a declaration by the lead DOJ investigator in the case against Nguema, Roberto Manzanares, the Italian police believed that 45 percent of General Works' revenue "was funneled as kickbacks to [Nguema]."³⁹ The Italian investigation began after General Works' CEO, an Italian citizen named Igor Celotti, died in an airplane crash under suspicious circumstances. Based on an analysis of Celotti's financial and banking records, the Italian police also concluded that Nguema and his father jointly owned a "network of international bank accounts that contained stolen millions of dollars in

³⁴ US Senate Permanent Subcommittee on Investigations, Committee on Governmental Affairs, *Keeping Foreign Corruption Out of Foreign Hands: Four Case Studies*, February 4, 2010.

³⁵ US Senate Permanent Subcommittee on Investigations, Committee on Governmental Affairs, *Money Laundering and Foreign Corruption: Enforcement and Effectiveness of the Patriot Act – Case Study Involving Riggs Bank* [US Senate Riggs Bank report], July 15, 2004, p. 38.

³⁶ *Ibid.*, p.17.

³⁷ US Department of Justice, "Department of Justice Seeks to Recover More Than \$70.8 Million in Proceeds of Corruption from Government Minister of Equatorial Guinea," October 25, 2011, <https://www.justice.gov/opa/pr/departement-justice-seeks-recover-more-708-million-proceeds-corruption-government-minister> (accessed February 27, 2017). See also *US v. One White Crystal-Covered "Bad Tour" Glove and Other Michael Jackson Memorabilia* (C.D. Cal. June 11, 2012), p. 20 and Attachment A-1.

³⁸ See Manzanares Declaration, Exhibit 6 at 57, Second Amended Complaint, *US v. One White Crystal-Covered "Bad Tour" Glove and Other Michael Jackson Memorabilia* (C.D. Cal. June 11, 2012). For a partial list of its projects, see <http://www.geproyectos.com/es/taxonomy/term/176> (accessed February 27, 2017).

³⁹ Manzanares Declaration, p. 57.

government monies misappropriated from EG's treasury through General Work's government construction contracts.”

Three construction executives who worked in Equatorial Guinea independently confirmed to US investigators that Nguema “used General Works as a vehicle through which to misappropriate tens of millions of dollars from EG’s public treasury,” one of whom also said that the president’s family “owned and controlled General Work[s].”

- In 2006, in response to a South African lawsuit that alleged he purchased a mansion with public funds, Nguema identified a road construction company called **SOCAGE** (Sociedad de Carreteras de Guinea Equatorial) as one source of his wealth. Nguema acknowledged that SOCAGE depended on public contracts, but claimed such an arrangement does not violate Equatoguinean law:

Cabinet Ministers and public servants in Equatorial Guinea are by law allowed to own companies that, in consortium with a foreign company, can bid for government contracts [This] means that a cabinet minister ends up with a sizeable part of the contract price in his bank account.

Two former senior General Works employees told US investigators that the company would routinely inflate the cost of the contract and then subcontract a part of the work to shell companies owned by Nguema, including SOCAGE. One showed DOJ investigators a contract between General Works and SOCAGE and told them:

Even though Minister [Nguema] Obiang’s companies, like SOCAGE, would be listed as a purported subcontractor of General Works in performing various government construction projects, these companies did not actually exist (except on paper). These entities were vehicles through which Minister Obiang could steal and receive payment from the EG government (through General Works) pursuant to some kind of inflated and fraudulent public contract. The actual work described in these contracts, and which were supposed to be performed by Minister [Nguema] Obiang’s companies, were in actuality performed by General Works’ construction crews.

The source produced documents that, according to the investigators’ summary of the interview, “corroborate his/her version of what transpired.” The person also showed the investigators hundreds of original check stub banking records from General Works to Nguema or his middleman, as well as bank records of SOCAGE and a second company Nguema owned, **SOMAGUI**. The second former General Works employee told investigators virtually the same thing. Nguema’s companies, the source said,

only existed on paper and had no real personnel or operations, did not have the ability to pave roads and therefore GW had to complete projects for them. These work projects were a means for Minister [Nguema] Obiang to steal money from the E.G. treasury. GW provided kickbacks to Minister Obiang for various contracts, which were highly inflated at Minister Obiang’s direction.... For

instance... if the real cost of a construction project was 2 million dollars, Minister Obiang would instruct GW to prepare and submit a project invoice to the E.G. government for 10 million dollars so that he could receive a ‘kick back’ of 8 million dollars.⁴⁰

The DOJ ultimately settled the case after Teodorin agreed to relinquish \$30 million in assets, which “will be given to a charitable organization to be used for the benefit of the people of Equatorial Guinea.” The DOJ announced the settlement in a press statement: “Through relentless embezzlement and extortion, Vice President Nguema Obiang shamelessly looted his government and shook down businesses in his country to support his lavish lifestyle, while many of his fellow citizens lived in extreme poverty.”⁴¹ The settlement, which has yet to be distributed, is an important step in holding Nguema accountable for his corruption, yet he continues to receive visas to the United States.

France

On October 27, 2017, a Paris Criminal Court (*Tribunal Correctionnel de Paris*) found Nguema guilty of embezzlement and money laundering.⁴² It handed him a suspended three-year prison sentence and €30 million fine. The court also confiscated the property it had seized as part of the investigation, valued at €150 million.

Two French anti-corruption organizations, Sherpa and Transparency International-France, initiated the case in December 2008, as part of a broader case against senior officials from several countries. French law allows third parties to initiate criminal investigations.

The court decision found that between 1997 and 2011 Nguema “personally acquired in France sizable holdings of real estate and other goods using funds obtained through embezzlement; breach of trust; and abuse of public funds committed in Equatorial Guinea, themselves enabled by acts of corruption. The sum laundered is valued at more than €150 million, deposited in France to sustain the exceptionally extravagant lifestyle” of Nguema.⁴³ The court further found the money arrived in France both via “suitcases full of cash” as well as through Nguema’s personal accounts at Société Générale de Banque de Guinée Equatoriale (SGBGE) that, according to the testimony of bank staff, received deposits totaling more than €86 million.⁴⁴ This amount includes transfers from the public treasury amounting to “close to €10 million for the period of 2004 to 2011; more than €6 million between 2008 and 2011 from the company

⁴⁰ Exhibit 8 at 5, Second Amended Complaint, *US v. One White Crystal-Covered “Bad Tour” Glove and Other Michael Jackson Memorabilia* (C.D. Cal. June 11, 2012).

⁴¹ United States Department of Justice, Office of Public Affairs, “Second Vice President of Equatorial Guinea Agrees to Relinquish More Than \$30 Million of Assets Purchased with Corruption Proceeds,” October 10, 2014 <https://www.justice.gov/opa/pr/second-vice-president-equatorial-guinea-agrees-relinquish-more-30-million-assets-purchased>.

⁴² Tribunal de Grande Instance de Paris, Cour d’Appel, “Jugement Correctionnel du 27 octobre 2017 à 10h, 32e chambre correctionnelle,” 08337096017, 27 octobre 2017. See also

⁴³ Tribunal de Grande Instance de Paris, “Jugement Correctionnel du 27 octobre 2017,” p. 88.

⁴⁴ *Ibid.* p. 70.

SOMAGUI; and more than €20 million check deposit by a Malasian company SHIMMER that had a near monopoly on the exploitation of timber in Equatorial Guinea.”⁴⁵ During that time, Nguema was Minister of Forestry and SOMAGUI is a forestry company he owned that the court found was a vehicle for corruption.⁴⁶

Three successive directors of Société Générale Bank of Equatorial Guinea testified to French prosecutors that “the Treasury made transfers approximately every six months” into Nguema’s personal accounts.⁴⁷ The director who served from 2007-2009 said the bank permitted these transfers because “refusing to execute a financial operation concerning a member of the Nguema Obiang family was considered to be a lack of respect synonymous with imprisonment.”⁴⁸ His successor similarly explained that “he estimated it is better not to oppose [Nguema’s] requests because, at any moment, he could become aggressive and dangerous.”⁴⁹

The money that Nguema stole from the public treasury funded a lifestyle of extravagant luxury. It bought a six-story mansion in one of Paris’ most exclusive streets; a fleet of ultra-expensive cars, including two Bugattis and a Maserati; and shopping sprees of designer clothing and luxury watches. The butler told investigators Nguema always traveled with two suitcases full of cash; when the money would run out, he’d simply go back to Equatorial Guinea to refill them.⁵⁰

Switzerland

Prosecutors in Geneva opened a criminal investigation into Nguema on October 18, 2016, a case that ultimately brought to light additional valuable assets and served as another example of the government’s willingness to protect Nguema from investigation.⁵¹ As part of its investigation, Swiss authorities seized 25 luxury cars, including a Bugatti Veyron valued at \$2.2 million and the Swedish-made Koenigsegg One:1 – only seven cars of this model exist and its base price is \$2.8 million.

In addition, the Swiss requested that Dutch authorities seize two luxury yachts as part of the investigation.⁵² They successfully seized a 76-meter yacht that sold in 2014 for around \$120 million, but were unable to seize the second one, measuring 90 meters and valued \$130 million, because it moved to a dock in Tangiers, Morocco.⁵³ The Equatorial Guinean government filed a

⁴⁵ Ibid.

⁴⁶ Ibid. p. 72-75.

⁴⁷ “Requisitoire Definitif aux Fins de Disjonction, de Non-Lieu et de Renvoi Partiels Devant le Tribunal Correctionnel,” Cour D’appel de Paris, No. Parquet: 08.337096017, p. 24. See also Tribunal de Grande Instance de Paris, « Jugement Correctionnel du 27 octobre 2017,» p. 70-71.

⁴⁸ Ibid.

⁴⁹ Ibid. p. 25

⁵⁰ Ibid. 18-19.

⁵¹ Ibid. p. 13.

⁵² Ordonnance de Classement, Pouvoir judiciaire de la République et Canton de Genève, Vu la procédure P/20342/2016, 7 février 2019.

⁵³ Yinka Adegoke “Dutch authorities have seized a \$120 million luxury yacht from this African president’s son” *Quartz Africa*, December 11, 2016, <https://qz.com/africa/860194/equatorial-guineas-teodorin-obiang-has-had-his-luxury-yacht-seized-in-the-netherlands/>; “76m Ebony Shine Seized By Dutch Authorities,” December 8, 2016, Yacht Harbor, <https://yachtharbour.com/news/76m-ebony-shine-seized-by-dutch-authorities-1319>.

legal challenge against the seizure of the yachts, claiming they belonged to the state rather than Nguema and that the Swiss did not have a sufficient basis for jurisdiction over them.⁵⁴

On February 7, 2019, Swiss prosecutors agreed to close the investigation without bringing civil or criminal charges and release the yacht. In exchange, Equatorial Guinea agreed to pay CHF1.3 million (US\$1.3 million) to cover the cost of the investigation and the cars were forfeited to Swiss authorities, who are required to sell them and direct the proceeds to a “social program” in Equatorial Guinea.⁵⁵ Switzerland sold the cars at an auction in September 2019 for \$27 million.⁵⁶

Brazil

Brazilian prosecutors began an investigation into Nguema in 2013 in connection with properties he purchased in São Paulo and Rio de Janeiro, as well as eight luxury vehicles.⁵⁷ In 2015, the prosecutor told reporters that the investigation expanded to include reports that Nguema had paid \$3.5 million dollars to the Beija-Flor samba group, a 12-time champion of Rio de Janeiro’s carnival competition.⁵⁸

The status of the investigation is unclear, but recent developments suggest it is ongoing. On September 14, 2018, São Paulo police seized \$1.5 million in cash and luxury watches etched with Nguema’s initials valued at \$15 million from a delegation accompanying Nguema. Police alleged that the delegation had not declared the assets as required by law.⁵⁹ A representative of the Equatoguinean Embassy said the money was intended to pay for a medical treatment for Nguema. They also claimed that the assets, although personal, should be protected by diplomatic immunity.⁶⁰

The money associated with the legal cases in the United States, France, Switzerland, Brazil, and South Africa represent only a portion of Nguema’s spending. Yet they provide an invaluable window into how Nguema has amassed astounding wealth from a country whose average citizen struggles to have access to safe drinking water, vaccines, and basic education. These cases have also resulted in the successful seizure of tens of millions of dollars worth of stolen assets, which, in some cases, is to be repatriated to benefit the public to whom they belong. Nevertheless, they have been limited in their ability to hold Nguema accountable or deter him from further

⁵⁴ Ordonnance de Classement, Pouvoir judiciaire de la République et canton de Genève, Vu la procédure P/20342/2016, 7 février 2019.

⁵⁵ Ibid.

⁵⁶ Iliana Magra, “Luxury Cars Seized from African Leader’s Son are Auctioned in Geneva,” *New York Times*, September 29, 2019, <https://www.nytimes.com/2019/09/29/world/europe/supercar-auction-bonhams.html>.

⁵⁷ “Funding For 2015 Rio Carnival Champion Under Investigation” *The Rio Times*, February 21, 2015, <https://riotimesonline.com/brazil-news/rio-entertainment/funding-for-2015-rio-carnival-champion-under-investigation/>.

⁵⁸ “Carnival controversy over claims Rio samba group received cash from dictator” *The Guardian*, February 12, 2015, <https://www.theguardian.com/world/2015/feb/12/rio-controversy-samba-carnival-equatorial>.

⁵⁹ “Brazil police seize \$16m from Equatorial Guinea’s VP delegation” *The Guardian*, September 16, 2018 <https://www.theguardian.com/world/2018/sep/16/brazil-police-seize-16m-from-equatorial-guineas-vp-delegation>.

⁶⁰ “Embaixada africana atribui apreensão de fortuna com filho de ditador a eleição no Brasil” *O Estado de S.Paulo*, September 17, 2018, <https://internacional.estadao.com.br/noticias/geral,embaixada-africana-atribui-apreensao-de-fortuna-com-filho-de-ditador-a-eleicao-no-brasil,70002506287>.

engagement in corrupt acts, and only highlight the extraordinary lengths the government is willing to go to protect him.

Sanctions pursuant to Executive Order 13818 or the Global Magnitsky Human Rights Accountability Act present a unique opportunity for the US government to stand up to a kleptocrat who is in the running to become president of an oil-rich nation and support those in the Equatorial Guinea government who believe improved governance and respect for civil society are key to improving the country's political standing in the world. Moreover, sanctions would be an important step toward meaningfully holding Nguema to account for denying an impoverished people the benefits of national assets that should be raising the standard of living for all Equatoguineans but instead are corruptly benefiting a very few. At the same time, this corruption directly threatens important American business interests while serving as a paradigmatic example of kleptocratic impunity around the world. The systematic nature of the corruption, its massive scale and shamelessness, and Nguema's complete impunity regarding it in Equatorial Guinea, all make Nguema a wholly appropriate candidate for sanctions for gross violations of human rights or corruption.