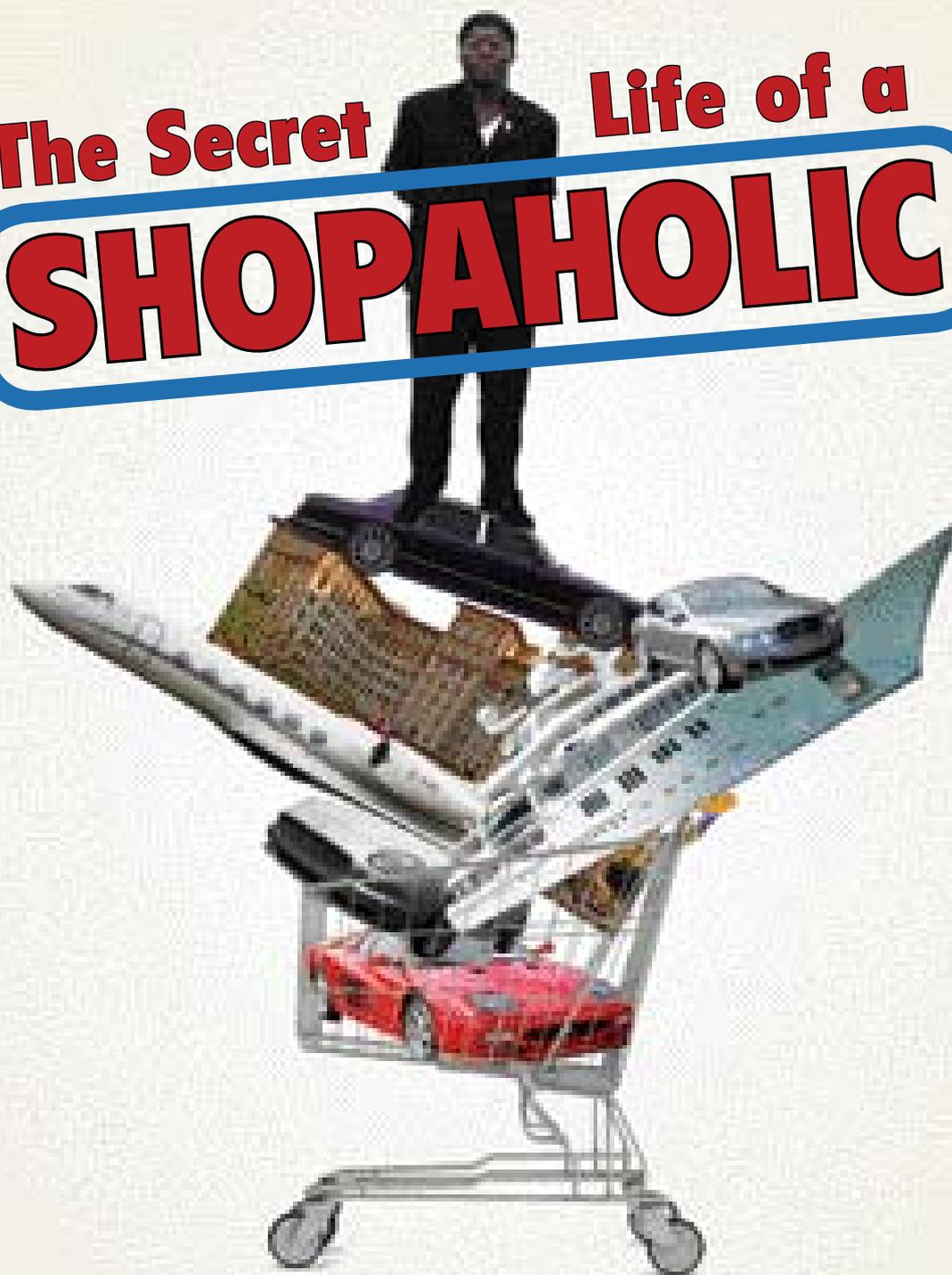




global witness

**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.**

A report by Global Witness, November 2009

This report by natural resources, conflict and corruption watchdog Global Witness was written with the help of Ken Silverstein, the investigative journalist who first broke the Riggs Bank scandal story at the *LA Times* and who now writes for *Harper's*.

Riggs Bank billed itself as 'bank of presidents', a venerable Washington institution which banked for Abraham Lincoln himself. It fell apart in 2004 after a U.S. Senate committee investigation and federal criminal investigators found it had been holding accounts and facilitating money laundering for corrupt President Obiang of Equatorial Guinea and his family members. This report carries on that story. In the first of a series of collaborations, we combine our investigative powers to reveal secret U.S. government documents that allege a crime spree by President Obiang's son Teodorin. The documents relate to a preliminary investigation; charges have not been made. He continues to live a fantastic and profligate lifestyle in the U.S. while ordinary citizens of Equatorial Guinea live in poverty and oppression.

With its oil income, paid for by American companies, Equatorial Guinea should be one of the richest countries in the world. Instead its people are among the poorest. Despite an official salary of \$4,000 – \$5,000 a month as a minister in his dad's government, Teodorin has acquired a fleet of fast cars, a \$35 million mansion in Malibu, a private jet and he is reported to be building a 200-foot custom luxury yacht, complete with shark tank.

Laws already in place in the United States would prevent Teodorin from enjoying the proceeds of corruption on U.S. territory, and provide the basis both for revocation of his visa and potential seizure of his U.S. assets. They have not been used, despite knowledge on the part of U.S. enforcement agencies, set forth in confidential U.S. Department of Justice documents, that Teodorin was involved in grand corruption and using illicit proceeds to fund his U.S. lifestyle.

The U.S. government continues to allow him into the country, despite the fact that the State Department is legally obligated to maintain a list of foreign officials against whom there is credible evidence of corruption, who are denied visas. That an individual like Teodorin is able to move and spend his money relatively easily in the U.S. is a scandal. We are publishing the contents of these confidential memos now because law enforcement efforts against him appear to have stalled.

Teodorin is able to spend lavishly in the U.S. because banks, despite the devastating lesson of what happened to Riggs, have continued to process and accept Teodorin's money as it comes into the U.S.. These banks, this report will show on pages 13-14, are Bank of America, Wachovia, UBS, Union Bank of California, and First American Trust. This is a spectacular moral failing on the part of these banks, and reveals a disturbing chain of gaps in the design and implementation of the anti-money laundering laws.

The U.S. has generally taken a far more effective and robust approach to tackling foreign corruption and bribery than many of its international peers. Nonetheless, dangerous regulatory holes in the fence remain that frustrate efforts to tackle the flows of corrupt money into the U.S., further complicated by the difficulty in gathering evidence against venal ruling elites when they are able to use the sovereignty of their captured and corrupted state as a shield.

At the end of this report are a series of policy recommendations for the U.S. government. The ongoing banking regulatory reform process in Congress offers a significant opportunity to tackle many of them.



Javier Espinosa/El Mundo

President's son Teodoro Nguema Obiang (TNO) went on a shopping spree in the United States

**N**estled high in the hills overlooking the ocean off Malibu Beach sits the exclusive, gated community of Serra Retreat, which according to a local realtor's website offers some of the area's "most stunning and distinctive homes."

Serra Retreat has less than 100 properties, whose owners have included Hollywood stars such as Mel Gibson and Britney Spears. Perhaps the most lavish property in Serra Retreat is an estate at 3620 Sweetwater Mesa Road, which sits on sixteen acres of land and boasts a swimming pool, tennis courts and a four-hole golf course. Teodoro Nguema Obiang Mangué, or TNO, son of the dictator of Equatorial Guinea, a tiny nation on the coast of West Africa, paid \$35 million for the property three years ago.<sup>1</sup>

The majority of Equatorial Guinea's people survive on less than \$1 a day, but 41-year-old Obiang Mangué belongs to a tiny sliver that have grown rich since American oil firms discovered oil there 15 years ago: the family of Lieut. Gen. Teodoro Obiang Nguema Mbasogo, his father, who runs a corrupt dictatorship.

TNO is considered a likely successor to his father. He holds the title of Minister of Forestry, Fisheries & the Environment – more popularly known as the Minister of Chopping Down Trees – which offers a salary of about \$4,000 – \$5,000 per month. At that rate, as Global Witness mentioned in a prior report<sup>2</sup>, it would have taken TNO somewhere between 580 and 730 years to squirrel away enough money to buy his Malibu property, assuming he had no other expenses and paid no taxes on his income.

Why TNO is allowed to set foot into the United States, let alone to own tens of millions of dollars worth of assets there, is not immediately evident. In 2004, George W. Bush issued Presidential Proclamation 7750, which bars corrupt foreign officials

Despite earning a salary of a few thousand dollars a month, TNO bought this \$35 million Malibu mansion

Pictometry International Corp'



from entering the United States; in 2006 he launched a cross-departmental Anti-Kleptocracy Initiative. A measure passed by Congress in 2008 and renewed in 2009 also flatly states that the U.S. government should deny visas to foreign officials where there is “credible evidence” they are involved in corruption.<sup>3</sup> Under President Obama, the State Department issued a report last July, saying “Anti-corruption is a tenet of U.S. foreign policy because corrupt practices sabotage development efforts, lead to misuse of public resources, erode confidence in democratic institutions, and ease the way for transnational criminals and terrorists.” The United States would continue “to deny or revoke visas to payers of bribes and corrupt officials, with increased scrutiny of those involved in corruption in the extraction of natural resources,” the department said.<sup>4</sup>

That TNO should be barred on such grounds is well known to U.S. authorities. Previously undisclosed documents from a joint Justice Department/Immigration and Customs Enforcement (ICE) investigation, obtained by Global Witness, inventory TNO’s American-held assets. In addition to his Malibu mansion, they include a \$33 million private jet, millions of dollars worth of sports cars, and at least two luxury boats. The documents detail a host of his alleged criminal activities, ranging from “drug binges” to money laundering.<sup>5</sup>

“[I]t is suspected that a large portion of Teodoro Nguema OBIANG’s assets have originated from extortion, theft of public funds, or other corrupt conduct,” says a Justice Department document, dated 4 September 2007, which sought assistance for the investigation from the French government. Owing to “the sensitive nature of this investigation involving senior foreign public officials and because criminal charges have not yet been filed, we ask that the subject of this request and the existence of a U.S. investigation on this subject be kept strictly confidential,” it said.<sup>6</sup>

TNO funneled roughly \$75 million from overseas into the United States between 2005 and 2007, says the Justice Department memo. The documents relate to a preliminary investigation; charges have not been made. The confidential documents identify the shell corporations and bank accounts through which he moved the money, which TNO used to buy the Malibu estate and the luxury jet. The documents also show that some of the major American banks involved filed suspicious activity reports to the authorities about TNO’s financial transactions and eventually blacklisted him as a customer – but not until after they had helped him move tens of millions of dollars. As this report will show, any meaningful due diligence would have

raised big questions about whether a bank should have proceeded with these transfers.

A second document, prepared by ICE's lead investigator on the case, identified the inquiry's goals as being to "identify, trace, freeze, and recover assets within the United States illicitly acquired through kleptocracy by Teodoro Obiang and his associates," and to "deny safe haven in the United States to kleptocrats, in accordance with presidential proclamation 7750." Yet despite the overwhelming evidence already compiled by investigators as of two years ago, the inquiry is effectively stalled, according to sources that spoke about the case.

The list of foreign officials barred under Proclamation 7750 has only about 3 dozen names on it, sources have told Global Witness. While these names are kept strictly secret by the State Department, a spokesman at Equatorial Guinea's embassy in Washington told Global Witness that TNO is not on it. The spokesman, who asked to remain unidentified, said that TNO had in fact traveled unhindered to the United States as recently as late-September, when he was in Houston to help inaugurate officially his country's consulate there.<sup>7</sup>

(Many of those in attendance at the ceremony were American energy company officials.<sup>8</sup>)

"Natural resources are the only significant source of wealth in many developing nations, and we have seen how easily the proceeds can be exploited by government officials for their own self interest," said Senator Patrick Leahy, who played a key role in passing the congressional amendment barring corrupt officials from entering the United States. "Some of these despots have used this ill gotten wealth to live in luxury in the United States. We should not facilitate their crimes against their own people, and we have every right and obligation to deny them entry."<sup>9</sup>

Jack Blum, a former congressional investigator into the BCCI bank scandal and now a private attorney specializing in cases involving money laundering and foreign corruption, suggests that the lack of action against TNO may be tied to Equatorial Guinea's energy wealth and close relationship with U.S. oil companies. "The least they could do is cut off his shopping privileges by denying him entry into the United States," he said. "Where the hell is the U.S. government?"<sup>10</sup>



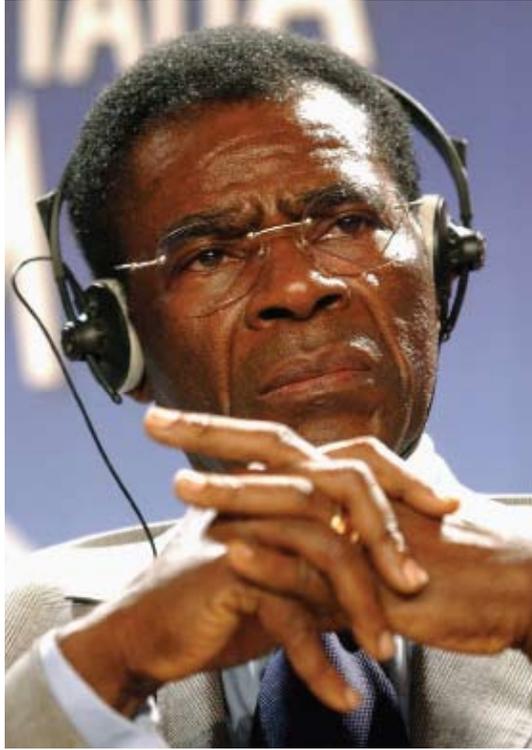
Ed Kashi/Corbis

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Revenues from natural resources, such as oil, should be improving the lives of the world's poorest people. But Equatorial Guinea's oil wealth is squandered by a small corrupt elite

TNO's father, Teodoro Obiang, is a brutal dictator who has crushed opposition

AP Photo/KEYSTONE/Andree-Noelle Pot



**R**oughly the size of Maryland, Equatorial Guinea gained independence in 1968 and is the only former Spanish colony in sub-Saharan Africa.

The country's first ruler was Francisco Macias Nguema, the self-declared "Implacable Apostle of Freedom" and "Sole Miracle of Equatorial Guinea." As many as 50,000 people, roughly 10 percent of the population, were murdered during the Macias era, which came to a close in 1979 when the Sole Miracle was overthrown and executed by Obiang.<sup>11</sup>

The latter was no reformer. As head of the National Guard and later commander of the armed forces, he played a major role in carrying out the terrible repression of the Macias years. John Bennett, the former American ambassador to the country, describes him as the "chief executioner [who] carried out most of the killing and torturing that took place under Macias."<sup>12</sup>

Since taking the reins of power, Obiang has squashed political opposition and crushed almost all dissent. He has been "elected" three times in balloting marred by fraud

and violence (in 1989 with 99 percent of the vote, in 1996 with 97.8 percent, and in 2002 with 97.1 percent).<sup>13</sup> The ruling party currently controls 99 of the 100 seats in parliament and Obiang has staffed top government ministries, the security forces and the judiciary with his relatives and members of his own ethnic clan.<sup>14</sup> His second son, Gabriel Obiang Lima, controls oil revenues through his position of vice-minister of mines, industry and energy. Teodoro Biyogo Nsue, Obiang's brother-in-law, served as ambassador to the United States before gaining his current post as ambassador to Brazil.

The State Department's most recent annual global human rights survey, released in February 2009, said abuses in Equatorial Guinea included "unlawful killings by security forces; government-sanctioned kidnappings; systematic torture of prisoners and detainees by security forces; life threatening conditions in prisons and detention facilities; impunity; arbitrary arrest, detention, and incommunicado detention...restrictions on freedom of speech and of the press; restrictions on the rights of assembly, association, and movement; government corruption; violence and discrimination against women; suspected trafficking in persons; discrimination against ethnic minorities; and restrictions on labor rights."<sup>15</sup>

Equatorial Guinea was one of the most isolated countries on the planet up until the mid-1990s, a destitute pariah state with few international allies. Then, American energy firms, led by ExxonMobil, ChevronTexaco, Marathon and Amerada Hess, discovered vast reserves of oil and gas in the offshore waters of Equatorial Guinea, and billions of dollars in American corporate investment poured in. Since then, the country has become the third-largest producer of oil in sub-Saharan Africa.<sup>16</sup> Between 1993 and 2007, annual government oil revenues shot from \$2.1 million to \$3.9 billion.<sup>17</sup>

Equatorial Guinea now enjoys a per capita income of about \$37,200, one of the highest in the world.<sup>18</sup> Yet 77 percent of the population lives in poverty, 35 percent die before the age of 40, and 57 percent lack access to safe water. Between 1990 and 2007 the infant mortality rate actually rose from 10 to 12 percent.<sup>19</sup>



Eyevine/Paolo Woods

This family made a living from fishing, but are now blocked from the beach by an oil company's secure zone. Despite the country's huge wealth, most of the population of Equatorial Guinea lives in dire poverty

Concealed within the technical jargon of an October 2008 report by the International Monetary Fund (IMF) on Equatorial Guinea is a bleak portrait of a regime awash with oil money but deeply reluctant to spend more than a small fraction on the welfare of its own people. Poverty is “strikingly high” and there is no social safety net, though the government has promised to pay some “modest” food subsidies to households. More than a third of public investment goes towards highways and other public infrastructure, with only a small percentage going towards health, water and education. Equatorial Guinea is investing four times more money in its Presidency (3.2 % of public investment) than in the country's water and sewage (a tiny 0.7 %). It is also spending substantial amounts “on hotel and related infrastructure is necessary to meet upcoming international obligations (the summit of the African Union, in 2011, and the Africa Cup of Nations, in 2012).”<sup>20</sup>

In other words, Obiang's regime appears willing to spend more on prestige projects to impress other African countries than on clean water for its own people.<sup>21</sup>

Meanwhile, Equatorial Guinea has gained strategic value to the United States as Africa emerges as an important energy ally – other major producers in the continent include Nigeria, Angola, Cameroon and Gabon – and all the more so given political turmoil and instability in the Middle East. Africa now provides 21 percent of America's oil imports, more than the Persian Gulf,<sup>22</sup>

prompting the Pentagon to inaugurate the U.S.-Africa Command in October 2008. In June of this year, President Obama visited the West African nation of Ghana, his first trip to the continent as president. His visit “held a special resonance for Big Oil and American businessmen,” said a UPI story. “Ghana...is on the cusp of oil wealth – and the United States wants it.”<sup>23</sup>

“No country is going to create wealth if its leaders exploit the economy to enrich themselves,” Obama said when he addressed parliament in Ghana. “No person wants to live in a society where the rule of law gives way to the rule of brutality and bribery. That is not democracy, that



Flickr/Melanie and John Katsopoulos

A new stadium in Malabo. The Obiang regime appears more willing to spend money on prestige projects than on clean water

is tyranny, and now is the time for it to end.”<sup>24</sup> It is important that the new Obama administration is able to match its rhetoric on good governance and revenue transparency with concrete actions, including in strategically important energy-rich countries such as Equatorial Guinea.

In August of this year, Secretary of State Hillary Clinton traveled to Angola, where she offered only the faintest criticism of the government’s legendary track record of corruption or its failure to hold a presidential election that was originally scheduled to take place in 1997. While Secretary Clinton stressed the importance of good governance and anti-corruption efforts throughout her trip to Africa, it was disappointing that she did not make stronger public statements on the need to promote greater transparency in the management of oil revenues during her visit to Angola. She publicly said that the focus of her trip was “to deepen and strengthen our energy partnership” and “to explore ways to advance energy security.”<sup>25</sup>

Historically, the United States has exerted little pressure on the Obiang regime to improve its record on human rights and corruption. In 2003, following an intense lobbying campaign by the oil industry, President Bush decided to reopen the American embassy in the country, which had been shut down eight years earlier

for budgetary reasons and human rights violations. (The decision to close the embassy was made easier by the fact that in addition to repressing its own citizens, the Obiang regime had threatened to kill then-Ambassador Bennett.)<sup>26</sup>

In 2006, Obiang met with then secretary of state Condoleezza Rice, who called him “a good friend” to the United States.<sup>27</sup> Last year Senator John Isakson from Georgia, a member of the Senate Foreign Relations Committee, visited Equatorial Guinea and met with government officials to discuss “issues of common concern.” He also visited a natural gas plant, which ships gas to the port of Savannah in his home state.<sup>28</sup>

The Obiang family has not been terribly discreet about its plundering of the national treasury. In late 1999, President Obiang paid \$2.6 million for a mansion in the Maryland suburbs that has 10 bathrooms, seven fireplaces and an indoor pool. The following year he bought a second Maryland property for \$1.15 million.<sup>29</sup> In 2008, a Spanish civil rights group filed a complaint charging that Obiang and 11 relatives had used laundered funds to buy chalets and real estate in the country;<sup>30</sup> an investigation is now under way and court details are being reported in Spain about the alleged transfers. A lawyer for the government of Equatorial Guinea wrote to *El País* earlier this year rejecting the allegations made in the complaint.<sup>31</sup>

President Obiang met Condoleezza Rice in 2006. She called him a “good friend” to the U.S.





AP Photo/Dennis Cook

Bosses of disgraced Riggs Bank testifying before Congress. Riggs collapsed because it banked for the Obiang family, yet U.S. banks continue to process payments for TNO

A 2004 report by the Senate Permanent Subcommittee on Investigations found that President Obiang had control over some \$700 million in state funds, deposited by American oil companies active in Equatorial Guinea, at Riggs Bank in Washington, D.C. (Subsequent to the investigation, Riggs Bank paid \$41 million in civil and criminal fines for violations of banking regulations, a senior vice president pled guilty to fourteen counts of fraud and money laundering, and it was eventually bought at great loss to shareholder value by PNC Bank.)<sup>32</sup> According to the report, Chevron, Marathon, Amerada Hess Corporation, ExxonMobil and other American oil companies “may have contributed to corrupt practices by making substantial payments to, or entering into business ventures with,” government officials in Equatorial Guinea, their family members, and businesses they controlled.<sup>33</sup>

“Before oil money came in there was not a lot of money to steal, and when the oil money did start coming in there were no safeguards in place,” said Antony Goldman, head of PM Consulting, a London based energy consulting firm. “There was no culture of government oversight, no media, let alone an independent media, no independent judiciary and no outside scrutiny, because the country had been largely forgotten by the outside world. That

all allowed corruption to flourish in ways it did in very few other countries.”<sup>34</sup>

When it comes to profligate public consumption by the Obiang clan, TNO – who had three accounts at Riggs, including one opened for a Bahamian offshore corporation named Awake Ltd. – is Exhibit A. For high school, he was sent abroad to be educated at an exclusive French boarding school. TNO attended university in France as well, though little in the way of education appears to have taken place there. A former U.S. intelligence officer, who after joining the private sector was hired to track TNO’s activities because he was viewed as a potential successor to his father, said his academic career in France was marked by extensive partying and general revelry.<sup>35</sup>

In late 1991, TNO enrolled in a non-degree English as a Second Language course at Pepperdine University in Malibu. Elisa Wax, director of the course during that time, recalled TNO arriving to campus in sports cars or limousines. “He had, literally, an entourage,” she said. “He was there to party. He rarely came to class.”<sup>36</sup>

Other than paying \$3,400 per session, there were no admissions requirements to the program. Though TNO’s tuition included boarding at Pepperdine, he shuttled between the Beverly Wilshire Hotel and

The Beverly Wilshire, one of the hotels TNO stayed at while a student in the U.S.



Flickr/ Robert Karol

a house he rented in Malibu, which he destroyed. “There was a fire,” Wax said. “He literally trashed it.”<sup>37</sup> TNO has not responded to this allegation.

Meanwhile, Wax received a steady stream of phone calls from the Beverly Wilshire and shops in Beverly Hills trying to track down Teodorin to settle outstanding bills. She would direct these calls to a representative at Walter International, a Houston-based firm, later bought up by CMS Energy, that then had a stake in Equatorial Guinea’s offshore fields and that financed TNO’s “studies” at Pepperdine. The woman assigned by Walter to handle these complaints was “pulling out her hair,” Wax said. “There were people trying to locate him from all directions.”

Bennett, who was ambassador at the time and was informed of TNO’s behaviour at Pepperdine – he dropped out of the program after five months – said TNO racked up \$50,000 in expenses that Walter International had to cover.<sup>38</sup>

Following his time at Pepperdine, TNO returned to France, where he briefly worked at a logistics firm called Saga, which had extensive interests in Africa and was looking to expand into Equatorial Guinea. Saga appears to have hired TNO merely as a means of currying favor with President Obiang. “Teodorin didn’t do any work and rarely turned up,” said a person familiar with his tenure at Saga. “He just took up desk space.”<sup>39</sup>

TNO traveled back and forth to Equatorial Guinea on a regular basis in the 1990s. When he was there, his father sought to promote his political profile, which proved to be a challenging task, given that he spoke his native language like a foreigner when he appeared on local TV, according to the former U.S. intelligence official.<sup>40</sup> This source said that Obiang’s efforts to promote TNO also encountered resistance from tribal elders, who were disgusted by his “profligate behavior.”

By the late-1990s, TNO had been appointed by his father as minister of forestry, fisheries & the environment. As TNO simultaneously owned a major forestry company, this arrangement is roughly equivalent to allowing the U.S. Secretary of Defense to own Lockheed Martin.

At the time, oil and gas generated little money and forestry was the major source of state revenue. “There were Malaysian, North Korean, and Chinese logging camps on the mainland, and he collected cash from them for ... logging operations, much of it involving valuable hardwood,” said the former U.S. intelligence source. His account was corroborated in part by the Justice Department/ICE documents, which state that as minister of forestry, TNO had “instituted a large ‘revolutionary tax’ on timber, but insisted that the payments be made directly to him, either in cash or through checks to Somagui Forestal, a forestry company owned by Teodoro Nguema OBIANG.”

Despite his reputation, the French government courted and developed TNO to be its man-in-charge after his father died. French authorities also protected him when he lived in Paris, once covering up the circumstances of an accident in which he totalled a luxury car, according to the former intelligence official. He said that French agents out of Gabon paid money to TNO, as did Elf-Aquitaine. The French state oil company, later bought by Total, became famous for bribing foreign leaders, although TNO was not among those identified by the 2003 Elf investigation and trial in France.<sup>41</sup> “The French had troops stationed on Pico Bazille, which overlooks Malabo and was the major telecommunications node for the country,” he said. “They had a plan in place to control the airport, the ports, and telecommunications in the event of instability.”

TNO often visited French Legionnaires stationed on Pico Bazille, but he also sought ties to the United States, especially as French influence in West Africa was waning and the U.S. was seeking to expand its influence in the area. “The Pentagon had Special Forces in the country and they worked closely with Teodorin,” this person said.<sup>42</sup> “He wanted U.S.-trained Equatoguinean troops to be



Flickr/Melanie and John Katsopoulos

loyal to him and available to him when his father died.”

As to American willingness to push Equatorial Guinea towards democracy, the former intelligence official remarked: “We will go through the motions, we will push democracy, but we’ll live with what’s put together there because we do not have any good options. We need their oil. The political leadership is illiterate and brutal in its crude way, but they know how to stay in power. If the elder son takes power, you live with it.”



U.S. Army

TNO is known as the Minister of Chopping Down Trees. He allegedly imposed a “revolutionary tax”, payable directly to him, on timber companies

The U.S. 3rd Special Forces group, pictured here in Mali, trained troops in Equatorial Guinea. Special Forces allegedly worked closely with TNO

The Plaza Athénée Hotel, Paris, where TNO stayed. TNO leads a life of luxury while the people of Equatorial Guinea suffer



Flickr

**A**n itemized list of TNO’s assets would be impossible to produce, but in Equatorial Guinea they have included a number of logging firms and an airline.

He also runs Equatorial Guinea’s only private radio station and a government TV station, both named Asonga. (In 2003, the radio station declared that President Obiang was a God “in permanent contact with the Almighty” who can “kill anyone without going to hell”).<sup>43</sup>

In Los Angeles, TNO owned and operated a hip-hop label called TNO Entertainment, which produced two albums before going out of business. In an effort to woo the rapper Eve, he rented a 300-foot yacht from Microsoft founder Paul Allen for \$680,000;<sup>44</sup> Eve dated TNO for a time.<sup>45</sup> A request for comment sent to Eve’s publicist was not responded to.

A source intimately familiar with Teodorin’s spending habits from his Riggs Bank accounts said that he would frequently call his personal banker with imperious and extravagant demands. One day he’d want arrangements made to fly his friends to Rio de Janeiro for Carnival; on another day he’d need to have a Bentley

air-freighted from Scotland to Los Angeles; and on another still he’d demand that a helicopter be immediately dispatched to offload a female companion from a cruise ship because she had fallen out of his favor. According to this source, TNO also was offering a six-figure reward for an introduction to Halle Berry.<sup>46</sup>

TNO has been a defendant in several civil cases in California, being accused of stiffing contractors<sup>47</sup> and taking wrongful possession of a Mercedes Benz CL600c. In the latter case a Mercedes leasing company alleged that another defendant had leased the car for \$125,000 over four years and then, despite not being the legal owner, sold it to a fraudulent car dealership. TNO then bought the Mercedes from the dealership. According to the Mercedes company, TNO’s purchase of the car was ‘wilful, intentional and malicious’. Neither TNO nor the other defendant responded to summons in the case, which was settled out of court in 2003.<sup>48</sup> The Mercedes leasing company declined to comment on the case.

In France, one of his favorite playgrounds, a TV crew once filmed TNO driving down the Champs-Élysées in a Bentley and on a shopping spree during which he bought 30 designer suits in a single afternoon. He was also filmed at the luxury hotel where he lived and sampling expensive wines “Très bien, très bien,” he says while sipping from a glass of red.<sup>49</sup>

A Western businessman who had dealings with TNO in the late-1990s, recalled meeting him in Paris, where he was staying at the Plaza Athénée, which is located between the Champs Élysées and the Eiffel Tower, and is one of the city’s most luxurious hotels. TNO had commandeered three suites there – the current rate for suites starts at \$1,400 a day and goes up to \$29,000 – and booked a number of other rooms for his entourage, including bodyguards and girlfriends. “He had the EG ambassador to France running around like his personal servant,” the businessman said.<sup>50</sup>

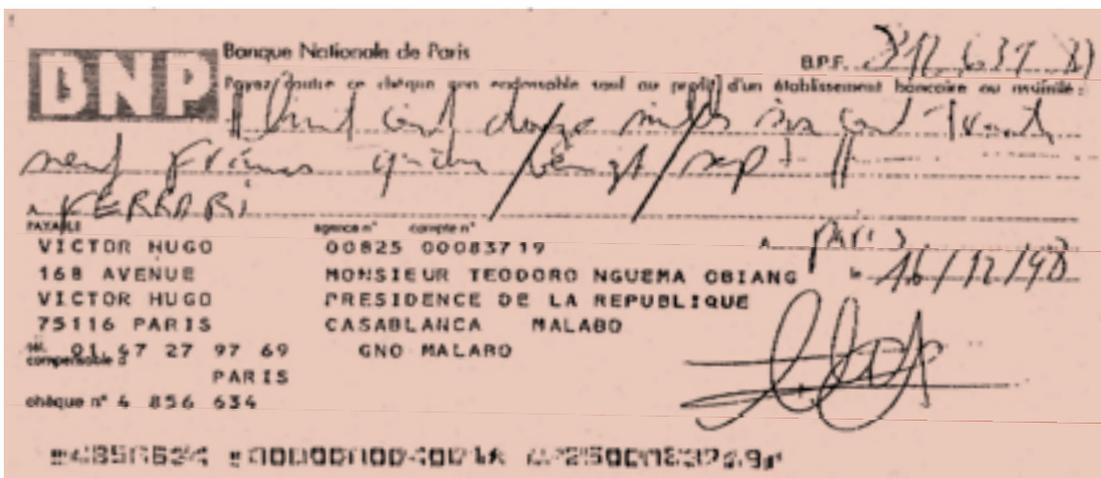
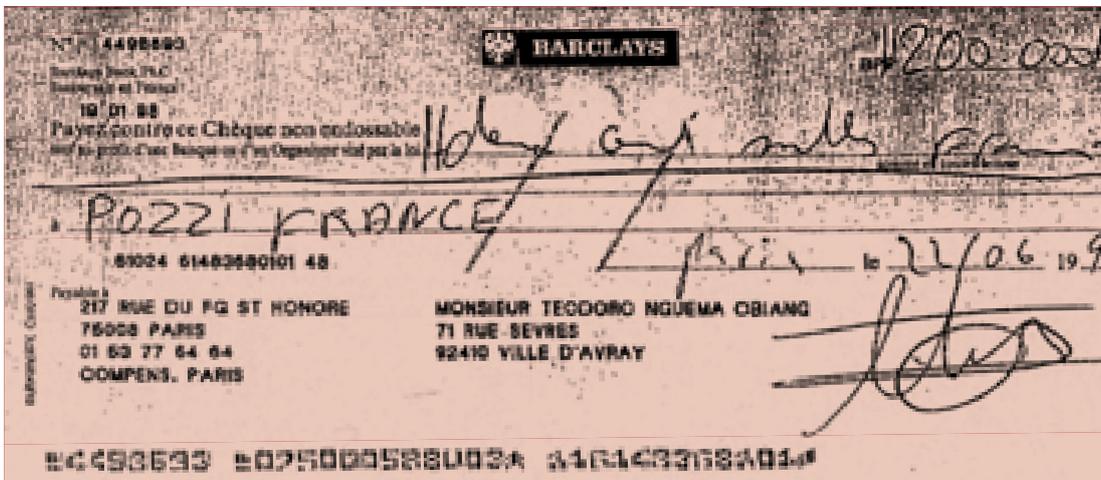
TNO also invited this person to a large dinner at La Maison du Caviar. “He had a private room and he ordered a lot of champagne and so much caviar you could have scooped it with a shovel,” the source said. “All he knows is how to spend money, that’s how he measures success.”

In 2007, three French non-governmental organizations – Sherpa, Survie and Fédération des Congolais de la Diaspora – filed a legal complaint alleging that

the ruling families of Equatorial Guinea and several other African countries had acquired vast assets in France that could not be the fruits of their official salaries. A police investigation in response to the case uncovered tens of millions of dollars worth of luxury properties and cars, and dozens of bank accounts belonging to the rulers and family members of Republic of Congo, Gabon and Equatorial Guinea. TNO’s car purchases alone came to \$6.3 million over the last decade.

A 200-page French police dossier showed that TNO controlled multiple accounts at blue chip banks such as Barclays, BNP Paribas and HSBC, which he used to buy a Ferrari 550 Maranello and a Ferrari 512M. Other cars he had bought in France included two Maseratis, a Rolls Royce, and several Bugattis worth a million and a half dollars each. A subsequent investigation by Tracfin, the French anti-money laundering service, concluded that the financial flows that facilitated TNO’s Bugatti purchases were “likely to be the laundered proceeds of misappropriated public funds.” The case

Cheques paid out of TNO’s accounts at Barclays and BNP in Paris, used to pay for a Ferrari



Padlocked gates to one of TNO's houses in South Africa, which is now occupied by squatters



Zetetic, Inc.

was quickly dropped for what appeared to be political reasons when the Public Prosecutor ruled that the offences were insufficiently substantiated. However, Transparency International France submitted a further complaint. In May 2009 it was ruled by the French authorities to be admissible, but on 29 October 2009 the French courts stopped the case again, this time arguing that a civil society organisation could not bring a case against heads of state.<sup>51</sup>

In South Africa, TNO bought two estates in Cape Town in 2004 for \$7 million. The houses “were not fit for the son of the president of one of Africa’s most prolific oil-producing countries,” reported South Africa’s *Sunday Times*, which said TNO spent millions more on renovations and refurbishments, including a home-theatre sound system, plasma-screen televisions, and bathrooms replete with spa baths, chrome fittings and marble surfaces.<sup>52</sup> The newspaper also quoted an unnamed security guard who had worked for Teodorin as saying that his employer “always had a briefcase filled with cash on hand,” and that he spent thousands of dollars on champagne and wining and dining female companions.<sup>53</sup>

In 2006, the South African firm Engineering Design and Construction Company (EDC) sued the government of Equatorial Guinea for breach of a \$7.8 million contract to build an airport in the country.<sup>54</sup> After becoming embroiled in a dispute with a government official, EDC’s owner, George Ehlers, had to abandon the project and surreptitiously evacuate his staff, which at one point had been jailed. Ehlers was paid for part of his

work, but was forced to leave behind millions of dollars in equipment in Equatorial Guinea. He sued in Cape Town High Court and attached two homes belonging to TNO on the basis that while the homes were registered in Teodorin’s name, they were purchased with state money and hence in effect, owned by the Obiang government, with which he had signed the airport deal. Given that Teodorin could not possibly have afforded the houses on his minister’s salary, Ehlers said, he must have used funds diverted from the government.

In his defense, TNO offered an explanation which effectively acknowledged that government “service” in his country offered rich rewards: “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 and should the company be successful, then what percentage of the total cost of the contract the company gets will depend on the terms negotiated between the parties. But, in any event, it means that a cabinet minister ends up with a sizable part of the contract price in his bank account.”<sup>55</sup>

Ehlers won a first round judgment and was awarded the homes but an appeals court reversed the decision. It ruled that whatever the source of his money, the properties were registered in TNO’s name and hence he, not the government, was the legal owner.<sup>56</sup> One of TNO’s houses has now been stripped bare by squatters, the other has squatters living on the terrace. Both houses appear to have been abandoned.<sup>57</sup>

**O**n September 4, 2007, Stewart C. Robinson, deputy director of the criminal division at the Justice Department’s Office of International Affairs, sent to French investigators an urgent “Request for Assistance in the Investigation of Teodoro Nguema OBIANG and his associates.”

The Fraud Section and Asset Forfeiture and Money Laundering Section of the Justice Department and ICE were “investigating suspected criminal conduct of Teodoro Nguema OBIANG and his associates,” the document said. “The prosecutors suspect that most, if not all, of Teodoro Nguema OBIANG’s assets are derived from

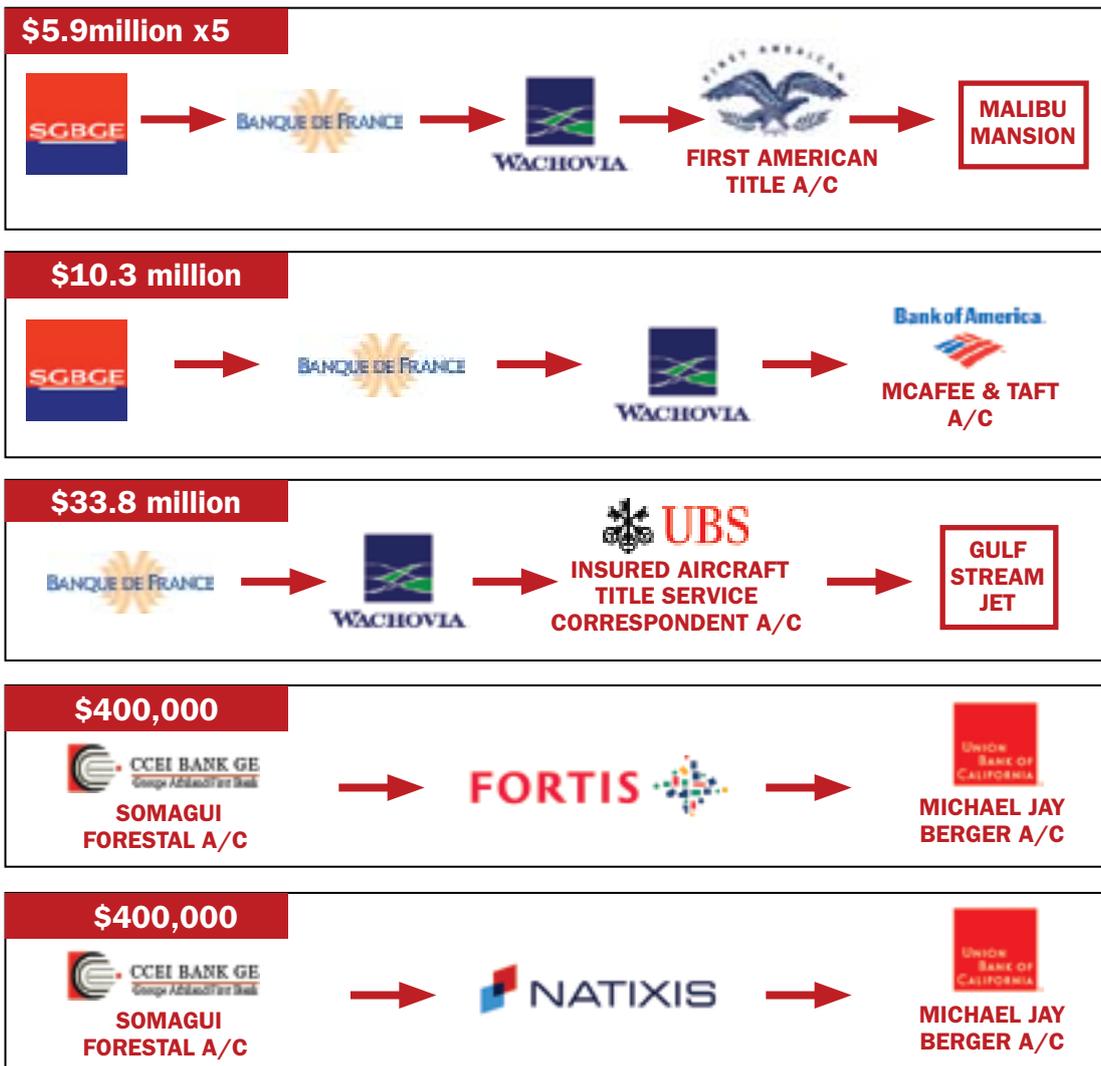
extortion, bribery or the misappropriation of public funds.”<sup>58</sup>

The “targets of the investigation” were identified as TNO; Michael Jay Berger, his Los Angeles based “personal attorney [who] serves as an intermediary for funds wired from Equatorial Guinea;” and Somagui Forestal, “a forestry company beneficially owned by [TNO] from which large money transfers to the United States have originated.”

The document said that TNO’s home in Malibu was purchased in the name of a U.S.-registered shell corporation, Sweetwater Malibu, LLC of which he is the president, and that his jet was purchased by another of TNO’s shell corporations, Ebony Shine International, Ltd., which is registered in the British Virgin Islands.”

The request for assistance cited as evidence of TNO’s corruption “Equatorial Guinea’s

TNO’s wire transfers to the U.S.



reputation in the international community, the enormous natural resource wealth of the country, and the dominance of the OBIANG MBASOGO family over the government and economy in Equatorial Guinea.” It further noted payments from timber companies to his firm, Somagui Forestal, and the South African court testimony in which he admitted that cabinet ministers in Equatorial Guinea get a cut of government contracts. Although TNO “claimed that this practice was legal, the assertion also suggests that he may be receiving bribes or extortion payments in the form of a percentage of contract revenue,” Robinson wrote.

But that was not the only evidence cited by Robinson. The U.S. investigation of TNO and his associates had “identified numerous suspicious transactions originating from or transiting the French financial system” and then entering U.S. banks:

- In April 2005, TNO “was the originator on at least five separate wire transfers,” each for \$5.9 million “from Société Générale de Banque en Guinée Équatoriale to Banque de France, account # 2000193528235, to a correspondent account at Wachovia Corporation Atlantic to account # 2000055333 at First American Trust FSB in the name of First American Title.” Investigators believe he used some of those funds to purchase the mansion in Malibu, which was bought in the name of his U.S. shell company, Sweetwater.
- In April 2006, Teodoro Nguema OBIANG “was the originator on three wire transfers” that moved from an account at Société Générale de Banque in Equatorial Guinea through Banque de France (accounts #2000193528235 and 0000061000012), and then on through a correspondent account at Wachovia Atlantic to the final destination at a Bank of America account in the name of McAfee & Taft, account #071601562059. Those transfers allowed TNO to move \$10.3 million to the United States.<sup>59</sup>
- From May to June 2006, TNO and his associates executed six wire transfers from Banque de France account 0000061000012 to a correspondent

bank Wachovia Atlantic and on to a UBS account in New York, #322998, in the name of Insured Aircraft Title Service Correspondent. Total funds transferred came to \$33.8 million; investigators believe the money was used by TNO to purchase his luxury jet, using his British Virgin Islands shell company, Ebony Shine International Ltd.

- Between November 2006 and June 2007, the “suspected money laundering continued ...through the use of an intermediary.” That person was identified as TNO’s attorney, Michael Jay Berger, who was the recipient of at least four wire transfers totaling about \$800,000. The evidence suggested that the wires originated from an account for Somagui Forestal, TNO’s timber company, at CCEI Bank in Equatorial Guinea. Two of the transfers were sent through Fortis Banque and two through Natixis. Those banks in France then sent the money on to Berger’s attorney/client trust account #0720-115581 at Union Bank of California.<sup>60</sup>

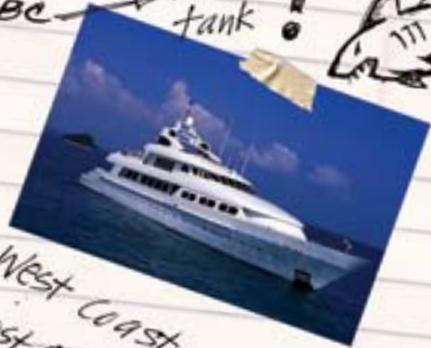
The investigation had also obtained evidence that TNO owned several real estate properties in Paris and that in 2006 he had transferred money from the United States to France to purchase a Bugatti sports car valued at more than \$1 million. “Based upon the wire transfer information available to the U.S. investigation, if these transfers represent illegal activity in the United States, there is a strong possibility that related conduct may also have violated French criminal law,” Robinson wrote.

In support of the request for assistance, U.S. officials sent to the French a PowerPoint presentation prepared by the Special Agent in Charge of the ICE’s Miami bureau. It said that TNO’s Malibu mansion was “undergoing multi-million dollar renovation,” and that he had “numerous luxury vehicles stored at the Peterson Automobile Museum in Los Angeles,” including two Rolls Royce Phantoms worth \$350,000 each; two Maybachs worth \$350,000 each; four Ferraris worth \$250,000 each; and one Rolls Royce Park Ward. It identified other American assets of TNO’s, including the \$33 million Gulf Stream V (currently undergoing “renovation/

# TO BUY

## IN US AND FRANCE

- Gulf Stream jet \$33,000,000
- Bugatti Veyron (x3) \$1,300,000  
1 for Paris, 1 for California, deposit on 3rd
- Rolls Royce Phantom (x2) \$350,000
- Rolls Royce Park Ward
- Maybach \$350,000 (x2)  
\*minibar
- Ferrari \$250,000 (x4)
- Bentley Arnage \$240,000
- 200 ft yacht \$TBC → shark tank? 
- speed boat (x2)



West Coast  
East Coast

While the U.S. is a global leader on tackling money laundering, its wire transfer regulations contain loopholes



customization”) and two speedboats of unknown value. Investigators also had information from two independent sources that TNO was building a 200-foot custom luxury yacht, complete with shark tank. He had also recently sought to purchase an apartment at the Ritz Carlton in New York for \$20 million in cash (it was unclear if the deal had gone through) and was looking to purchase residential property in Miami.<sup>61</sup>

The PowerPoint said further that TNO:

- was a “Recreational drug user (3 to 4 day binges with friends).”
- frequently traveled to the United States as an A-1 diplomat, “although he is seldom on official business.”
- was “suspected of using oil revenues from his country to pay for ‘lavish’ lifestyle.”
- “routinely travels to the United States with over \$1 million in cash and failed to declare,” a criminal violation that can carry up to a 5-year prison term.
- “allegedly received large wire transfers weekly through a ‘fictitious’ corporate account at Union Bank in California.”
- was the “target of multiple Suspicious Activity Reports for suspected money laundering from financial institutions including Bank of America and Wachovia. As a result of his activities, both banks have closed all accounts associated with Obiang and his associates,” the document said.

This information about the role of the banks raises a number of disturbing questions which should be tackled by the U.S. authorities.

## Ethical problem

The first problem is the moral one. While laudable that these two banks ultimately cut off TNO, on an ethical level it is stunning that they, and other financial institutions cited in the documents, would have done business with him at all during the period in question. Banks are under no obligation to accept business from any individual. In this case, basic checks would have revealed either that it was not clear who these huge transfers were coming from (that were, in the cases of UBS and First American Trust, being paid into the accounts of companies that handled title to aeroplanes and property), or, if it was, that they were coming from the super-rich son of a brutal dictator whose people live in desperate poverty. SARs may have been filed by some of the banks, but still the transfers were made.

To be completely clear: a U.S. bank, Riggs, had been fined and sold off at a dramatic loss of shareholder value after banking for the Obiangs, and is now used as a case study to scare bank compliance officers about the consequences of getting it wrong; after this happened no U.S. bank (or indeed, French bank) in its right mind should have wanted to have anything to do with Teodorin Obiang. The money laundering alleged in the government documents began three years after initial media accounts detailed Riggs Bank’s relationship with government officials in Equatorial Guinea; two years after the Senate issued its report on the matter and Riggs was fined \$25 million for violating the Bank Secrecy Act in regard to that relationship; and one year after Riggs, in the aftermath of the scandal, collapsed and was sold to PNC.

## Regulatory problem #1: suspicious activity reports

On the legal front, the requirement on U.S. banks is to do due diligence to identify their customer and his or her source of funds, and to file a suspicious activity report (SAR) to the authorities if they suspect that money

laundering is taking place. But unlike in the UK, where a bank filing a SAR has to apply for official consent to proceed before continuing with the transaction, (offering the authorities a chance to monitor further transactions and potentially gather evidence) U.S. banks can file the SAR, and get on with the business. It is up to law enforcement to act on the SAR, and to follow the trail after the money has gone. But if the authorities are overworked or asleep and do not follow up the information in the SAR, the bank can effectively do business with a corrupt dictator's son with impunity as long as it continues to file a SAR for each suspect transaction. So, while technically a bank is not allowed to process or accept crooked funds, the money may have long since moved on before the authorities might get around to looking into it. This is the worst of both worlds: a bank can fulfil its legal obligations through the SAR filing process, yet the dirty money still enters the U.S.

## Regulatory problem #2: beneficial ownership of corporate accounts

The majority of the U.S. banks involved in these transactions were processing wire transfers, or holding accounts for companies whose services Teodorin was paying for. The question of wire transfers is a particular one, and will be returned to shortly. But as seen above, the documents also allege that Union Bank of California held a 'fictitious'

corporate account through which Teodorin was receiving large weekly transfers. Accounts for privately-held companies represent a heightened money laundering risk for banks, since corrupt or otherwise criminal individuals can hide behind them. So did Union Bank of California identify Teodorin as a beneficiary of payments from this account? Did it identify the beneficial owner of the company that set up the account? Did it identify the source of funds being paid into the account? The bank did not respond to Global Witness' questions.

The international anti money laundering standard, as set by the Financial Action Task Force (FATF), the intergovernmental body that sets the standards and measures countries' compliance with them, is that banks must identify the beneficial owner of any company seeking to open an account as part of the account-opening due diligence. The problem with the U.S. regulation is that this requirement to find a beneficial owner is only made explicit for a specific scenario: non-U.S. persons opening private bank accounts, which is defined as those accounts containing more than a million dollars. The Patriot Act which introduced this requirement in 2001 was right to recognise these accounts as a money laundering risk, but the Act and its subsequent rulemaking have failed to make it explicit that banks in the U.S. must find the beneficial owner of *all* corporate vehicles as a condition of them opening an account (except where it is a company that is publicly listed on a stock exchange). This is a significant oversight that must be corrected.



Flickr/ Seth Gaines

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The lessons of Riggs do not seem to have been learnt: as late as June 2007 U.S. banks were still allowing TNO to transfer funds to the U.S.

Wachovia was one of the banks in the U.S. that processed multi-million dollar wire transfers for TNO



### Regulatory problem #3: due diligence on wire transfers

The other vital issue is what due diligence banks can do to identify the originators of wire transfers. FATF has a Special Recommendation on wire transfers, introduced in October 2001 when the standards were tightened up in the wake of 9/11 and the realization of the ease with which terrorists had been able to move money into the U.S. This international standard says that countries should require their banks ‘to include accurate and meaningful originator information (name, address and account number) on funds transfers and related messages that are sent, and the information should remain with the transfer or related message through the payment chain.’ Banks should also be required to ‘conduct enhanced scrutiny of and monitor for suspicious activity funds transfers which do not contain complete originator information.’<sup>62</sup> However, if a transfer arrives without originator information, a bank can still pass it on.

The U.S., which was the final destination for Teodorin’s wire transfers, is largely compliant with this standard. Its ‘travel rule’ says that banks have to pass on originator information that arrives with a transfer; if no information comes with it they can pass it on regardless. While they must file SARS if they suspect

suspicious activity or do not know where a large transfer is coming from, they are not prevented from accepting or forwarding the transfer.<sup>63</sup> Teodorin’s transfers were coming from outside of the U.S., so did they arrive with any originator information?

France was the next step back along the wire transfer chain: here, Banque de France, Natixis and Fortis forwarded transfers which arrived from Equatorial Guinea on to the U.S. A 2005 IMF evaluation of the French anti-money laundering laws said there were ‘currently no legislative requirements for financial entities to include complete originator information in message or payment forms accompanying wire transfers.’ Instead it was required only by guidance rules issued by industry bodies.<sup>64</sup> In January 2007 a new European Union Resolution came into force with an implementation deadline at the end of that year, requiring all wire transfers to include originator information; crucially, if the payee’s bank becomes aware that the payer’s information is missing or incomplete, it must reject the transfer or ask for complete information.<sup>65</sup>

This new European standard is stronger than FATF’s or the U.S.’s, since a bank is not supposed to forward a transfer that doesn’t have originator information. But it wasn’t mandatory in France until nearly all of Teodorin’s transfers, which ran from April 2005 to June 2007, had already taken place. For most of this period, French banks would effectively have been permitted to forward wire transfers that arrived without originator information.

Teodorin’s wire transfers originated in Equatorial Guinea, where it is not clear exactly what the law is pertaining to information included on wire transfers. It is safe to assume that even if this is a requirement on paper; implementation and enforcement are not a priority. Perhaps also of relevance is the fact that Société Générale de Banques en Guinea Ecuatorial, out of which the transfers were made through Wachovia to First American Trust, Bank of America and UBS, is 7% owned by “Obiang Nguema”, who is presumably the President, but could also be TNO, and 32% by the government; and CCEI Bank Guinea Ecuatorial, out of which the Somagui transfers were made through Fortis and Natixis to Union Bank of California, is 10% owned by Abayak SA, a company named in

the Senate Riggs report as being controlled by the president, and 10% owned by the government.<sup>66</sup>

What this means is that from the perspective of the banks in the U.S.: Wachovia, Bank of America, UBS, First American Trust and Union Bank of California, there are two possibilities.

One is that if the wire transfers came with originator information identifying Teodorin and/or his company Somagui Forestal, (which was publicly named as owned by TNO in the Senate report into Riggs), the banks went ahead and processed the transactions anyway, despite knowing who they were dealing with. According to the documents, Wachovia and Bank of America filed SARS and ultimately closed all accounts associated with Obiang and his associates. The documents did not mention if the other banks did so (if they didn't, this would be very concerning, suggesting that either they knew there was a problem and did nothing, or failed to spot the problem).

The other possibility is that the wire transfers arrived without originator information, in which case U.S. banks are accepting funds without knowing where they come from. The filing of SARs in such a case, as required by the FATF standard and the U.S. regulations, does not prevent the money being transferred into the U.S.

Neither of these possibilities is a pleasing prospect. Either way, the result is that the lessons of Riggs have not yet been learnt: banks in the U.S. have funneled millions of dollars of money through shell corporations for TNO, allowing him to purchase a luxury home and private jet while the people of Equatorial Guinea continue to live in poverty.

Global Witness has contacted all of the banks mentioned in the documents, in the U.S., France and Equatorial Guinea, to ask them what due diligence, if any, they did on these transfers and whether they knew that the originator was Teodorin Obiang. Fortis, Banque de France, Wachovia and UBS have replied.

Fortis said that bank secrecy prevented it commenting on specific clients, and that it complies with regulations on money laundering and terrorist financing. Bank

of America said it could not comment, and complies with the 'the letter and the spirit' of regulations in countries where it operates.<sup>67</sup> Banque de France said it could not comment, and listed the French laws and regulations on money laundering. On wire transfers it said it required that its correspondent banks comply with FATF anti-money laundering standards.<sup>68</sup> A representative of Wachovia stated that TNO did not hold an account with Wachovia. However, she said that it would be possible to transfer money semi-anonymously, through Wachovia's correspondent bank accounts by for example using a third-party bank as middleman.<sup>69</sup>

UBS said it could not comment on this specific case, but explained its policies for due diligence on correspondent banks and monitoring of wire transfers. Its 'pre-execution monitoring' screens names of 'terrorists, drug kingpins, weapons of mass destruction proliferators' and can freeze and reject payments if necessary; however politically exposed persons on not on these lists, unless 'designated' by one or more jurisdictions, as this would create too many false positives. 'Post-execution monitoring', it said, takes place after transfers have moved, identifying 'red flags' such as unusually large payments, round amounts and suddenly active amounts. and then manually reviewing such transactions to determine if a SAR needs to be filed. 'In a case such as the one to which you refer, UBS would expect its post-execution monitoring tools to flag large transactions with a client if these were unusual,' it said.<sup>70</sup>

Banks are not allowed by regulation to comment on whether they have filed a suspicious activity report. Union Bank of America, First American Trust FSB, Natixis, and the banks in Equatorial Guinea did not comment.

A representative of the law firm McAfee and Taft, which according to the documents received payments of \$10.3 million into an escrow account, denied that Teodorin was a customer of the firm and said the firm did not have direct knowledge of the transactions, which must have been on behalf of another client.<sup>71</sup>

Michael Jay Berger, TNO's lawyer, who according to the documents had received \$800,000 in wire transfers, failed to respond to multiple requests for comment.

**B**arring a coup d'état, it is likely that President Obiang, age 67, will rule until his death and then hand off power to a chosen successor.

Teodorin is widely considered to be the leading candidate to inherit power. “The guy knows how to play politics,” says Bennett, the former American ambassador. “He’s seen as the junior Big Man.”<sup>72</sup>

These documents show that the Justice Department and ICE were collecting evidence to prosecute Teodorin for money laundering, and seek forfeiture of his assets in the U.S.. According to documents seen by Global Witness, a U.S. delegation met French investigators in September 2007, a meeting at which this evidence was discussed. The outcome was that the U.S. would submit to the French authorities a ‘commission rogatoire internationale’, or a formal request for cross-border legal assistance. Could the lack of legal action against TNO stem from political pressure to ignore the crimes of a possible future president of an oil-friendly ally? Or are there insurmountable legal obstacles to prosecuting TNO, who has diplomatic status from his government? It is impossible to say with certainty, and neither the Justice Department, State Department, nor ICE would comment for this article.

After being informed of the contents of the government documents, Lawrence Barcella, a former federal prosecutor, offered this comment:

“To build a case like this you have to prove that his money comes from the proceeds of corruption. That would generally require the cooperation of the foreign government in order to gather sufficient evidence, and in this case Equatorial Guinea is obviously not going to cooperate. It looks like they [prosecutors] have grounds for probable cause, which would be enough to get a warrant and an indictment, but they have to get over the hump of probable cause to beyond a reasonable doubt and that’s a lot tougher. Justice Department guidelines say you should not seek an indictment unless you believe you can meet the reasonable doubt standard.”<sup>73</sup>

However, Barcella said that even if Justice could not prosecute TNO, the State Department could bar him from entering the country. “Traveling into the United States is not a right, it’s a gift. He could very easily be declared PNG and denied entry. For years, John Lennon couldn’t enter the United States because he smoked marijuana. You can deny a visa for any reason.” He said it would be more difficult, but not impossible, to seize TNO’s assets. “That’s where his diplomatic passport comes in handy,” he said. “That doesn’t grant him total immunity, but it makes it damn harder, and it would cause a big blow-up.”

An oil refinery in Equatorial Guinea. Is the U.S.’s failure to take action against TNO motivated by oil?

Rex Features/ Tina Heger





Malibu, where TNO has a house. The U.S. government needs to use its powers to deny visas to politicians where there is credible evidence they are involved in corruption

Jack Blum shared much of Barcella's assessment. "Would I like to see him prosecuted," he asked. "Of course. But gathering the evidentiary material to prove the illegal origins of [TNO's] money would not be easy and [bringing a case] would turn the U.S. relationship with Equatorial Guinea on its head, and that's of some interest given all the oil." He agreed that barring TNO from the country would be a simple matter, adding, "That is a sensible step that would have real impact, as it would put off limits to him of all his assets in the United States."

Blum believed the failure to take action against Obiang could be politically motivated. He noted that several other Justice Department cases involving oil kleptocracies – including the so-called "Kazakhgate" scandal, in which the president of Kazakhstan allegedly received tens of millions of dollars in payoffs from an American businessman representing U.S. oil companies – have been mysteriously bogged down for years. "It's quite possible that there is high-level political interference" he said. "As U.S. citizens, we have the right to know what's going on here. If they are going to drop the cases, they need to lay out the facts and explain why."

"The U.S. Presidential Proclamation 7750...[has] a 'reason to believe' standard, meaning that the proclamation can be applied absent conviction for a crime of corruption," Kathleen Hamman, now a trial attorney in the Justice Department's

fraud section, explained in a speech about the Kleptocracy Initiative in 2005.<sup>74</sup> When it called for corrupt foreign officials to be barred from the country, Congress set a threshold of "credible evidence" for the State Department to make that determination.

There is every reason to believe that TNO has been massively enriched by corruption and a vast amount of credible evidence that supports that conclusion. One can argue about the legal and political issues involved in prosecuting him or seizing his assets. There is no doubt at all, though, that he is ineligible to enter the United States under 7750. If the Kleptocracy Initiative has any meaning at all, he should be banned now.

Global Witness sought an interview with Teodorin Obiang to offer him an opportunity to respond to these allegations. Approaches were made through the Equatorial Guinea embassy in the U.S., and through the country's Washington PR firm, Qorvis. An embassy spokesperson offered only the following statement: "We have not been contacted by any Government Agencies and are not aware of any ongoing investigation into the Government of Equatorial Guinea or any of its representatives."<sup>75</sup>

A Justice Department spokesperson said it could not confirm or deny the existence of any investigation; the State Department and ICE said they could not comment.<sup>76</sup>

## **POLICY RECOMMENDATIONS**

**As well as a clear public explanation as to why the case has stalled and what can be done about it, the U.S. government also needs to develop a comprehensive policy approach to implement meaningfully the 2006 anti-Kleptocracy Initiative, the aspirations and intent of which Global Witness fully supports.**

Since it passed the landmark Foreign Corrupt Practices Act in 1975, the U.S. has generally taken a far more effective and robust approach to tackling foreign corruption and bribery than many of its peers (indeed, Global Witness would argue that it remains the only credible global enforcer of anti-corruption norms). Nonetheless, this story shows that dangerous ‘holes in the fence’ remain and that well-intentioned efforts to tackle the flows of corrupt money into the U.S. often

fail because it is difficult to gather evidence against venial ruling elites when they are able to use the sovereignty of their captured and corrupted state as a shield.

The recommendations below cover some of the immediately practical policy approaches that could be taken to further the anti-Kleptocracy Initiative and as part of a wider strategy to tackle the U.S.’s facilitation of foreign corruption which leaves so many millions of ordinary citizens around the world in destitution and under brutal and oppressive governments.

### 1) Visa denial

A U.S. visa is a highly prized possession in many countries around the world; its denial is an effective discretionary sanction. Unlike a prosecution, it can be imposed immediately and does not require proof of guilt. Visa denial is particularly effective as it can also target the family members of a corrupt official. Language in the 2008 and 2009 Consolidated Appropriations Acts requires that “the Secretary of State shall compile and maintain a list of officials of foreign governments and their immediate family members who the Secretary has credible evidence have been involved in corruption relating to the extraction of

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President Obama in Ghana, June 2009: “No country is going to create wealth if its leaders exploit the economy to enrich themselves”

SHAWN THEW/epa/Corbis



natural resources in their countries” and that “any individual on the list compiled under subsection (a) shall be ineligible for admission to the United States”.<sup>77</sup> Teodoro Obiang Nguema is clearly such an individual, so why is he still allowed to travel to and through the U.S.?

There is a clause in the Appropriations Acts suggesting that somebody might be allowed into the U.S. despite evidence against them so that law enforcement can continue to gather information. But clearly in this case the action has stalled, so logic would dictate that he ought to be denied a visa from now on.

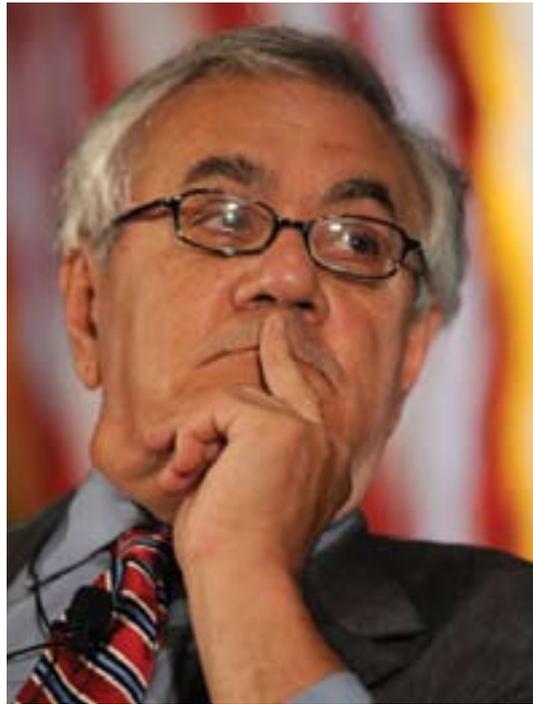
## 2) Make banks do their customer due diligence properly

Global Witness’ report *Undue Diligence: How banks do business with corrupt regimes*, published earlier this year, highlighted numerous examples of banks doing business with some of the most corrupt dictators and their kin in the world. The banks either did not know who their customer was, or they knew and they did not care, or they told their regulators and their regulators did not care. This story now raises similar concerns.

The regulators must examine the steps taken by the banks that feature in this report and ascertain if they fulfilled their regulatory requirements, and punish them if they did not. The question of whether banks are taking sufficient steps, from an ethical perspective, to avoid facilitating corruption must also be examined.

As described above, it may be possible for a bank to be in compliance with the letter of the law while still able to do business with a corrupt customer. While the U.S. must be acknowledged as having led the global move towards improved anti-money laundering laws, there are some crucial gaps in its own regulatory framework that must be addressed as a matter of urgency. The ongoing regulatory reform process in Congress offers an opportunity to do so.

- The U.S. must make it explicit, either through primary legislation or rulemaking, that as part of their customer due diligence, banks must



Dennis Van Tine/Retna Ltd./Corbis

Rep. Barney Frank’s (D-Mass) House Committee on Financial Services is currently working on reforms to financial regulation

find the beneficial owner of all corporate vehicles as a condition of them opening an account. This will help to bring the U.S. into compliance with FATF’s Recommendation 5, which by requiring banks to know who they are dealing with is the cornerstone of any anti-money laundering framework.

- The U.S. must change its regulations on wire transfers to match the European standard so that if there is no or incomplete originator information, the bank must either obtain it from the paying bank, or not accept the transfer. This must apply to transfers coming from within or without the U.S.. The U.S. should also push for this standard to be adopted by FATF as the required level for compliance with Special Recommendation VII.
- The U.S. must strengthen its anti-money laundering regulations to require banks only to accept funds from senior political figures, their family members and known associates,<sup>78</sup> if the bank has strong evidence that the source of funds is not corrupt. As well as implementing this measure itself, the U.S. should push for this recommendation to be adopted by FATF so that it becomes an international standard.<sup>79</sup>
- The U.S. should follow the model adopted by the UK, where after filing

An oil company compound in Equatorial Guinea. Oil companies need to publish what they pay to governments

Flickr/Melanie and John Kotsopoulos



a SAR banks are required to wait for consent to proceed from the authorities, within a given time span, before continuing the transaction.

- Company formation agents can facilitate corruption by setting up shell companies used by corrupt politicians or other money launderers. Currently they are not regulated for money laundering purposes in the U.S., which means they do not have to undertake due diligence on their clients or file suspicious activity reports; this represents a significant weakness in America's fight against dirty money. Therefore, the U.S. must apply anti-money laundering obligations to company formation agents.
- The U.S. should use its influence within the Financial Action Task Force to ensure that FATF fulfils the recent G20 requirement to 'help detect and deter the proceeds of corruption by prioritizing work to strengthen standards on customer due diligence, beneficial ownership and transparency.'<sup>80</sup>

### 3) More transparency over the beneficial ownership of corporate vehicles

Teodorin Obiang was able to buy his property in the name of a U.S.-registered

shell company, Sweetwater Management Inc, and his jet in the name of another, Ebony Shine International, incorporated in the British Virgin Islands.

Lack of transparency over the ownership of corporate vehicles such as these, behind which the corrupt, or indeed U.S. tax evaders, can hide, is a significant impediment to the working of the anti-money laundering laws and the tracking down of illicit funds by law enforcement after they have been moved.

The U.S. Congress should pass without delay the provisions of Senator Levin's proposed S.569 Incorporation Transparency and Law Enforcement Assistance Act Bill, which would require incorporators of companies in the U.S. to provide beneficial ownership details to their state.

Internationally, the U.S. should use its influence in FATF to push for a standard of national registries to be adopted internationally as a mandatory criterion for compliance with FATF's recommendations 33 and 34. (These recommendations require countries to prevent misuse of corporate vehicles or legal arrangements such as trusts for money laundering purposes, and suggest that they do so by making beneficial ownership information available; the problem is that they allow compliance at a standard of relying on law enforcement to access the information: this standard is too low.)

#### 4) Help prevent the money from being stolen in the first place by requiring more transparency over oil income

Equatorial Guinea's money comes from oil, mostly from revenues paid by U.S. oil companies.

Its income remains a state secret. In 2008, the Equatorial Guinean government signed up to the Extractive Industries Transparency Initiative<sup>81</sup> to improve disclosure of its oil income and allow the country's ordinary citizens to track that money into the national exchequer, but progress has been moribund and no figures have been released. Oil companies meanwhile claim they support transparency but that they cannot publish any financial information without permission or they will violate the swingeing confidentiality clauses in the production contracts that they signed with the Equatorial Guinea government.

Fortunately, there is a get-out of these confidentiality provisions for information required by an applicable accounting law or stock exchange rule. Recent legislation in front of the Congress is intended to do just

that and could put the amount of oil money provided to the EG government into the public domain for the first time and thereby help prevent its gross diversion and theft into private pockets.

In May 2008, Chairman Barney Frank of the House Committee on Financial Services introduced the Extractive Industries Transparency Disclosure (EITD) Act, which requires companies to report their country-by-country payments for oil, gas and minerals to the U.S. Securities and Exchange Commission.<sup>82</sup> In September 2009, the renamed "Energy Security through Transparency Act of 2009" was introduced by a bipartisan coalition of Senators Lugar, Cardin, Schumer, Wicker and Feingold.<sup>83</sup> The bill would require energy and mining companies to reveal how much they pay to foreign countries and also to the U.S. government for oil, gas, and other minerals. The international Publish What You Pay coalition of over 400 civil society organisations in over 70 countries, of which Global Witness is a founding member, is cheerleading for this legislation as are some major U.S. investors (such as Calvert) and at least one major multinational company (Newmont Mining).

The U.S. Congress should ensure that this bill is passed as soon as possible.



Citizens would see the benefits from oil if the Energy Security Through Transparency Act was passed

## ENDNOTES

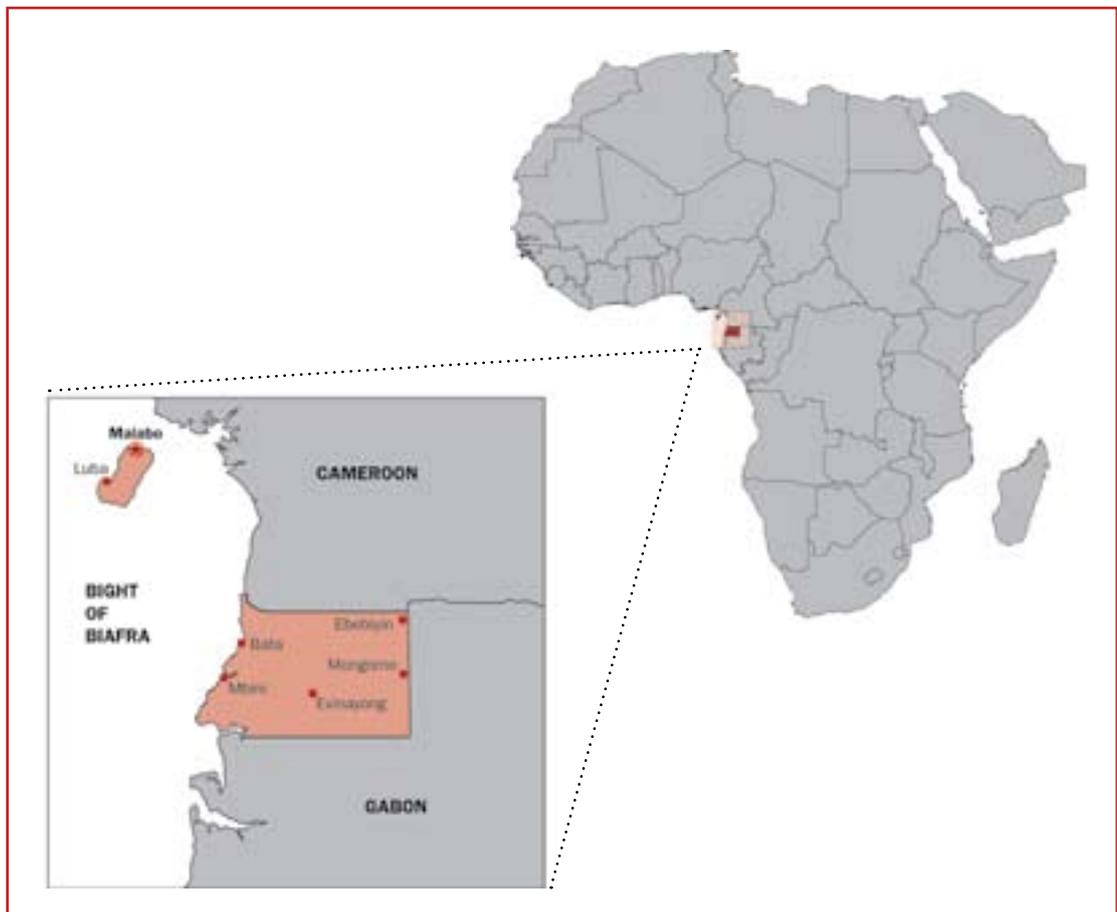
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## MAP OF EQUATORIAL GUINEA





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Global Witness exposes and breaks the links between the exploitation of natural resources and the funding of conflict, corruption and human rights abuses. Global Witness carries out investigations in countries devastated by conflict, corruption and poverty and our findings from these investigations are used to brief governments, intergovernmental organisations, civil society and the media.

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