

# Equatorial Guinea

---

RISK & COMPLIANCE REPORT

DATE: March 2018

<b>Executive Summary - Equatorial Guinea</b>	
<b>Sanctions:</b>	None
<b>FAFT list of AML Deficient Countries</b>	No
<b>Higher Risk Areas:</b>	<p>Compliance with FATF 40 + 9 Recommendations (mutual evaluation not yet completed)</p> <p>Weakness in Government Legislation to combat Money Laundering</p> <p>Not on EU White list equivalent jurisdictions</p> <p>Corruption Index (Transparency International &amp; W.G.I.)</p> <p>World Governance Indicators (Average Score)</p> <p>Failed States Index (Political Issues)(Average Score)</p>
<p><b>Major Investment Areas:</b></p> <p><b>Agriculture - products:</b></p> <p>coffee, cocoa, rice, yams, cassava (manioc), bananas, palm oil nuts; livestock; timber</p> <p><b>Industries:</b></p> <p>petroleum, natural gas, sawmilling</p> <p><b>Exports - commodities:</b></p> <p>petroleum products, timber</p> <p><b>Exports - partners:</b></p> <p>Japan 18.8%, France 16.1%, China 11.7%, US 11.3%, Netherlands 7.2%, Spain 7.1%, Italy 5.1% (2012)</p> <p><b>Imports - commodities:</b></p> <p>petroleum sector equipment, other equipment, construction materials, vehicles</p> <p><b>Imports - partners:</b></p> <p>Spain 18.4%, China 17.4%, US 11.1%, France 8%, Italy 5.9%, Cote d'Ivoire 5.3%, Brazil 4.4% (2012)</p>	

**Investment Restrictions:**

The Government of the Republic of Equatorial Guinea is actively soliciting foreign investment. The GREG is particularly interested in investment in agriculture and other industries that will help it diversify from the hydrocarbons sector, on which the economy currently relies. Most investment contracts are negotiated individually with the relevant ministry of the government. In some sectors, investments must be part of public-private partnerships with a government entity.

Foreign investors are not allowed to be full owners of local companies, but can be minority partners with the government.

Foreign investors are not permitted to own land or property, but can lease it from the government or others.

## Contents

<b>Section 1 - Background</b> .....	<b>4</b>
<b>Section 2 - Anti – Money Laundering / Terrorist Financing</b> .....	<b>5</b>
FATF status .....	5
Compliance with FATF Recommendations .....	5
US Department of State Money Laundering assessment (INCSR) .....	5
Reports .....	9
International Sanctions .....	11
Bribery & Corruption .....	12
Corruption and Government Transparency - Report by US State Department .....	12
<b>Section 3 - Economy</b> .....	<b>13</b>
Stock Exchange .....	14
<b>Section 4 - Investment Climate</b> .....	<b>15</b>
<b>Section 5 - Government</b> .....	<b>25</b>
<b>Section 6 - Tax</b> .....	<b>26</b>
<b>Methodology and Sources</b> .....	<b>27</b>

## Section 1 - Background

Equatorial Guinea gained independence in 1968 after 190 years of Spanish rule. This tiny country, composed of a mainland portion plus five inhabited islands, is one of the smallest on the African continent. President Teodoro OBIANG NGUEMA MBASOGO has ruled the country since 1979 when he seized power in a coup. Although nominally a constitutional democracy since 1991, the 1996, 2002, and 2009 presidential elections - as well as the 1999, 2004, and 2008 legislative elections - were widely seen as flawed. The president exerts almost total control over the political system and has discouraged political opposition. Equatorial Guinea has experienced rapid economic growth due to the discovery of large offshore oil reserves, and in the last decade has become Sub-Saharan Africa's third largest oil exporter. Despite the country's economic windfall from oil production, resulting in a massive increase in government revenue in recent years, improvements in the population's living standards have been slow to develop.



## Section 2 - Anti – Money Laundering / Terrorist Financing

### FATF status

Equatorial Guinea is not on the FATF List of Countries that have been identified as having strategic AML deficiencies

### Compliance with FATF Recommendations

Equatorial Guinea has not yet undertaken a Mutual Evaluation Report relating to the implementation of anti-money laundering and counter-terrorist financing standards.

### US Department of State Money Laundering assessment (INCSR)

Equatorial Guinea was deemed a 'Monitored' Jurisdiction by the US Department of State 2016 International Narcotics Control Strategy Report (INCSR).

Key Findings from the report are as follows: -

#### Perceived Risks:

Equatorial Guinea (EG) is not a regional financial center. There is no known connection to drug trafficking organizations, organized crime, or terrorists operating in EG. Implementation of EG's AML laws is not complete and enforcement is weak. Widespread corruption, involving the highest levels of the government, is a primary catalyst for money laundering and other financial crimes. Diversion of public funds and corruption are widespread in both commerce and government. Proceeds from the extractive industries, including oil, gas, and timber, or outright theft of state funds are the most likely sources of laundered money. Cross-border currency transactions and the illegal international transfer of money by companies or corrupt individuals are the most significant methods used to launder funds. In 2015, an EG elected official was convicted in a foreign country for bulk cash smuggling. Although there is no significant market for smuggled goods, smuggling for personal use/consumption is endemic. There are no significant offshore sectors or free trade zones.

EG is a member of the Economic and Monetary Community of Central African States (CEMAC) and shares a regional Central Bank (BEAC) with other CEMAC members. EG is also a member of the Banking Commission of Central African States (COBAC) and the Central African Monetary Union (CEMU) within CEMAC.

DO FINANCIAL INSTITUTIONS ENGAGE IN CURRENCY TRANSACTIONS RELATED TO INTERNATIONAL NARCOTICS TRAFFICKING THAT INCLUDE SIGNIFICANT AMOUNTS OF US

CURRENCY; CURRENCY DERIVED FROM ILLEGAL SALES IN THE U.S.; OR ILLEGAL DRUG SALES THAT OTHERWISE SIGNIFICANTLY AFFECT THE U.S.: NO

**CRIMINALIZATION OF MONEY LAUNDERING:**

"All serious crimes" approach or "list" approach to predicate crimes: All serious crimes  
Are legal persons covered: criminally: YES civilly: YES

**KNOW-YOUR-CUSTOMER (KYC) RULES:**

Enhanced due diligence procedures for PEPs: Foreign: NO Domestic: NO  
KYC covered entities: Treasury, central bank, banks, banking intermediaries, microfinance institutions, insurance companies, investment services, money changers, casinos, notaries, real estate agents, money transfer companies, travel agencies, auditors, accountants, and high-value goods dealers

**REPORTING REQUIREMENTS:**

Number of STRs received and time frame: Not available  
Number of CTRs received and time frame: Not available  
STR covered entities: Treasury, central bank, banks, banking intermediaries, microfinance institutions, insurance companies, investment services, money changers, casinos, notaries, real estate agents, money transfer companies, travel agencies, auditors, accountants, and high-value goods dealers

**MONEY LAUNDERING CRIMINAL PROSECUTIONS/CONVICTIONS:**

Prosecutions: 0  
Convictions: 0

**RECORDS EXCHANGE MECHANISM:**

With U.S.: MLAT: NO Other mechanism: YES  
With other governments/jurisdictions: YES

Equatorial Guinea is a member of the Task Force against Money Laundering in Central Africa (GABAC), a FATF-style regional body. EG has not yet had a mutual evaluation.

**ENFORCEMENT AND IMPLEMENTATION ISSUES AND COMMENTS:**

The Government of Equatorial Guinea has taken steps in recent years to improve its AML/CFT regime. Despite these efforts, EG's officers charged with crime prevention, including the police, judicial police, and the National Agency of Financial Investigation (ANIF), EG's financial intelligence unit, need professional training in proper financial investigative techniques. The few suspicious transaction reports (STRs) that are forwarded to the FIU are paper copies. There has never been a reported successful money laundering prosecution.

Although the AML regulations require covered entities to implement compliance programs and report large and suspicious transactions, financial institutions fulfill these obligations only to a limited degree.

In 2004, EG enacted a law requiring high ranking public officials to avoid all conflicts of interest and report their interests as well as those of their spouse and minor children. However, despite numerous international scandals involving high ranking EG government officials and

their family members spending millions of dollars on extravagant lifestyles, luxury goods, and real estate, procedures are not in place implementing the law and the law is not enforced.

In January 2015, a member of parliament was found guilty in a foreign court for bulk cash smuggling. Media reported bulk cash smuggling by high-level members of the government, including an attempt to send containers of cash to Sao Tome and Principe. There were no reports of any official investigations.

A foreign government continued to pursue seizure of real and personal property of Obiang Mangué, the president's eldest son and second vice president, as the result of a 2010 investigation into suspected concealment and laundering abroad of embezzled public funds. In an October 2014 settlement with a foreign government, Obiang Mangué was forced to sell a \$30 million mansion, a Ferrari automobile, and various items of Michael Jackson memorabilia. The settlement required that an estimated \$20 million of the proceeds be given to a charitable organization for the benefit of the country's citizens and the forfeiture of \$10.3 million to the foreign government.

EG cooperates with international law enforcement, pursuant to CEMAC's agreement with INTERPOL. EG also works with the European Community in terms of money laundering and terrorism financing through the CEMAC financial agreement with the Treasury of France.

The Government of Equatorial Guinea should work with CEMAC and regional partners to establish a fully functioning AML/CFT regime in line with international standards and to strengthen the capacity of ANIF. Cross-border transportation of cash and monetary instruments reporting requirements should be initiated and enforced. EG should criminalize terrorism financing and become a party to the 1988 UN Drug Convention and the UN Convention against Corruption.

#### **Current Weaknesses in Government Legislation (2014 INCRS Comparative Tables):**

According to the US State Department, Equatorial Guinea does not conform with regard to the following government legislation: -

Arrangements for Asset Sharing - By law, regulation or bilateral agreement, the jurisdiction permits sharing of seized assets with third party jurisdictions that assisted in the conduct of the underlying investigation.

Cooperates with International Law Enforcement - By law or regulation, banks are permitted/required to cooperate with authorized investigations involving or initiated by third party jurisdictions, including sharing of records or other financial data.

International Transportation of Currency - By law or regulation, the jurisdiction, in cooperation with banks, controls or monitors the flow of currency and monetary

States Party to UN 1988 Convention - States parties to the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, or a territorial entity to which the application of the Convention has been extended by a party to the Convention.



### **EU White list of Equivalent Jurisdictions**

Equatorial Guinea is not currently on the EU White list of Equivalent Jurisdictions

### **World Governance indicators**

[To view historic Governance Indicators Ctrl + Click here and then select country](#)

### **Failed States Index**

[To view Failed States Index Ctrl + Click here](#)

### **Offshore Financial Centre**

Equatorial Guinea is not considered to be an Offshore Financial Centre

### US State Dept Narcotics Report

No report available

### US State Dept Trafficking in Persons Report 2016 (introduction):

Equatorial Guinea is classified a Tier 3 country - a country whose government does not fully comply with the minimum standards and is not making significant efforts to do so.

Equatorial Guinea is a source country for children subjected to sex trafficking and a destination country for men, women, and children subjected to forced labor. The majority of trafficking victims are exploited in the cities of Malabo, Bata, and Mongomo, where burgeoning construction and economic activity funded by oil wealth have contributed to increases in the demand for cheap labor and prostitution. Equatoguinean girls are exploited in the sex trade in these cities, often by foreigners. Children from nearby countries—primarily Nigeria, Benin, Cameroon, Togo, and Gabon—may be subjected to forced labor as domestic workers, market laborers, vendors, and laundries. Women from Cameroon, Benin, and other neighboring countries are recruited for work in Equatorial Guinea and subsequently subjected to forced labor or forced prostitution. Significant numbers of Chinese women migrate to Equatorial Guinea for work or to engage in prostitution, and some are subject to passport confiscation, increasing their vulnerability to forced labor. Sub-contractor staff in the oil services and construction sectors from other parts of Africa, Asia and the Americas are regularly subjected to passport confiscation and, in some instances, forced labor. General corruption and complicity by government officials in trafficking-related offenses were common during the reporting period.

The Government of Equatorial Guinea does not fully meet the minimum standards for the elimination of trafficking and is not making significant efforts to do so. However, during the reporting period, the government demonstrated a renewed interest in combating trafficking in persons and took a number of important steps to begin addressing the crime. The government adopted a national action plan focused on awareness-raising, conducted three multi-day trainings to increase victim identification and case investigation techniques for over 200 law enforcement officials, and dedicated funding to support the trainings. Despite these initial steps, the government did not make efforts to identify or protect trafficking victims or prosecute traffickers, despite having a 2004 anti-trafficking law that prohibits all forms of trafficking and mandates provision of services to victims. The government continued to deport undocumented migrants without screening them to determine whether they were victims of trafficking or referring them to assistance services.

### US State Dept Terrorism Report

No report available



## International Sanctions

None Applicable

## Bribery & Corruption

Index	Rating (100-Good / 0-Bad)
Transparency International Corruption Index	17
World Governance Indicator – Control of Corruption	0

## Corruption and Government Transparency - Report by US State Department

Equatorial Guinea has strict laws against corruption, but they are not enforced. Corruption is very common in EG.

No international nongovernmental "watchdog" organization is operating in the country. EG is not a party to the United Nations Convention against Corruption.

### Section 3 - Economy

Exploitation of oil and gas deposits, beginning in the 1990s, has driven economic growth in Equatorial Guinea, allowing per capita GDP to rise to over \$29,000 in 2014. Forestry and farming are minor components of GDP. Although preindependence Equatorial Guinea counted on cocoa production for hard currency earnings, the neglect of the rural economy since independence has diminished the potential for agriculture-led growth. Subsistence farming is the dominant form of livelihood. Declining revenue from hydrocarbon production, high levels of infrastructure expenditures, lack of economic diversification, and corruption have pushed the economy into decline in recent years and led to limited improvements in the general population's living conditions.

Foreign assistance programs by the World Bank and the IMF have been cut since 1993 because of corruption and mismanagement, and as a middle income country Equatorial Guinea is now ineligible for most donor assistance. The government has been widely criticized for its lack of transparency and misuse of oil revenues and has attempted to address this issue by working towards compliance with the Extractive Industries Transparency Initiative. US foreign assistance to Equatorial Guinea is limited in part because of US restrictions pursuant to the Trafficking Victims Protection Act.

Equatorial Guinea hosted two economic diversification symposia in 2014 that focused on attracting investment in five sectors: agriculture and animal ranching, fishing, mining and petrochemicals, tourism, and financial services. Undeveloped mineral resources include gold, zinc, diamonds, columbite-tantalite, and other base metals.

#### **Agriculture - products:**

coffee, cocoa, rice, yams, cassava (manioc, tapioca), bananas, palm oil nuts; livestock; timber

#### **Industries:**

petroleum, natural gas, sawmilling

#### **Exports - commodities:**

petroleum products, timber

#### **Exports - partners:**

China 16.6%, South Korea 15.1%, Spain 9%, Brazil 8.2%, Netherlands 6.8%, South Africa 6.6%, India 5.8%, UK 5.7%, France 5.7% (2015)

#### **Imports - commodities:**

petroleum sector equipment, other equipment, construction materials, vehicles

#### **Imports - partners:**

Netherlands 16.9%, Spain 16.3%, China 14.8%, US 8.9%, Cote d'Ivoire 6%, France 4.8% (2015)

## Stock Exchange

The BVMAC, with a primary market and secondary market, was founded in 2003. It is a regional stock exchange, with headquarters in Libreville, Gabon, and it serves the following central African countries: Cameroon, Central African Republic, Chad, Congo, Equatorial Guinea and Gabon

### Executive Summary

Equatorial Guinea (EG) is endowed with abundant oil and gas resources and hosts billions of dollars in direct U.S. investment. The general investment climate in EG, however, is undermined by corruption and a burdensome, inefficient bureaucracy. International watchdog organizations give EG one of the world's lowest rankings in various global indices including corruption, transparency, and ease of doing business. These poor ratings underscore the challenging environment in which businesses operate.

The Government of the Republic of Equatorial Guinea (GREG) is seeking investment in several sectors: agribusiness; fishing; energy and mining; chemicals, petrochemicals, plastics & composites; travel/tourism; and finance. Most of these sectors are fairly undeveloped. The Equatoguinean domestic market is small, with a population of less than one million, although EG is a member of the Central African Monetary and Economic Union (CEMAC) sub-region, which is home to over 50 million people. The zone has a central bank and a common currency – the CFA franc.

Following rapid economic growth in the early 2000's spurred by the discovery of oil a decade earlier; growth has slowed in recent years as operational oil fields have matured. With the drop in oil prices in 2015, EG has extended the timelines for completing infrastructure projects to balance its budget. EG is nearing completion of the first phase of the Horizon 2020 social development plan, which emphasized infrastructure construction. Now EG boasts some of the region's best roads and other essential infrastructure including development of its ports. In February 2014, the GREG announced plans to improve the ease of doing business by creating a one-stop-shop for investors and entrepreneurs, and creating a body to solve business disputes and a government co-investment fund of \$1 billion. The fund is said to be in place, but the other measures have not yet been implemented. Although certain tax exemptions have been instituted to attract investment, with the decrease in the oil prices, those exemptions are strictly scrutinized. Recent commercial disputes have involved delayed payment, or non-payment, by the GREG to foreign firms for goods and services already delivered. December 2015 saw a marked exodus of foreign businesses from EG as the government grappled with its finances.

The judicial system is not independent, as the President is the Chief Magistrate. Corruption throughout the government, including the judiciary, makes it difficult for a U.S. business to protect its investment, raising the risk of doing business in Equatorial Guinea. Occasionally, business disputes are treated as criminal cases and passports of foreign managers are confiscated until the case is resolved.

U.S. citizens do not require visas to enter EG, but visas can be very difficult to obtain for third-country nationals, and generally require a letter of invitation from the GREG, which can take months to obtain. Residency permits can be similarly difficult to obtain and renew and are expensive. Even the U.S. Embassy regularly experiences delays for residency permits of six months or more, with the GREG occasionally misplacing original documents or losing them entirely. Customs suffers from similar delays and is plagued by corruption.



Despite the many challenges, U.S. businesses, which strictly comply with Foreign Corrupt Practices Act (FCPA) requirements, have had success in the hydrocarbons sector, and some U.S. businesses have found rewards in other sectors. U.S. businesses will continue to seek the many opportunities that exist in Equatorial Guinea, but potential business people must understand the risks that accompany them.

Table 1

Measure	Year	Index or Rank	Website Address
TI Corruption Perceptions index	2014	Not reported	<a href="http://transparency.org/cpi2014/results">transparency.org/cpi2014/results</a>
World Bank's Doing Business Report "Ease of Doing Business"	2015	180 of 189	<a href="http://doingbusiness.org/rankings">doingbusiness.org/rankings</a>
Global Innovation Index	2015	Not reported	<a href="http://globalinnovationindex.org/content/page/data-analysis">globalinnovationindex.org/content/page/data-analysis</a>
U.S. FDI in partner country (\$M USD, stock positions)	2014	\$4.2 billion	BEA/Host government
World Bank GNI per capita	2014	\$10,210	<a href="http://data.worldbank.org/indicator/NY.GNP.PCAP.CD">data.worldbank.org/indicator/NY.GNP.PCAP.CD</a>

## 1. Openness To, and Restrictions Upon, Foreign Investment

### Attitude toward Foreign Direct Investment

The Government of the Republic of Equatorial Guinea (GREG) is actively soliciting foreign investment. A new law has been passed to make it easier to invest in EG by establishing a "one-stop-shop" for investors and simplifying the process to register a business, but this has not yet been fully implemented.

### Other Investment Policy Reviews

In the past three years, the GREG has not conducted an investment policy review through any institutions, such as the Organization for Economic Cooperation and Development, the World Trade Organization, or the United Nations Conference on Trade and Development.

### Laws/Regulations on Foreign Direct Investment

Foreign investment is regulated by at least the following laws: Law No. 7/1992, Law No. 2/1994, Decree No. 54/1994, and Decree 127/2004. There may be other relevant regulations, particularly specific to certain industries. Enforcement of laws and judicial decisions is neither reliable nor consistent. The judicial branch is heavily influenced by the executive branch, as the President is also the Chief Magistrate of the Republic.

## *Business Registration*

According to the World Bank's Doing Business 2016 report, starting a business in Equatorial Guinea requires 18 procedures, takes 135 days. As a result, Equatorial Guinea stands at 187 in the ranking of 189 economies on the ease of starting a business. There is no website for guidance, and starting a business requires multiple trips to the appropriate government agency and lengthy waits.

## Industrial Promotion

In August 2014, President Obiang hosted an investment forum in Washington, D.C., intended to attract U.S. companies to EG. This followed on the heels of an economic diversification symposium held in February 2014 in EG targeted at attracting foreign investment in key sectors - agribusiness; fishing; energy and mining; chemicals, petrochemicals, plastics & composites; travel/tourism; and finance - to help the country diversify from the hydrocarbons sector, on which the economy currently relies. The government has been forced to curtail many of these efforts as oil prices continue to be depressed, so there was little industrial promotion in 2015.

## Limits on Foreign Control and Right to Private Ownership and Establishment

Decree 127/2004 stipulates that shareholder capital firms and companies operating in the petroleum sector must have Equatoguinean shareholders. Foreign companies or companies created by foreigners are required to have at least 35% of share capital held by Equatoguinean partners. Equatoguinean partners must also account for one third of the representatives on the Board of Directors. In some sectors, investments must be part of public-private partnerships with a government entity.

## Privatization Program

Equatorial Guinea has not implemented a privatization program.

## Screening of FDI

Statutorily, investment permits are approved by the Minister of Economy, Planning and Public Investments.

The new state entity, Holdings Equatorial Guinea 2020, was created to help guide diversification efforts. This entity is expected to ultimately serve as a hub for foreign investors. For now, however, investors still work with the relevant ministry to negotiate a contract. Larger deals may rise to the presidential level. U.S. investors may reach out to the Equatorial Guinean Embassy in the United States for guidance and connection to the appropriate ministry.

## Competition Law

Equatorial Guinea does not have an agency that actively enforces any competition laws. Because Equatorial Guinea is a member of the Organization for the Harmonization of

Business Laws in Africa (OHADA), any OHADA competition laws would apply in Equatorial Guinea.

## **2. Conversion and Transfer Policies**

### *Foreign Exchange*

Decree No. 54/1994 provides the right to freely transfer convertible currency abroad at the end of each fiscal year. Due to limited financial services, it can occasionally be difficult to execute international transfers.

Local currency is not widely available outside of the Central African Franc (CFA) zone, but can be relatively easily obtained in country. Equatorial Guinea is an almost entirely cash economy, with credit cards available, but not widely used in the general population. Credit cards are used primarily by visitors or wealthy citizens at international hotels.

### *Remittance Policies*

There have been no recent changes or plans to change investment remittance policies. EG is a member of the Task Force against Money Laundering in Central Africa (GABAC), an entity in the process of becoming a FATF-style regional body. EG does not engage in currency manipulation as the CFA franc currently has a fixed exchange rate to the euro: 100 CFA francs = 1 former French (nouveau) franc = 0.152449 euro; or 1 euro = 655.957 CFA francs exactly.

Equatorial Guinea is listed in the Bureau of International Narcotics and Law Enforcement's 2015 International Narcotics Control Strategy Report (INCSR) as a monitored country.

## **3. Expropriation and Compensation**

Law No. 7/1992 states that the government will not expropriate foreign investments except when acting in the public interest with fair, just, and proper compensation. The government does not generally nationalize or expropriate foreign investments, although in 2013 a Spanish investor had his property confiscated. The government does have an extensive record of expropriating locally-owned property, frequently offering little or no compensation.

## **4. Dispute Settlement**

### *Legal System, Specialized Courts, Judicial Independence, Judgments of Foreign Courts*

EG's legal system is a mixed system of civil and customary law. Law No. 7/1992 states that disputes that cannot be resolved through direct negotiation by the involved parties shall be referred to Equatoguinean courts. Either party can also submit the dispute to international arbitration. Foreign investors are asked to declare their desired international arbitration venue in their initial application to invest in EG. Arbitration must take place in a neutral location and Spanish will be the official language of the arbitration. The government does not always comply with international agreements which it has signed or international legal decisions.

### *Bankruptcy*

Equatorial Guinea has adopted the business laws of the Organization for the Harmonization of Business Laws of Africa (OHADA), including the law pertaining to bankruptcy. EG ranks as the worst, 189/189, in the World Bank's Doing Business Report's ranking of *Resolving Insolvency*. The reason for this is EG receives a 'no practice mark' since they had zero cases a year over the past five years involving a judicial reorganization, judicial liquidation or debt enforcement. This is interpreted to mean that creditors are unlikely to recover their money through a formal legal process.

#### Investment Disputes

Recent investment disputes have centered on non-payment of investors or contractors by the government, or state-owned enterprises. There are few established local mechanisms to compel the government to pay investors, and the Embassy has limited capacity to intervene. U.S. and foreign enterprises from Lebanon, Egypt, and Turkey, operating in EG have been subject to non-payments or severely delayed payments by the government and have had no recourse in payment disputes.

#### International Arbitration

The OHADA Uniform Act on Arbitration rules would apply where the seat of arbitration is in Equatorial Guinea. The U.S. and Equatorial Guinea have no trade or investment agreements.

#### *ICSID Convention and New York Convention*

Equatorial Guinea is not a party to the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (ICSID Convention - also known as the Washington Convention), although Law No. 7/1992 states that international arbitration may utilize ICSID as the basis of procedure. Equatorial Guinea is not a party to the New York Convention of 1958 on the Recognition and Enforcement of Foreign Arbitral Awards.

#### Duration of Dispute Resolution – Local Courts

In practice, disputes are generally handled in direct communication with the relevant government ministry. The government is frequently very slow to respond. Decisions often have to be made at the ministerial or presidential level. Local judicial decisions and enforcement are inconsistent and do not necessarily rely on a system of precedent. The World Bank estimates it will take 475 days to enforce a contract in court and cost 19.5% of the claim.

### **5. Performance Requirements and Investment Incentives**

#### WTO/TRIMS

Equatorial Guinea is not a member of the World Trade Organization and is listed as an Observer government. The General Council of the WTO established a Working Party to examine the application of Equatorial Guinea on 5 February 2008. Equatorial Guinea has not yet submitted its Memorandum on the Foreign Trade Regime. The Working Party has not met.

#### Investment Incentives

Law No. 2/1994 offers the following investment incentives, in the form of deductions from taxable income: 50% of the amount paid to Equatoguinean staff in wages and 200% of the cost of training Equatoguinean staff. In February 2014, the government also announced a co-financing fund intended to partner with new foreign investment projects. This continues to be nothing more than an announcement as no money has been placed in the fund nor have regulations been published as to how a foreign company may apply for co-financing.

#### *Research and Development*

There are no restrictions on funding foreign participation in government-financed research and development programs.

#### Performance Requirements

The government specifies a minimum percentage of employees which must be Equatoguinean, ranging from 70-90%. This is not consistently enforced. The Ministry of Mines, Industry, and Energy is considering a new national content decree for the hydrocarbons sector, which would require that Equatoguineans hold certain supervisory/management positions. However, that decree is still in the draft stage and has not been made public.

U.S. citizens do not require visas to enter EG. However, obtaining letters of invitation and visas for third country nationals can be difficult and time-consuming. Residency permits, which are required for all long-term residents, can be difficult to renew and are expensive, frequently expiring before the new permit can be issued. Even the U.S. Embassy regularly experiences delays for residency permits of six months or more, with the GREG occasionally misplacing original documents or losing them entirely.

Foreign investors are required to have a percentage of domestic content in goods and technology.

#### Data Storage

Internet service providers, whether local or foreign, have not been required to turn over source code or provide access to surveillance. At present, there are no requirements pertaining to maintaining data storage within the country.

## **6. Protection of Property Rights**

#### Real Property

Property rights are enforced selectively. While there are laws on the books regarding the rights of property owners, the government can seize land in the interest of the country with very little, if any, process via the judicial system. Mortgages do exist, but they are under a 'Social Housing Program' where payments are made to the government via CCEI Bank. The length of time varies and can be as long as 20 years. Interest rates are high, ranging from 12% to 18%. Non-payment for six months results in the foreclosure of the property.

#### Intellectual Property Rights

Equatorial Guinea is a member of the African Intellectual Property Organization (OAPI). Intellectual property protections fall under the Council of Scientific and Technological Research of Equatorial Guinea (CICTE). Equatorial Guinea does not report on seizures of counterfeit goods. Legal structures are weak and enforcement of intellectual property rights is rare. Equatorial Guinea is not listed in USTR's Special 301 report. Equatorial Guinea joined WIPO in 1997. For additional information about treaty obligations and points of contact at CICTE, please see WIPO's country profiles at <http://www.wipo.int/directory/en/>.

#### *Resources for Rights Holders*

Embassy Contact:

- John C. Nobilski
- Professional Associate in Economics
- U.S. Embassy Malabo
- +240-333-095-741
- [NobilskiJC@state.gov](mailto:NobilskiJC@state.gov)

Embassy Lawyers List: <http://malabo.usembassy.gov/service/list-of-lawyers.html>

### **7. Transparency of the Regulatory System**

Labor laws are published and are publicly available. Regulations are not consistently applied. Foreign companies are expected to follow every detail of the labor law or face penalties. Enforcement of the labor law on national companies is far less strict. Bureaucratic procedures are neither streamlined nor transparent, and can be extremely slow for those without connections. Proposed laws and regulations are not published in draft form for public comment, but are sometimes informally shared with representatives of specific industries for comment.

### **8. Efficient Capital Markets and Portfolio Investment**

The small banking sector can provide limited financing to businesses. Capital markets are virtually non-existent.

Money and Banking System, Hostile Takeovers

Equatorial Guinea is a member of the Economic and Monetary Community of Central African States (CEMAC) and shares a regional Central Bank (BEAC) with other CEMAC members. Members have ceded regulatory authority over their banks to CEMAC. The Government of the Republic of Equatorial Guinea is also a member of the Banking Commission of Central African States (COBAC) within CEMAC. The banking sector, much like the country, is plagued with overly burdensome bureaucracy and red tape and a lack of computerized record-keeping.

### **9. Competition from State-Owned Enterprises**

There are currently a few state-owned enterprises (SOEs) in the energy and mining, and information and communication sectors. The state-owned oil company, GEPetrol, has

preferential right of joint ownership in the oil sector, but does not have the capacity to be the principal operator. The SOEs report to the Ministry of Mines, Industry, and Energy and hold monopolies in their respective sectors. The following is the list of prominent SOEs in EG:

Sonagas - The Equatorial Guinean national natural gas company.

EG LNG - Liquefied natural gas. 25% owned by Sonagas.

GEPetrol - The national oil company of the Equatorial Guinea.

SEGESA - The national electricity company.

#### Sovereign Wealth Funds

The Fund for Future Generations is Equatorial Guinea's sovereign wealth fund, established in 2002. There is little transparency about its management or the value of the fund.

### **10. Responsible Business Conduct**

Many U.S. firms operating in Equatorial Guinea have well-developed corporate social responsibility (CSR) programs. The Ministry of Mines, Industry, and Energy has established industry-specific regulations which mandate minimum rates of CSR contributions in the sectors it manages. These rates may increase under a new draft regulation that is being considered. The American oil and gas companies tend to exceed those requirements. Most firms from other countries do not have substantial CSR programs. The government has expressed appreciation for the U.S. companies' efforts and recognized the positive role of U.S. firms.

There are some NGOs operating in the country that work in fields in which CSR takes place, often as partners with the companies, but do not fulfill a monitoring role. EG has prepared a submission to participate in the Extractive Industries Transparency Initiative (EITI), but has failed to meet the necessary deadlines. EG appears to have lost momentum in participating as oil prices hover at record lows.

### **11. Political Violence**

President Obiang has been in power since 1979; as a result Equatorial Guinea does not have an established track record of transfer of power. In the week leading up to President Obiang's re-election on the 24<sup>th</sup> of April, 2016, government security forces forcibly entered the headquarters of a political opposition party "Citizens For Innovation" (CI) seriously injuring several occupants. Political activists who were arrested prior to the election have been subsequently released. Opposition members continue to report harassment. Political violence is very limited and quickly controlled.

### **12. Corruption**

Equatorial Guinea has strict laws against corruption, but they are not enforced. Corruption is very common in EG. American companies operating in EG adhere to the constraints of the FCPA. U.S. firms are concerned about corruption as it pertains to government procurement, award of licenses and concessions, and dispute settlement.

EG's greatest concerns in terms of money laundering and terrorism financing are cross-border currency transactions and the illegal international transfer of money by companies or corrupt individuals. Widespread corruption, at times involving the highest levels of the government, is a primary catalyst for money laundering and other financial crimes. Diversion of public funds and corruption are widespread in both commerce and government, particularly as regards the use of proceeds from the extractive industries, including oil, gas, and timber, and infrastructure projects, most likely sources of laundered funds.

*UN Anticorruption Convention, OECD Convention on Combatting Bribery*

Equatorial Guinea is one of the few remaining countries that is not a signatory to the United Nations Convention against Corruption. EG also is not party to the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.

*Resources to Report Corruption*

There is no "watch dog" organization operating in Equatorial Guinea that monitors corruption.

### 13. Bilateral Investment Agreements

Bilateral Taxation Treaties

Partner	Status	Date of signature	Date of entry into force
China	In force	20/10/2005	15/11/2006
Ethiopia	Signed (not in force)	11/06/2009	
France	In force	03/03/1982	23/09/1983
Morocco	Signed (not in force)	05/07/2005	
Portugal	Signed (not in force)	16/01/2009	
Russian Federation	Signed (not in force)	06/06/2011	
South Africa	Signed (not in force)	17/02/2004	
Spain	In force	22/11/2003	22/11/2003
Ukraine	Signed (not in force)	15/12/2005	

Equatorial Guinea and the United States have not signed a Bilateral Investment Agreement, a Free Trade Agreement, or a Bilateral Taxation Treaty.

Other Investment Agreements

Short title	Date of signature	Date of entry into force
Cotonou Agreement EU	23/06/2000	01/04/2003
AU Treaty	03/06/1991	12/05/1994
ECCAS Treaty	18/10/1983	18/12/1984
CEMAC Convention on Liberalization	22/12/1972	22/12/1972
CEMAC Investment	14/12/1965	01/04/1966

### 14. Foreign Trade Zones/Free Ports/Trade Facilitation

Luba Freeport, the Port of Bata, and the K5 Oil Centre have tax free status.



## 15. Foreign Direct Investment and Foreign Portfolio Investment Statistics

Table 2: Key Macroeconomic Data, U.S. FDI in Host Country/Economy

	Host Country Statistical source*		USG or international statistical source		USG or International Source of Data: BEA; IMF; Eurostat; UNCTAD, Other
Economic Data	Year	Amount	Year	Amount	
Host Country Gross Domestic Product (GDP) (\$M USD)	NA	NA	2014	\$15.5b	<a href="http://www.worldbank.org/en/country">www.worldbank.org/en/country</a>
Foreign Direct Investment	Host Country Statistical source*		USG or international statistical source		USG or international Source of data: BEA; IMF; Eurostat; UNCTAD, Other
U.S. FDI in partner country (\$M USD, stock positions)	NA	NA	2014	\$4.2b	BEA data available at <a href="http://bea.gov/international/direct_investment_multinational_companies_comprehensive_data.htm">http://bea.gov/international/direct_investment_multinational_companies_comprehensive_data.htm</a>
Host country's FDI in the United States (\$M USD, stock positions)	NA	NA	2014	\$5m	BEA data available at <a href="http://bea.gov/international/direct_investment_multinational_companies_comprehensive_data.htm">http://bea.gov/international/direct_investment_multinational_companies_comprehensive_data.htm</a>
Total inbound stock of FDI as % host GDP	NA	NA	2014	27.1%	N/A

\*Equatorial Guinea does not produce figures for public consumption in regards to their finances.

Table 3: Sources and Destination of FDI

The majority of FDI in Equatorial Guinea concerns the oil sector, followed by the forestry and fishing sectors. According to the CIA World Fact Book, the following are the leading import countries in Equatorial Guinea (2013).

Import	Export
Spain 18.8%	France 20.1%
China 16.5%	China 15.1%

Import	Export
United States 11.1%	United States 12.6%
France 8.6%	Spain 11.3%
Cameroon 7.1%	Netherlands 8.3%
Italy 6.2%	Belgium 6.4%
Brazil 4.8%	India 5.2%

Table 4: Sources of Portfolio Investment

Data not available.

## Section 5 - Government

### Chiefs of State and Cabinet Members:

For the current list of Chief of State and Cabinet Members, please access the following - [Central Intelligence Agency online directory of Chiefs of State and Cabinet Members of Foreign Governments](#)

### Legal system:

mixed system of civil and customary law

### International organization participation:

ACP, AfDB, AU, BDEAC, CEMAC, CPLP (associate), FAO, FZ, G-77, IBRD, ICAO, ICRM, IDA, IFAD, IFC, IFRC, ILO, IMF, IMO, Interpol, IOC, IPU, ITSO, ITU, MIGA, NAM, OAS (observer), OIF, OPCW, UN, UNCTAD, UNESCO, UNIDO, UNWTO, UPU, WHO, WIPO, WTO (observer)

## Section 6 - Tax

### Exchange control

For further information -

<http://www.guineaecuatorialpress.com/noticia.php?id=982&lang=en>

### Treaty and non-treaty withholding tax rates

For further information -

<http://www.guineaecuatorialpress.com/noticia.php?id=982&lang=en>

## Methodology and Sources

### Section 1 - General Background Report and Map

(Source: [CIA World Factbook](#))

### Section 2 - Anti – Money Laundering / Terrorist Financing

	Lower Risk	Medium Risk	Higher Risk
<a href="#">FATF List of Countries identified with strategic AML deficiencies</a>	Not Listed	AML Deficient but Committed	High Risk
<a href="#">Compliance with FATF 40 + 9 recommendations</a>	>69% Compliant or Fully Compliant	35 – 69% Compliant or Fully Compliant	<35% Compliant or Fully Compliant
<a href="#">US Dept of State Money Laundering assessment (INCSR)</a>	Monitored	Concern	Primary Concern
<a href="#">INCSR - Weakness in Government Legislation</a>	<2	2-4	5-20
<a href="#">US Sec of State supporter of / Safe Haven for International Terrorism</a>	No	Safe Haven for Terrorism	State Supporter of Terrorism
<a href="#">EU White list equivalent jurisdictions</a>	Yes		No
<a href="#">International Sanctions UN Sanctions / US Sanctions / EU Sanctions</a>	None	Arab League / Other	UN , EU or US
<a href="#">Corruption Index (Transparency International) Control of corruption (WGI) Global Advice Network</a>	>69%	35 – 69%	<35%
<a href="#">World government Indicators (Average)</a>	>69%	35 – 69%	<35%
<a href="#">Failed States Index (Average)</a>	>69%	35 – 69%	<35%
<a href="#">Offshore Finance Centre</a>	No		Yes

### **Section 3 - Economy**

General Information on the current economic climate in the country and information on imports, exports, main industries and trading partners.

(Source: [CIA World Factbook](#))

### **Section 4 - Foreign Investment**

Information on the openness of foreign investment into the country and the foreign investment markets.

(Source: [US State Department](#))

### **Section 5 - Government**

Names of Government Ministers and general information on political matters.

(Source: [CIA World Factbook](#) / <https://www.cia.gov/library/publications/world-leaders-1/index.html>)

### **Section 6 - Tax**

Information on Tax Information Exchange Agreements entered into, Double Tax Agreements and Exchange Controls.

(Sources: [OECD Global Forum on Transparency and Exchange of Information for Tax Purposes](#) [PKF International](#))

## **DISCLAIMER**

Part of this report contains material sourced from third party websites. This material could include technical inaccuracies or typographical errors. The materials in this report are provided "as is" and without warranties of any kind either expressed or implied, to the fullest extent permissible pursuant to applicable law. Neither are any warranties or representations made regarding the use of or the result of the use of the material in the report in terms of their correctness, accuracy, reliability, or otherwise. Materials in this report do not constitute financial or other professional advice.

We disclaim any responsibility for the content available on any other site reached by links to or from the website.

## **RESTRICTION OF LIABILITY**

Although full endeavours are made to ensure that the material in this report is correct, no liability will be accepted for any damages or injury caused by, including but not limited to, inaccuracies or typographical errors within the material, Neither will liability be accepted for any damages or injury, including but not limited to, special or consequential damages that result from the use of, or the inability to use, the materials in this report. Total liability to you for all losses, damages, and causes of action (in contract, tort (including without limitation, negligence), or otherwise) will not be greater than the amount you paid for the report.

## **RESTRICTIONS ON USE**

All Country Reports accessed and/or downloaded and/or printed from the website may not be distributed, republished, uploaded, posted, or transmitted in any way outside of your organization, without our prior consent. Restrictions in force by the websites of source information will also apply.

We prohibit caching and the framing of any Content available on the website without prior written consent.

Any questions or queries should be addressed to: -

Gary Youinou

Via our [Contact Page](#) at KnowYourCountry.com