

Excerpts from the U.S. Case against Teodorin Nguema Obiang of Equatorial Guinea

NOVEMBER 2013

The following extracts come from evidentiary materials submitted in May 2013 to the United States District Court for the Central District of California by the U.S. Department of Justice to support its claims for forfeiture of approximately \$32 million of real and personal property owned by Teodorin Nguema Obiang of Equatorial Guinea, arising from allegations that such property derives from the proceeds of extortion, misappropriation, bribery and other criminal conduct.

This briefing paper contains a small selection of portions of interview notes prepared by Department of Justice investigators from meetings with potential witnesses in the asset forfeiture proceedings. For legal procedural reasons, Judge George H. Wu was not permitted to take these and hundreds of pages of other evidence into consideration when reaching his August 20, 2013 ruling dismissing, for lack of “probable cause,” the bulk of the Government’s claims relating to alleged official corruption perpetrated by Teodorin Nguema Obiang in Equatorial Guinea. The dismissal was “without prejudice,” however, and the Government will almost certainly be permitted to re-file new claims, this time including substantial evidence not considered in the August decision.¹

Timber Business

EG timber and construction businessman (and former member of parliament) German Pedro Tomo [told US investigators in June 2012](#) about the so-called “revolutionary tax” instituted by Teodorin when he assumed the office of Forestry Minister:

The initial tax was 10% of the value of the export which subsequently rose to 20%....[T]he taxes were paid to Minister Obiang [Teodorin]...often...by checks or bulk cash in suit cases to an account under the name of Somagui....a company owned by Minister Obiang and the account was held in CCEI bank....Tomo claims that he had personally made payments to this Somagui account and was well aware of how these taxes needed to be paid. Somagui did not have any employees but had an office which was vacant. Minister Obiang required other timber companies in EG to pay him personally in or around 15,000 CFAs (approximately \$27) per log if the company wished to export form EG....Tomo claims that he paid a total of approximately \$700,000.

A French timber executive who worked in EG in 1996 [told a similar story to investigators in November 2011](#):

[I]n EG the only way a company can harvest timber is to have direct contact with Minister Obiang and to pay him a fee of 80,000 euros every one to 2 months....Once the timber was harvested, the company was required to pay a further fee to Obiang for exporting the timber....calculated based upon cubic meters per log....[The executive’s predecessor in EG] had to pay personal fees directly to

¹ Excerpts are quoted as they appear in the original documents, and include occasional typographical and grammatical errors. Informants were not required to have their identities disclosed at this preliminary phase of the proceeding, though any witnesses in an ultimate trial will have to do so. Copies of documents cited in this paper are available at www.egjustice.org.

Minister Obiang...When [the predecessor] refused to pay him any further fees, it was no longer allowed to harvest timber in EG.

Christopher Kernan, was country program director for Conservation International for EG and Gabon, under a contract from US AID, from 2004 to 2009, living in Bata (EG) from 2006 to 2009. Kernan was providing technical support on forest management. [On September 20, 2011, Kernan told DOJ investigators](#) that he had:

[V]isited the forests in the rural area of EG and saw few ministry staff in the field, meaning he saw few government officials in the forest enforcing the laws. This was due to a lack of transportation and resources for these officials. While in the forests, Kernan observed a tremendous amount of waste and abuse by loggers....Kernan looked at a number of timber concessions and saw no indications of ministry oversight and governance....There were as many logging roads as the logging companies wanted to build, and there was no consideration for the impact on deforestation, the environment, and the people of EG. Forestry law was not followed or enforced....Kernan advised EG had significant deforestation issues and observed them through his travel throughout EG. He saw what were once vibrant communities and villages that were boarded up and the people were no longer in the rural area. Urbanization had become the focus of the government. Forests laid in waste from the random methods used to extract the logs....TNO [Teodorin Nguema Obiang] uses funds from concessions of EG's timber resources he awards as his personal money.

Personal Import Dues

An executive (labeled by the DOJ as “Construction Executive C”) who worked closely with EG’s largest construction company, General Works, S.A. (“GW”), described to DOJ investigators in interviews on [November 3, 2011](#), [November 17-18, 2011](#) and [February 29-March 1, 2012](#), how Teodorin was able to privately “tax” not just the export of timber, but imports generally, as well. The executive claimed that:

Minster Obiang also made money from collecting personal import dues from companies importing goods into EG [The executive] knows this because [the executive] was aware that GW was responsible for paying fees personally to Minister Obiang (and his associates) for any and all imports GW brought into EG through the Port of Bata. For example, if GW needed vehicles for their projects, there were two types of fees that had to be paid by GW. The first was an official import tax paid to the general revenue service of the government. The second, however

was a personal fee paid to Minister Obiang. These fees were given by GW to a person...directly working for Minister Obiang....

The Port of Bata, which was under Minister Obiang's personal and direct control, was monitored by an EG soldier [...who] would keep track of shipments entering Bata and...assess what import fees were owed by each company on a monthly basis. Eventually, someone would contact GW and inform them that they owed a certain amount of money for imports/exports. A bearer check would be written and given to Minister Obiang or his associates by GW.

An IMF economist ("IMF Economist A") visited EG in 2007 to review fiscal and economic data from 2006 and 2007, and interview Finance and Treasury Ministry officials. In the course of this work, the economist apparently stumbled onto this second "personal fee." The economist [told DOJ investigators on August 18, 2011](#) that s/he:

Asked government officials why the import tax revenue was so low since Equatorial Guinea had to import practically everything into its country. [The economist] would not get an answer [as to] why [there were] so low amounts of import tax revenue. [The economist] was finally told that the President's son, Teodorin, collected a 30% levy on all imports of the country; therefore, the government collected almost nothing.

Systematized Kickbacks

Construction Executive C claimed that Teodorin used EG's largest construction company, General Works, to extract additional funds, this time from the EG Treasury. The executive told investigators:

Teodorin Obiang created two companies in EG for the forestry business. One company was responsible for the sale of the timber and the other for the logistics relating to the industry (processing plants, transportation, etc.) All related timber business had to go through one of these two companies....

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

These inflated contracts were the principal vehicle through which Minister Obiang stole money from the EG government's treasury.

For instance, [the executive] explained that if the real cost of a construction project was 2 million dollars, Minister Obiang would instruct GW to prepare and submit a project invoice to the EG Government for 10 million dollars so that he (Minister Obiang) could receive a "kick back" of 8 million dollars. Therefore, once GW was paid by the EG treasury for this inflated amount, GW prepared a blank check or bearer check that was deposited into CCEI bank in EG in an account controlled by Minister Obiang or one of his "paper" companies. If GW did not comply with these requests from Minister Obiang, [the executive] claims GW would have been kicked out of the country. At first, Minister Obiang's requests for kickbacks and money was modest. Over time, his demands became more and more outrageous in terms of how much he wanted to steal from the EG government....

[The executive] showed [to US investigators] original check stub banking records that show hundreds of payments to "TEO" [Teodorin] and [REDACTED], who was a middleman for Minister Obiang, by General Works. These check stubs were from General Works' business records....for a period of several years....

Any checks that were written to Minister Obiang himself were written to the bearer and were bearer checks that could be cashed by anyone who was in possession of them. The amounts of these bearer checks were often so large the bearer could not possibly retrieve that amount of cash/currency from the bank...this money had to be transferred to one of Minister Obiang's accounts....[The executive] has...documents to both of Minister Obiang's middle-men which corroborate his/her version of what transpired.

IMF Economist A saw evidence of such illicit payments, and told US investigators that s/he:

[S]aw governmental, budget spreadsheets which contained a hidden column for payments to government officials. In the financial reports submitted by Equatorial Guinea to IMF, these payments were reflected as government spending in some expense category(ies).

Secret Accounts with Government Money

President Obiang has insisted that oil revenues is a “state secret.” Another economist information on the country’s (“EG Fiscal Advisor A”) who was selected by the IMF to serve as a fiscal advisor to EG’s Finance Ministry, spoke to investigators on [October 18, 21 and 26, 2011](#), and [May 2, 2012](#), and explained what this means in practice, noting also that the Forestry Ministry’s accounts were the most opaque of all:

One of the fiscal policies that most troubled [the fiscal advisor] was that the Government of EG maintained multiple public treasury accounts at one time. Specifically, there were 6 general accounts that the treasury were operating under and 3 of the accounts were solely under President Obiang’s personal control. [The Fiscal Advisor] provided the following account numbers 43612, 43614, 43613, 41600, 41660 and 43603. Five of the six accounts were maintained at the BEAC,² the nation’s central bank. Other than the three which were controlled by the President, the other two were controlled by the Treasurer. Most countries only have one state account and have someone from the Treasury or Central Bank as the signatory. The fact that the President served as the sole signatory on three of the five BEAC accounts was remarkable. In addition, one of the President’s BEAC accounts was the oil account, where U.S. oil companies deposited the funds they owed to EG pursuant to PSCs.³ Transactions relating to this oil account were secret and [the fiscal advisor] was not permitted access to records relating to how the funds in this account were spent.

More troubling, was that one of the 6 accounts containing public funds was designated to and controlled by the Minister of Forestry (Minister Obiang) under his own name. This account was not maintained at the BEAC. Instead it was in a private commercial bank. This Forestry Account was controlled solely by Minister Obiang. It contained money collected by the Forestry Ministry. These funds were never provided to the Minister of Finance, nor were they deposited in the public treasury’s five accounts maintained at the BEAC. Like the oil account, [the fiscal advisor] was never allowed to access or review the banking records in this account. Additionally, [the fiscal advisor] claimed that all the revenue from EG’s timber and logging exports were deposited into the Minister of Forestry account....The Minister of Forestry

² Banque des Etats d’Afrique Centrale (<https://www.beac.int/>), the Bank of Central African States, which acts as the central bank for Cameroon, Central African Republic, the Republic of Congo, Gabon, Equatorial Guinea, and Chad.

³ Oil concession Profit Sharing Contracts.

controls all of EG's exports of timber and logging and there is no oversight whatsoever over this industry....

When [the fiscal advisor] detected a discrepancy in the Minister of Forestry's account, [REDACTED] attempted to interview Minister Obiang, but was told by the Minister of Finance that [REDACTED] was prohibited from interviewing Minister Obiang and that the information would be requested from the Minister of Forestry. Although [the fiscal advisor] made several formal requests to the Minister of Finance and Treasury about [the fiscal advisor's] concerns, [the fiscal advisor] was never provided the information [s/he] was seeking.

Intimidation

The EG timber and construction businessman German Pedro Tomo told investigators that:

As a result of [the “revolutionary tax” on timber exports] imposed...by Minister Obiang, TOMO decided to speak to President Obiang about the imposition of these taxes. Minister Obiang [Teodorin] was extremely upset that TOMO chose to inform his father. TOMO claims that he left EG because he feared for his personal safety in 2003.

The French timber executive recalled to investigators that:

The day after [the executive] submitted [a visa renewal] application, [the executive] was arrested for the second time and spent a day in jail. After being released [he] returned back to where he was living. Five days later, [he] was approached by [REDACTED] who told [him] that if [he] does not leave EG now, [the executive's] daughters will become orphans. [The executive] claims that [he] never met Minister Obiang, but did run into Minister Obiang at a nightclub in EG in 1996. [The executive] insist[s] that [he] was of the belief that Minister Obiang was drunk and high on drugs and confronted [him/] and stated “you are the new person for [REDACTED], you are going to suffer here.” [The executive] claims that the reasons [he] was being threatened was because Minister Obiang was not receiving the money which Minister Obiang was demanding. Therefore, by having [the executive] leave the country, Minister Obiang would be able to misappropriate all of the equipment of the companies [REDACTED] who had chosen not to pay Minister Obiang

Construction Executive C, who worked closely with General Works S.A., told investigators about an incident involving:

[T]he bank director of CCEI who oversaw Minister Obiang's money. One day, Obiang called the bank director and ordered the bank director to transfer a large sum of money to an account in Obiang's name or control. But Minister Obiang did not have sufficient funds in his accounts to perform the transaction. The bank director was so fearful that he went to General Works' offices and told [the Executive] what had transpired. As a result of this, the bank director spent the night there in fear for his life. The next day, [the Executive] transferred money from General Works into Minister Obiang's account so that the money could be transferred, as instructed by Minister Obiang. [The executive] claims that he/she has copies of the wire transfers to corroborate this claim.

EG Fiscal Advisor A, one of the IMF advisors to the Finance Ministry, ran into indications of this side of Teodorin's image as well.

The present Treasurer of EG is a person by the name of Milogrosa Obono. [The fiscal advisor] claims she knows "everything" about the finances of EG and more importantly she has direct knowledge of the accounts held by the Minister of Forestry....[The fiscal advisor] described her as an extremely talented woman who is educated and maintains accurate financial records. [The fiscal advisor] claims [s/he] attempted to speak to OBONO about the Forestry accounts and [she] was extremely reluctant to discuss these accounts with [the fiscal advisor] as she feared for her safety should she disclose contents of the accounts.

In September 2011, "EG Accountant A," an accountant and lawyer who headed the Malabo, EG office of a "Big Four" accounting firm between 2004 and 2007, told investigators about an **"accountant for a client in Bata, a Toyota retailer, [who] had a gun held to his head by TNO....[though the source] could not recall why this occurred."**

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