Executive Summary

Equatorial Guinea (EG) is endowed with abundant oil and gas resources, accounting for over $12 billion in U.S. investment. The general investment climate in EG, however is undermined by corruption and a burdensome, inefficient bureaucracy. International watchdog organizations consistently 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 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 around 750,000, 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. EG is nearing completion of the first phase of the Horizon 2020 development plan, which emphasized infrastructure construction. Now EG has 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 been implemented. Recent commercial disputes have involved delayed or non-payment of firms by the GREG.

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.

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. 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 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 businessmen must understand the risks inherent in such an economy.

1. Openness To, and Restrictions Upon, Foreign Investment

The Government of the Republic of Equatorial Guinea is actively soliciting foreign investment. In February 2014, the government hosted an economic diversification symposium targeted at attracting foreign investment in key sectors to help the country diversify from the hydrocarbons sector, on which the economy currently relies: **agribusiness; fishing**; **energy and mining; chemicals, petrochemicals, plastics & composites; travel/tourism**; and **finance**. During the symposium, the government announced plans to make it easier to invest in Equatorial Guinea (EG) by establishing a "one-stop-shop" for investors and simplifying the process to register a business. To date, no changes have been seen in these areas.

Laws/Regulations of FDI

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 not reliable or consistent. The judicial branch is heavily influenced by the executive branch, as the President is also the Chief Magistrate of the Republic.

Limits on Foreign Control

Decree 127/2004 stipulates that shareholder capital firms and companies operating in the petroleum sector must have Equatoguinean shareholders (percentage not specified). 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.

Screening of FDI

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

Equatorial Guinea does not have a single agency that serves as a hub for foreign investors. Investors must 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 Guinea Embassy in the United States for guidance and connection to the appropriate ministry.

Investment Trends

Recent contracts in the hydrocarbons sector generally include less favorable terms than contracts negotiated in past years.

Clearing imported goods and supplies can be a slow and onerous process due to bureaucratic requirements.

TABLE 1: The following chart summarizes several well-regarded indices and rankings.

Measure	**Year**	**Rank or value**	**Website Address**
TI Corruption Perceptions index	2013	163 of 177	http://cpi.transparency.org/cpi2013/results/
Heritage Foundation's Economic Freedom index	2013	168 of 177	http://www.heritage.org/index/ranking
World Bank's Doing Business Report "Ease of Doing Business"	2013	166 of 189	http//doingbusiness.org/rankings
World Bank GNI per capita	2012	$13,560	http://data.worldbank.org/indicator/NY.GNP.PCAP.CD

2. Conversion and Transfer Policies

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 zone, but can be relatively easily obtained in country. Equatorial Guinea is an almost entirely cash economy, though credit cards are slowly growing in usage.

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 have a record of nationalization or expropriation of foreign investments. The government does have an extensive record of expropriating locally-owned property, frequently offering little or no compensation.

4. Dispute Settlement

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.

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.

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.

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.

The government does not always comply with international agreements which it has signed or international legal decisions.

5. Performance Requirements and 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, 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.

On different occasions the government has suggested 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 a draft 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, frequently expiring before the new permit can be issued.

6. Right to Private Ownership and Establishment

See "*Limits on Foreign Control*" in section 1.

7. Protection of Property Rights

Foreign investors are not permitted to own land or property, but can lease it from the government or others. Property rights are generally recognized and enforced, although a substantial portion of the population does not have formal title to their land. More information about the process of registering property can be found in the World Bank's Doing Business Report: http://www.doingbusiness.org/data/exploreeconomies/equatorial-guinea/

Legal structures are weak and enforcement of intellectual property rights is rare. For additional information about treaty obligations and points of contact at local IP offices, please see WIPO's country profiles at http://www.wipo.int/directory/en/.

Embassy point of contact: Matthew Hergott HergottMR@state.gov until January 2015. Then Julie Beberman: BebermanJA@state.gov

Local lawyers list: http://malabo.usembassy.gov/service/list-of-lawyers.html

8. 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 the proper 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.

9. Efficient Capital Markets and Portfolio Investment

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

10. Competition from State-Owned Enterprises

There are currently a few state-owned enterprises in the **energy & mining** and **information & communication** sectors. The state-owned oil company, GEPetrol, has preferential right of joint ownership in the oil sector.

11. Corporate Social Responsibility

Many U.S. firms operating in Equatorial Guinea have well-developed corporate social responsibility (CSR) programs. The government has expressed appreciation for these efforts and recognized the positive role of U.S. firms. There are no CSR requirements to operate in Equatorial Guinea, and most firms from other countries do not have substantial 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.

There are no independent NGOs operating in the country that promote or monitor CSR.

12. Political Violence

There have not been recent instances of political violence. President Obiang has been in power since 1979; as such, Equatorial Guinea does not have an established track record of transfer of power. The next presidential elections are expected to take place in 2016.

13. Corruption

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.

14. Bilateral Investment Agreements

Equatorial Guinea has signed Bilateral Investment Agreements with France, Spain, Morocco, and Ethiopia.

15. OPIC and Other Investment Insurance Programs

There are no OPIC programs in Equatorial Guinea.

16. Labor

Local labor is available. The local supply of skilled labor is limited. Professional-level English is not common. Youth unemployment is widespread.

Compared to the United States, labor laws in EG are generally very favorable toward the employee. Aside from a union of small farmers, the government does not recognize any labor unions.

Local government enforcement of labor laws is mostly focused on preventing companies from employing undocumented immigrants.

17. Foreign Trade Zones/Free Ports

None.

18. Foreign Direct Investment and Foreign Portfolio Investment Statistics

TABLE 2: Key Macroeconomic data, U.S. FDI in Equatorial Guinea

Gross Domestic Product	Year	Amount	Source
Gross Domestic Product (GDP) (*Millions U.S. Dollars)*	2012	17,700	World Bank http://data.worldbank.org/country/equatorial-guinea
GDP Growth	2007	21%	World Bank http://data.worldbank.org/country/equatorial-guinea
GDP Growth	2008	-3%	World Bank
GDP Growth	2009	1%	World Bank
GDP Growth	2010	-2%	World Bank
GDP Growth	2011	5%	World Bank
GDP Growth	2012	2%	World Bank
Foreign Direct Investment	Year	Amount	Source
U.S. FDI in Equatorial Guinea (*Millions U.S. Dollars, stock positions)*	2012	2,288	Bureau of Economic Analysis (BEA), U.S. Direct Investment Position Abroad on a Historical-Cost Basis
Host country's FDI in the United States (*Millions U.S. Dollars, stock positions)*	2012	-3	Bureau of Economic Analysis (BEA), Foreign Direct Investment Position in the United States on a Historical-Cost Basis
Total inbound stock of FDI as % host GDP	2012	12.9%	Calculated using BEA and World Bank data.

19. Point of Contact For Public Inquiries

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