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U.S. SANCTIONS POLICY IN SUB-SAHARAN AFRICA

HEARING

BEFORE THE

SUBCOMMITTEE ON AFRICA AND GLOBAL HEALTH POLICY

OF THE

COMMITTEE ON FOREIGN RELATIONS UNITED STATES SENATE

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WEDNESDAY, JUNE 8, 2016

U.S. SENATE,
SUBCOMMITTEE ON AFRICA
AND GLOBAL HEALTH POLICY,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC.

The subcommittee met, pursuant to notice, at 2:15 p.m., in Room SD–419, Dirksen Senate Office Building, Hon. Jeff Flake, chairman of the subcommittee, presiding.

Present: Senators Flake [presiding], Markey, and Coons.

OPENING STATEMENT OF HON. JEFF FLAKE, U.S. SENATOR FROM ARIZONA

Senator FLAKE. This hearing of the Senate Foreign Relations Subcommittee on Africa and Global Health will come to order.

Today, the subcommittee will hear testimony regarding U.S. sanctions policy in Africa. Sanctions can either lead to successful outcomes or exacerbate the very issues they seek to remedy and reflect poorly on those seeking to advance them. As with most things, the devil is in the details.

In my experience, unilateral economic sanctions by themselves rarely, if ever, achieve their intended goal. And I have been long suspect of unilateral economic sanctions. I have witnessed firsthand how nontargeted economic sanctions can apply pressure to those who have no direct link to the levers of power in a country. Now, looking beyond the issue of multilateral versus unilateral economic sanctions, there are other factors in play in determining whether or not targeted individual sanctions on a country are warranted and are likely to be an effective tool. But, right now, the United States has targeted individual sanctions in place for nine sub-Saharan countries: Burundi, Central African Republic, Cote d'Ivoire, Democratic Republic of the Congo, Eritrea, Somalia, Sudan, South Sudan, and Zimbabwe. I should say that these are targeted individual sanctions on individuals in those countries. We also have arms export restrictions in place against most of these countries, and enforcement of both these and financial sanctions can obviously be a challenge for these African countries.

Today, we aim to step back and explore the effectiveness of some of these efforts. We will examine the recent track record of sanctions in Africa, when they have proven to be a useful tool in achieving our policy objectives, and under what circumstances they are falling flat or causing unintended consequences. We will look at the

relationship between sanctions undertaken solely by the United States versus those taken in concert with the international community. Finally, I hope we will get a better understanding from today's discussion of whether we are overusing or underusing sanctions, or the threat of sanctions, in Africa.

We often hear elected officials advocate for the use of sanctions as a foreign policy tool. I am rarely among those pushing for sanctions. But, as those calls arise, we will all benefit from hearing from our witnesses to hear what they have to say about sanctions in Africa. This hearing is especially timely, considering the calls for sanctions on the DRC that have been forthcoming from Congress and elsewhere in previous weeks.

I look forward to hearing the witnesses today. I have met with a number of you already and look forward to hearing your verbal testimony.

And, with that, I will turn it over to Senator Markey.

STATEMENT OF HON. EDWARD J. MARKEY,
U.S. SENATOR FROM MASSACHUSETTS

Senator MARKEY. Thank you, Mr. Chairman, very much. And thank you for having such an important hearing.

Last year, you and I and Senator Coons had the tremendous pleasure of accompanying President Obama on his historic trip to Kenya and Ethiopia. On that trip, we attended a large public event at the African Union in Addis Ababa. Throughout the front of that massive auditorium sat many of Africa's heads of state. And the President delivered a speech about the responsibility those leaders have to build and respect democracy in Africa. He reinforced the message he had delivered on his first trip to the continent as President, years earlier, that, and I quote, "Africa does not need strong men, it needs strong institutions." As the President spoke, he looked at those leaders and told them that, as much as he would like to continue in office as President of the United States, the Constitution of the United States, like many constitutions in Africa and around the world, limits him to two terms. He told them that not even he, as President, is above the law. He explained that even the President must respect the rules of the game, because governance is fundamentally about trust, promises made and promises kept between elected leaders and the people who elected them. Changing or ignoring those rules risks breaking that trust and sending a society towards turmoil and instability.

Many of the leaders in the front rows sat stone-faced and silent, not accustomed to such straight talk. If they had been the only ones in the room, the silence would have been stunning. But, they were not the only ones in the room. You, Mr. Chairman, Senator Coons, and I, we saw that packed in all the way to the ceiling were ordinary people from around the African continent. After they heard President Obama's words, they cheered so loudly that it shook the building. The people of Africa are the heirs of hundreds of years of exploitation and violence, first by colonial powers, and all too often by their own leaders, since Africa was decolonized. They are people who have been fighting hard against repression and corruption, and are now working to build democracies through-

out the continent. They are counting the promises made about freedom and prosperity.

Two weeks ago, I introduced a resolution calling for targeted sanctions in the Democratic Republic of Congo, where President Joseph Kabila has been using every tactic at his disposal to manipulate institutions, suppress political opposition, and delay elections to try to remain in power beyond the end of his mandate, a mandate set by DRC's people in their own Constitution. For many months, President Obama, Secretary Kerry, Assistant Secretary Thomas Greenfield, Special Envoy Tom Perriello, and Ambassador James Swann have engaged in a determined diplomatic effort to persuade President Kabila to commit to stepping aside at the end of this term, as specifically required in the Congo Constitution. But, now, with just 5 months left until elections are supposed to happen, it has become clear that our diplomats need additional tools to communicate how seriously the United States views the actions of President Kabila and his government, and to demonstrate our commitment to the Congolese people.

Some may ask, Why is this important? Well, you only have to look next door and to the wider region to see why it is so important. Next door, in Burundi, President Nkurunziza's unconstitutional election to a third term last year sparked violence that has cost the lives of hundreds, displaced thousands, and threatens to reignite ethnic tensions. And it does not stop there. This weekend, I read a report about Kenya's new mood, describing massive protests that have already erupted in anticipation of elections there next year. Amid concerns that President Kenyatta has manipulated the electoral commission in his favor, Kenyan security forces have once again cracked down on protesters and attempted to ban protests. And, in direct violation of multiple court rulings and its country's constitution, multiple protesters have already been killed, stoking a very legitimate fear that 2017 could see a repeat of the horrific violence surrounding the elections of 2007.

So, sanctions in DRC are not only about DRC. President Kenyatta will be watching our approach to DRC to see just how much he can get away with. For the sake of the people of Burundi, DRC, Kenya, and others in the region, I think we have to make absolutely clear that the United States stands with the people and democracy, and will not tolerate leaders who use force or manipulation to hold on to power or break their most fundamental promises to their own people.

Those sanctions, I believe, should be targeted at those officials in the Government of DRC who are responsible for violence and human rights violations and undermining the democratic processes or institutions. I believe such targeted sanctions, sanctions specifically designed to avoid negatively impacting ordinary Congolese, would make a significant impact on Kabila's calculations, going forward, as he comes to realize that his actions will have consequences.

Beyond influencing Kabila's decisions, though, sanctions are about making a statement about America's commitment to the Congolese people. Sanctions are about making clear to the Congolese people that we will not help entrench strong men, but will always lend a helping hand to people working to build strong institu-

tions and prosperous societies. Sanctions in cases like these are an important way in which the U.S. communicates to the people in the balcony—Congolese, Burundians, Sudanese, Kenyans, and others—that promises made must be kept, that we will not help strong men break promises to their people.

I want to thank each and every one of our distinguished guests for being here today. And I really want to thank you, Mr. Chairman, for having this very important hearing.

Senator FLAKE. Well, thank you, Senator Markey.

Senator Coons, do you have anything to say before we start?

Senator COONS. I will simply say my thanks to you and to the ranking member.

As someone who also attended that same event, it was a memorable event, and I very much look forward to hearing from the members of the panel and to engaging in a debate. There is relatively little time left for Congress to act in a way that would send a clear and strong signal about our intentions and our concerns about the DRC and future elections in other countries. And it is my hope that, working together, we will find a way, following this hearing, to do that in a concerted, constructive way.

Thank you.

Senator FLAKE. Thank you, Senator Coons.

All of us could not be more pleased with the panel that we have put together for today's hearing. We wanted to get a range of opinion, and we certainly have that, and if you read through the testimony and listen to what you will say, people will realize what a breadth of experience we have here today.

We will try to keep it—we have votes coming up at some point this afternoon. We have a nominations hearing right following this, so we will have to keep pretty close on time, so we will ask you to please limit your remarks to 5 minutes, and then we will have plenty of time for questions. I will introduce all four of you, here, and then quickly go.

Ambassador Princeton Lyman, Senior Advisor to the President of the U.S. Institute for Peace. He has previously served in numerous U.S.—or official U.S. capacities, including Special Envoy for Sudan and South Sudan and as Ambassador to Nigeria and South Africa.

The Honorable Sue Eckert, Senior Fellow at Brown University's Watson Center for International and Public Affairs, where she directs the projects on targeted sanctions and terrorist financing. She also previously served as Assistant Secretary of Commerce of—for Export Administration.

Dr. Todd Moss is the Chief Operating Officer and Senior Fellow at the Center for Global Development. He previously served as Deputy Assistant Secretary of State for African Affairs, in 2007 to 2008, and is an expert on U.S./Africa relations, finance, and development policy.

Mr. Brad Brooks-Rubin is the Director of Policy at the Enough Project. He was previously the Special Advisor for Conflict Diamonds at the Department of State and Attorney Advisor in the Treasury Department's Office of Chief Counsel, Foreign Assets Control, where he advised on sanctions related to Sudan, Liberia, DRC, and counterterrorism.

Thank you for being here. Look forward to the testimony.

Ambassador Lyman.

STATEMENT OF HON. PRINCETON N. LYMAN, SENIOR ADVISOR TO THE PRESIDENT, UNITED STATES INSTITUTE OF PEACE, WASHINGTON, D.C.

Ambassador LYMAN. Thank you very much, Mr. Chairman, Ranking Member Senator Markey, Senator Coons. Thank you very much for this opportunity.

And I will be expressing views of my own, not those, necessarily, of the U.S. Institute of Peace.

Let me concentrate on three points relative to the issues that you have raised.

First of all, sanctions are a tool, they are not a policy. And they do not work very well if they are not part, not only of a policy and policy objectives, but are for a broader strategy to achieve them. We have cases where sanctions have been very important—in Liberia, in Sierra Leone, in Cote d'Ivoire—but we have to remember that that was associated or complemented by the activities of peacekeepers, a broad regional strategy, and other steps to bring about an end to the situations on which those were targeted.

In the DRC, we have a very, very important situation, a very delicate one, and a very dangerous one. And I think the issue of extending terms is not a question of whether countries are entitled to have more than one term, but, when terms are extended in ways that are repressive and threaten the stability and the peace of the country, they become an issue of peace and security.

What I am afraid of, in the case of the DRC, is that we do not have yet the unified international position to pressure and get this objective achieved. We have agreement with the European Union on the objective, but not necessarily the strategy. And the African Union is, at best, divided on this question. They stumbled over this same problem in Burundi, and they have not come down strongly on the question of the President Kabila stepping aside when his term is over in the DRC. And that is unfortunate, because you need a combination of pressures, but you need also the weight of African opinion, of senior leaders, and of neighboring countries. And I think it is important to put that strategy together and make it more effective in the months ahead.

In the meanwhile, I would say that the threat of sanctions is very important, but I am not sure—and I defer to people following this more closely—that exercising them unilaterally without agreement with our partners may not be the most effective way to go forward.

The second point that I would make is—and Senator Flake alluded to this—is that unilateral sanctions are less effective if they are strictly unilateral. If you do not have worldwide support or broad international support, it is very easy to be—to evade them or to have other countries undercut them. But, when you have worldwide support, when you have put together a coalition around them, then not only do you have more enforcement, but you can draw on the relative skills of different entities.

We are very good at financial and economic sanctions. We have a lot of talent and a lot of skill in those. The EU has a lot of leverage with their very complex aid and trade relationships with Afri-

ca, and they—and suspension of those benefits is a very powerful instrument. The Africa Union brings important political weight to bear. And, of course, they are major participants in any peacekeeping operation. So, when you have that kind of broad international structure around the use of sanctions, they are far more effective.

The third point I would make—and it is perhaps the most controversial—is that sanctions have to—sanctions are good if they are aimed at achievable very specific objectives, but it is harder to use sanctions to get real, deep political transformation in countries and a change in the way countries operate, because all rulers who are ruling autocratically see that as political suicide, and they will resist the pressures, they will go around the sanctions, they will let their countries pay a tough price. Targeted sanctions, moreover, go at individuals, they do not go at regimes, in general.

So, the question is, How do you deal with countries like Sudan, like Zimbabwe and others, in which fundamental transformation is necessary to get both a better—to end the conflicts, but also to end the human rights violations? And I think it has to be a combination of a long-term strategy of engagement, perhaps sanctions layered, but linked to individual steps, and building the strong democratic capacities within the country. Because, without those, even a change in regime does not necessarily produce the peace and democracy you want.

Let me just finish with an incident I experienced when I was Ambassador to South Africa. Nelson Mandela was President. And, at that time, Nigeria was ruled by Sani Abacha, a very cruel and rapacious leader. So, a group of Nigerian activists came to see Nelson Mandela, and they said, "We need your help. We want your support for international oil sanctions on Nigeria. You know how sanctions helped you in South Africa, and we need them now." And President Mandela's response caught him off guard. He said, "Yes, sanctions were helpful, but sanctions are not enough if you do not have a strong indigenous democratic movement in your country. Otherwise, you will not get the outcome you want." I think that is an important lesson for us as we look at how we get these longer-term changes that we need in some of these countries.

Thank you. And I am happy to answer any questions subsequently.

[Ambassador Lyman's prepared statement can be found in the Additional Material Submitted for the Record section of this transcript.]

Senator FLAKE. Thank you.

Ms. Eckert.

STATEMENT OF HON. SUE E. ECKERT, SENIOR FELLOW, WATSON INSTITUTE FOR INTERNATIONAL AND PUBLIC AFFAIRS, BROWN UNIVERSITY, PROVIDENCE, RHODE ISLAND

Ms. ECKERT. Chairman Flake, Senator Markey, and Senator Coons, thank you very much for the opportunity to appear before you today to discuss the effectiveness of targeted sanctions in Africa.

Due to time constraints and the rich expertise of my fellow witnesses, I am going to limit my remarks to focusing on U.N. sanctions and the role U.N. sanctions play. This is largely based on a new database, both a quantitative and qualitative database, looking at the impact and effectiveness of U.N. sanctions since they were first imposed in 1990.

Under Chapter VII of the U.N. Charter, the Security Council imposes sanctions to maintain or restore international peace and security. And, in general, there are six categories of threats that they are most often used for. This is armed conflict, in terms of—including support for peace negotiations and peace enforcement, terrorism, weapons of mass destruction, proliferation, unconstitutional changes of government, governance of resources—natural resources—and protection of civilians under R-to-P.

The purpose of these sanctions, contrary to popular perception, is not just to coerce a change of behavior, but also to constrain access to prescribed activities or finance, and also to signal support for an international norm or stigmatize the targets. These purposes are not mutually exclusively, and most often are done simultaneously. All U.N. sanctions entail stigmatizing in some manner.

You have already laid out the sanctions. There are currently—U.N. sanctions—13, of which 8 are country-based regimes in Africa. That is Somalia, Eritrea, the DRC, Sudan, Libya, Guinea Bissau, Central African Republic, Yemen, and South Sudan. While more than 60 percent of U.N. sanctions—8 out of 13—focus on armed conflict and peacebuilding, sanctions focused on the threat of terrorism—for example, al Qaeda, ISIL, the Taliban—and the threat of proliferation—North Korea and, previously, Iran—receive a disproportionate share of the Security Council's attention and resources.

Just to highlight some research points, U.N. sanctions are the majority of the Africa sanctions, but most often, particularly in the early days, they were imposed in a less-than-coherent way, and sanctions, as the Ambassador said, substituted for policy. The use of sanctions to demonstrate resolve without integrating them into an overall strategy is largely ineffective. And, for this reason, it is very important that sanctions objectives be clearly articulated at the outset.

The second thing I would just like to say is that, from the research, secondary sanctions, we found, have proven—and this was in cases of Africa—the—against Liberia, in support for the RUF, in Sierra Leone, and against Eritrea for its arms exports to Somalia—have been highly effective, yet it is not something that is very frequently discussed nor used.

Characteristics of effective sanctions, again, as the Ambassador pointed out, relationship to other policy instruments. Sanctions do not exist in isolation and are always used with other instruments, most often diplomacy, at times peacekeeping forces on the ground—62 percent of the cases. Sanctions need, and must be part of, a broader coordinated strategy.

With regard to objectives in types of sanctions, U.N. targeted sanctions are effective more than 20 percent of the time, and—but are nearly three times more effective in constraining and coercing than—constraining—excuse me—or signaling than they are in co-

ercing. This is very important, because it gets to the point of what the objective of the sanctions are and having realistic expectations of these measures to be able to be effective.

Arms embargoes are the most frequently imposed sanctions, especially in African conflicts, in 89 percent of the episodes, but are least effective when applied in isolation. Travel bans are the next most utilized, 69 percent of cases. Asset freezes, 66. Travel bans combined, 73.

One interesting fact is, in 40 percent of the cases of armed conflict, commodity sanctions—those are sanctions on diamonds, such as in Liberia, Sierra Leone, and gold, at Cote d'Ivoire, oil, charcoal in Somalia, or timber in Liberia—when appropriately—have been highly effective for purposes of constraint and signaling.

I am going to talk one moment just about the unintended consequence of sanctions, because I think that this is important. We found, in the data and the research that we have done, that corruption, criminality, strengthening of authoritative rule, and decline of legitimacy of the Security Council have occurred. But, there are additional consequences, which, until recently, have not been focused on, and this is as a result of policies and sanctions intended to counter the financing of terrorism and anti-money-laundering. And this is the de-risking—the de-risking issue that some of you have written to the executive branch about, the inability of remitters or money service businesses and charities to access financial services. And these problems have been particularly acute in African countries, such as Somalia, Sudan, and Angola, where humanitarian assistance is great—is in greatest need.

With regard to challenges to effective sanctions, very quickly, right now there is, you know, insufficient political will within the Security Council, especially regarding China and Russia.

Two, weak implementation and capacity. And this is the most important issue, I would say, that we need to focus on.

And that is, countries lack basic legal authority and executive bodies to translate U.N. sanctions into domestic law. And, in very many cases, the failure to implement sanctions boils down to a lack of capacity.

Ineffective and inadequate monitoring and enforcement, mechanisms that we need to enhance in the context of the U.N.

And misperceptions and lack of understanding about what sanctions are intended to do.

With regard to recommendations, very quickly. One is to improve member states and regional capacity. This is using those people on the ground—the AU, ECOWAS, SADC, et cetera—to focus on sanctions. And this also gets to greater leadership and focus for conflict-related sanctions vis-a-vis nonproliferation and terrorism goals. It is just not there at this point, both in terms of the U.S. Government and even within the context of the U.N.

The second is to enhance sanctions monitoring and enforcement. The—if there are violations, noncompliance, there has to be some kind of response or else sanctions will lack credibility.

The third is to strengthen cooperation with regional groups and civil society.

The fourth is to develop better analysis and understanding of sanctions and to focus on new tools, new ways that we can exercise the tool to be more effective.

Finally, that U.N. sanctions have made an important contribution to achieving U.S. policy objectives in Africa, but to a limited degree and with some important unintended consequences. It is a mixed record of effectiveness, but, frankly, there are so few tools, between words and war, that they will continue to be used. And we do have to be aware, I think, as Secretary Lew has pointed out most recently, of the tendency to use them automatically or without thought as part of a broader strategy, which can lead to overuse.

Mr. Chairman, thank you for the opportunity to testify on the effectiveness of African sanctions.

[Ms. Eckert's prepared statement can be found in the Additional Material Submitted for the Record section of this transcript.]

Senator FLAKE. Thank you.

Dr. Moss.

STATEMENT OF TODD MOSS, CHIEF OPERATING OFFICER AND SENIOR FELLOW, CENTER FOR GLOBAL DEVELOPMENT, WASHINGTON, D.C.

Dr. MOSS. Thank you, Chairman Flake, Ranking Member Markey.

I have three points today about the utility of targeted bilateral U.S. sanctions, and I will conclude by highlighting how each applies to the troubled case of Zimbabwe.

My first point is that U.S. bilateral sanctions are a visible and potent signal from the world's most powerful nation. If you steal elections, you do not get to send your kids to school in Boston. If you rob public coffers, you do not get to invest in California real estate. If you mistreat your own people, you do not get to seek medical care in Houston hospitals. Sanctions against the most oppressive, violent, and kleptocratic regimes could even be used more frequently. For example, I believe it is past time for the U.S. to take a hard look at sanctions against political leaders in The Gambia.

Second point is that well-crafted and aggressively executed targeted sanctions can have a significant impact on influencing the decisions and policies of regimes and bad actors. Both financial sanctions implemented by the Treasury Department and travel sanctions imposed by the State Department can have traceable effects when policymakers have very clear and concrete objectives in mind, and especially when the intelligence community is given the time and means to find financial levers and vulnerabilities.

Third, regime change is the wrong metric for success. No one claims, nor should anyone expect, that targeted bilateral sanctions on their own will bring down a regime. Sanctions complement, rather than replace, our other diplomatic, economic, and military tools.

So, how do each of these points apply toward U.S. policy in Zimbabwe? The current legislation, known as ZDERA, includes a call for travel and economic sanctions against individuals, specific

individuals who are believed to be responsible for violence and the breakdown of the rule of law in that country.

Point one. U.S. sanctions have been a very powerful and visible bipartisan signal of U.S. policy of standing firm on democracy. ZDERA was cosponsored by Senators from across the political spectrum—Bill Frist, Jesse Helms, Russ Feingold, Joe Biden, and Hillary Clinton. The executive branch sanctions advocated by ZDERA were not directed at the country as a whole, but aimed at specific individuals. Unfortunately, as of 2016, none of the key ZDERA conditions have been met, either in letter or in spirit. Those are restoring the rule of law, holding free and fair elections, and depoliticizing the security forces.

Point two. The lack of Zimbabwe's progress to date is not an indicator that sanctions, per se, have failed. Zimbabwe's decline continues primarily because of an entrenched highly abusive regime combined with very unhelpful regional dynamics. The European Union's weak and deeply misguided move last year to lift most sanctions on Zimbabwe is not a path the United States should follow.

Before we change course, we must ask whether the removal of U.S. sanctions will advance U.S. policy goals or will the removal play into the hands of the regime. In my view, lifting sanctions at this time will merely strengthen Robert Mugabe and the cabal around him by providing a major propaganda victory. The regime will claim that it has vanquished its imperialist oppressors and it now has formal American endorsement.

Point three. Sanctions against Zimbabwe would be much more effective if they were embedded in a broader strategy that included other tools of U.S. power and influence. The United States has generally disengaged from Zimbabwe in recent years, leaving our policy little more than sanctions plus humanitarian assistance. Rather than throwing up our hands or acquiescing in the face of difficulties, we must engage with allies to support democratic forces in the country, rather than abandon them. The sanctions list, itself, could be used more creatively to encourage positive behavior and increase U.S. influence in a post-Mugabe transition. In fact, the U.S. Government should be preparing specific targets and options for further ratcheting up pressure, which could be deployed, as necessary. This absolutely must include the United States continuing to collect information on certain politicians who, one day, should face charges of embezzlement and war crimes.

Finally, one additional related point. Zimbabwe is today taking steps to try to borrow again from the international financial institutions. As the recent letter from Chairman Corker to Treasury Secretary Lew makes clear, it is premature for the United States to support any new lending to the Government of Zimbabwe. Preconditions must include meaningful reforms rather than simple technical targets.

Before asking for more funding from the international community, Zimbabwe must also account for the billions of dollars in missing diamond revenue. Most of all, the United States should insist that Zimbabwe's government acknowledge and take responsibility for gross human rights violations committed by state agents, such as the Matabeleland massacres and, just 15 months ago, the

abduction and probable murder of human rights activist Itai Dzamara. Until the Government of Zimbabwe has met the ZDERA conditions, it is not yet time for the U.S. to abandon its targeted sanctions. More broadly across Africa, sanctions will continue to be both a practical and symbolic tool for U.S. policymakers, provided they are carefully targeted, deployed among other policy tools, and not expected to serve as a substitute for other actions.

Thank you.

[Mr. Moss's prepared statement can be found in the Additional Material Submitted for the Record section of this transcript.]

Senator FLAKE. Thank you.

Mr. Brooks-Rubin.

STATEMENT OF BRAD BROOKS–RUBIN, DIRECTOR OF POLICY, ENOUGH PROJECT, WASHINGTON, D.C.

Mr. BROOKS-RUBIN. Chairman Flake, Ranking Member Markey, Senator Coons, I am grateful for the opportunity to testify on this critical yet often misunderstood element of U.S. foreign policy. And my statement, I think, will build on many of the points my colleagues on the panel have made.

When once asked his opinion of Western civilization, Mahatma Ghandi reportedly responded, "I think it would be a good idea." Men, women, and children across sub-Saharan Africa pay a price every day for the unchecked violence and resource theft committed by leaders who do not believe they will face real consequences for their actions. Sanctions have become the nonmilitary tool of choice of the U.S. Government to try to deliver just those consequences across the globe. But, based on my experience as a Treasury attorney advising the Office of Foreign Assets Control, a State Department officer focused on natural resources and conflict, a compliance advisor in the private sector, and now at Enough, I see that sanctions in sub-Saharan Africa have generally failed to achieve desired impacts.

As of today, at least with respect to addressing conflicts and violent kleptocracy across the continent, the problem with sanctions and financial pressure is not that they are ineffective, per se, but that they are not utilized as effectively as possible in supporting U.S. efforts to promote peace and human rights.

We are experiencing the cost of this in real time as our influence wanes in countries like South Sudan and the DRC, where conflicts now impact the region and the globe as a result of migration, this despite spending billions of taxpayer dollars in recent years to support humanitarian and peacekeeping efforts. Our failure to use financial pressures properly to develop meaningful leverage that imposes real costs helps, in part, to explain this waning influence.

So, when asked my view of U.S. sanctions policy in sub-Saharan Africa in 2016, I would respectfully invoke Gandhi and say that it would be a good idea.

Sanctions can and do have beneficial impact when they are carefully designed and strongly enforced. Treasury Secretary Lew recently outlined the key elements of an effective modern sanctions approach, including the need for clear policy goals, investigators delivering financial intelligence analysis, meaningful enforcement, and proactive sanctions relief. As detailed in my testimony, how-

ever, almost none of these elements is in place to support sub-Saharan African sanctions, not because it is impossible, but because we do not devote the necessary attention or resources, as we do not view these countries through the serious economic lens they deserve.

At the Enough Project, we analyze five countries—Sudan, South Sudan, the DRC, the Central African Republic, and Somalia—each of which is subject to U.S. sanctions in some form, through a lens of what we call "violent kleptocracy," in which those in power and their networks of facilitators and enablers hijack the state to engage in grand corruption and foment violence. As the Panama Papers and the work of our investigative initiative called the Sentry Show, these violent kleptocracies depend on the international financial system, particularly the U.S. dollar, as they engage in many of the same types of transactions that narcotraffickers, terrorist networks, WMD proliferators, and corrupt regimes in other parts of the world use, and against which we have deployed the full array of financial pressures. Because violent kleptocracies in Africa all revolve around money, especially the dollar, we have the power to disrupt them.

I set out in my testimony a six-part framework to ensure we use sanctions effectively, which echo the sentiments of some of my colleagues on the panel. That framework is: one, identify clear policy goals; two, develop better financial intelligence; three, employ modern sanctions tools beyond targeted listings; four, build on the actions at key junctures; five, prioritize enforcement; and six, keep sanctions temporary and mitigate negative impacts.

In most cases, thorough analysis of African sanctions show that they do not rate well against this framework. Yet. But, we can take steps now to improve this and develop a more effective and modernized approach. Some of the examples detailed in my testimony include designation criteria designed to deliver financial impact on high-level targets and enforcement actions at key moments. In South Sudan, for example, two sanctioned commanders have maintained U.S. dollar bank accounts in Kenya and traveled openly in the region for months after they were sanctioned. Other steps include enforcement action against this in recent months could have been quite effective. Employ sectoral and even secondary sanctions as needed when based on clear intelligence to act on key economic vulnerability. Push the Financial Crimes Enforcement Network, FinCEN, to look beyond drugs and terrorism when acting against money laundering on the continent, something it has never done in sub-Saharan Africa. Our research shows that both Congo and South Sudan represent real opportunities for FinCEN to act against the laundering of the proceeds of corruption and natural resource trafficking. Issue strong messages against de-risking and explain clearly how sanctions work and how they can evolve and be nimble over time.

Finally, we believe Congress can play a strong role in helping to move this effort forward by passing the Global Magnitsky Human Rights Accountability Act and by passing Senate Resolution 479 introduced by Senators Markey, Durbin, and Murphy, which call for targeted sanctions on President Kabila's inner circle if the government does not organize free and fair elections and adhere to its

constitution. Appropriators should allocate to Treasury and other agencies a greater share of intelligence and investigative resources that can be dedicated to sub-Saharan Africa, mirroring language released just today in the House Financial Services and General Government Draft Committee Report.

Chairman Flake, Ranking Member Markey, we are fully aware of the panoply of U.S. security concerns and interests, and we are sanguine about where sub-Saharan Africa tends to rank, but we are aware that sanctions represent a critical component in our foreign policy toolbox, and believe they have not been used to their full potential in sub-Saharan Africa. That approach needs to change, and soon, if we are to use these tools most effectively.

Thank you very much for the opportunity.

[Mr. Brooks-Rubin's prepared statement can be found in the Additional Material Submitted for the Record section at the end of this transcript.]

Senator FLAKE. Thank you all for your testimony.

I will start with 5 minutes of questioning—or 7 minutes—and we will go from there.

Ambassador Lyman, you mentioned, when we met before, that—and in your testimony—that sometimes the threat of sanctions is more effective even than the sanctions, themselves. How is that? Can you talk about that a minute?

Ambassador LYMAN. For two reasons. Once you employ sanctions, first of all, if they are targeted sanctions on individuals, it is very hard to lift them anyway. If you are targeting someone for their human rights violations, and then the government does the right thing, are you really going to lift the sanctions on that individual? So, how you link targeted sanctions to political objectives is important to think through.

Second, once you have put sanctions on, people start to figure out how to evade them. And the longer they stay on, the longer they do that. So, on the other hand, in looking at the resolution that Senator Markey has introduced, if you are saying that the U.S. is prepared look at sanctions across a rather broad stream of people who are significant politically as well as individually in their own actions, you are posing a significant threat to the way that regime operates. But, if we implement them without correlating support from the Africa Union, from the Europeans, et cetera, they will not necessarily have the same impact.

Right now, I think the threat is very important. When to actually do that, seems to me, depends a lot on what other pressures are coming to bear and how the regime is reacting.

Senator FLAKE. Thank you.

Dr. Moss, with regard to Zimbabwe, what is the end game, the sanctions that we have right now? What is the desired end game and the likely end game?

Dr. MOSS. Well, I think it still remains the conditions contained in the ZDERA legislation, which is to get Zimbabwe back on a democratic path and one of robust and equitable economic growth and the rule of law. Now, those are pretty broad goals. But, now, because our sanctions have been imposed, that is part of the new political equilibrium. If we all of a sudden say, "Well, it has been 16 years, and Mugabe is still in power, let us lift them," we are

now actually injecting that change into the political system there. That will be interpreted as our—an abandonment of U.S. support for democratic forces there. It will be abandoning some of our leverage that we may have in a post-Mugabe transition, where we can hold out the carrots of good actors. When a 92-year-old leader is—has a fragile hold on power, he will start looking for what actors like the United States are going to do when he passes. And having the ability to use our sanctions to encourage positive behavior in that period is something we should not give up so quickly.

Senator FLAKE. Along those lines, how important is it that the opposition and those likely to assume power after Robert Mugabe leaves—how important is it that they see a consistent application of sanctions or what might come on them if they do not straighten up and fly right——

Dr. MOSS. Yeah.

Senator FLAKE.—after they take control?

Dr. MOSS. Well, I think we are at a moment where nobody really knows what a post-Mugabe Zimbabwe will look like. There are lots of possibilities there. Anyone who tells you they are sure what it will look like, I think is—I would not give that view too much credence.

But, the point is that we want to try to maximize our leverage to try to encourage a positive outcome there. That could mean offering carrots to members of the current regime that want to have a better future. We have lifted sanctions occasionally on actors that had them before, when they have changed their behavior. And I think continuing to make those signals out there are—is very important for the United States, especially because there is such a high degree of uncertainty of where the international community stands on Zimbabwe.

Senator FLAKE. Thanks.

Ms. Eckert, you mentioned regional organizations, the importance there. Let us talk about the African Union for a minute. Where—what examples do we have of effective sanctions imposed by the African Union?

Ms. ECKERT. Well, there are differences, in terms of objectives. The objectives of the AU, SADC and ECOWAS are all to restore democratically-elected governments. So, it is not focused on human rights. This is according to the constitutional basis of these organizations. But, they have been important, because what they do is, they are focused on the leaders, the individuals, so they actually apply the sanctions and withhold them being able to attend regional meetings, et cetera. So, it is different, in terms of how it is applied, but we have a number of cases in which AU sanctions preceded U.N. sanctions. So, the AU or ECOWAS was trying to address the situation on the ground and went to the U.N. to actually buttress the kind of message that was being sent and the reason for those sanctions.

So, I think, in particular, the AU has taken a much greater role in recent years of trying to reach out. Its Peace and Security Committee. They have come to the Security Council on occasion and asked for assistance in how you actually write resolutions and how you implement and enforce, et cetera. And there is not much there, frankly. And I think that this is a tremendously lost opportunity,

because we can work with those countries, through the AU, to actually put in place more effective means for implementing, not just AU sanctions, but U.N. Security Council sanctions, above all. And the important thing to remember, Why do we care about U.N. sanctions? It is because, for most countries, it is the only legal basis for those countries. It is a Chapter VII mandatory implementation, so it is the only legal basis for so many countries to do something on implementing these sanction measures, something which is in our U.S. interest.

Senator FLAKE. Thank you.

Mr. Brooks-Rubin, what do we need to be concerned about with regard to implementation of sanctions against the DRC right now? We have a situation—elections have been called for, the Constitution requires them by the end of the year. In terms of the timing of the threat of sanctions and then the actual implementation, what concerns should we have, in terms of lining up support from the international community, the EU, and others? What should we be concerned about?

Mr. BROOKS-RUBIN. I think we should be concerned, first and foremost, with delivering a clear message. The country of Congo has never seen a peaceful transfer of power. And we are seeing a move by the government to do everything in its power to avoid holding that election. I think we know that President Kabila, the enablers, the facilitators around him, have extremely deep and vested interests. As Todd referenced, their children are studying abroad, their networks are wide, and we need to deliver a clear message now that that network can and will be disrupted unless there is a clear move to a constitutional transition of power. The longer it goes, and the less that the regime feels like it will face real costs, the more likely we are to see violence and repression begin. We need to move now to make that message clear.

And certainly, with our—there are many differences within the international community, but this is a moment for us to lead and make clear what needs to be done and that our role in this, because of the U.S. dollar and its role in the international financial system, we have a strong impact to make. And by leading and by demonstrating that this is what the regime needs to do, we can bring other partners onboard. And if we wait too long, things will descend very quickly.

Senator FLAKE. Right. Thank you.

Senator Markey.

Senator MARKEY. Thank you, Mr. Chairman, very much.

Mr. Brooks-Rubin, you referenced the resolution, which I have introduced, calling for targeted sanctions on the DRC. And that resolution calls for the sanctions to be done in coordination with the African Union and with regional and international partners, and with the United Nations, specifically in the resolution. What impact do you think such sanctions would have on President Kabila's decisionmaking? And how do you think those types of sanctions would be received by the people in Congo? Congo already has indigenous democratic movements. So, it is not that we are trying to create those institutions. They are already there. So, what do you think the reaction would be?

Mr. BROOKS-RUBIN. Senator, I believe the reaction would be—if they are implemented and enforced, and we can demonstrate real meaning and real disruption of power, I think the reaction on the ground would be tremendously positive. The NGOs, the communities that we engage with as Enough, and that our partners in other organizations engage with, demonstrate that the Congolese people want a different path than what they have experienced over the last more than 100 years.

In the opening remarks you gave referencing President Obama's call on strong institutions, the Congolese people want those strong institutions, they want to see a peaceful and clear transition of power. They want to see that we can, and the international community can, deliver that strong message.

We are already seeing arrests and detentions and violence against protesters. And I think we have all seen, sadly, too often what that results in. We need to be able to deliver that message and to get to those movements that you reference now to demonstrate that we can do something about this that has an impact, that is more than just a message or more than is just good intention. And I—by using some of the broader tools of financial pressure and targeted sanctions at high-level targets, we can do that.

Senator MARKEY. Mr. Moss, what do you think the reaction would be in Congo if there were broad international sanctions that were imposed upon the Congo government? How do you think President Kabila's decisionmaking would be affected?

Dr. MOSS. Yeah. So, I have no idea, in the case of the Congo, what the effects of that would be. I find it plausible that it would have the effects that Brad mentioned.

If I was a U.S. Senator trying to contemplate this, I would want to know two things. One, what are the specific pressure points that these sanctions are intended to hit? If there are high-level targets, do we know where their accounts are? Do we know where their businesses are? If the intelligence community tells us that they are not going to be affected by targeted sanctions, then we would not expect to see some of those effects.

And second, I would want to see, from the administration, how targeted sanctions fit within a broader strategy, and how those pressure points are going to get us some of the steps along the way of where U.S. policy is trying to go. The sanctions are not embedded in a broader strategy and—that seems credible—then we are doing something that just makes us feel good, which can have important signaling effects and—but are unlikely to really move the needle if we do not see those—that context.

Senator MARKEY. Yeah.

Ms. Eckert, what do you think would happen if we, on an international basis, imposed sanctions led by the United States?

Ms. ECKERT. I am not an Africa expert, so I will defer to my colleagues on reading this, but I think that if the United States was to take the leadership and continue to have the very intensive discussions with the Europeans, getting them onboard, I think that we have a very potent tool that we can use. I do not know—I mean, given what we have seen in the past, in the previous elections, in 2011, and the violence, I understand well the State Department's concern about the unintended consequence of these measures. And

that is why I think, in working on sanctions legislation, when I was here on the House—on the Hill, on the House side, one of the most effective things is not to mandate the sanctions, but to underscore the importance and try to enhance the tool, and put that in the hands of the policymakers.

I think that a concerted effort and leadership by the U.S. and combined with the fact that we could actually get to some of the assets, in particular, and the travel, I think would send a very powerful message. I do not know exactly how Kabila would respond. And I think that is the major fear of everyone in the policy circles, is, we could be creating a worse problem.

Senator MARKEY. Yeah. And again, my fear is not just how he responds, but by every other nation subsequently as their constitutions require them to leave. And so, we have to start this someplace.

Ms. ECKERT. That is right. And——

Senator MARKEY. We have to begin this effort. We just cannot allow it to continue, domino after domino, to fall. Even as these countries become more wealthy, they regress, in terms of their democratic institutions. So, that wealth is something, that influence which they have is something that we can target.

Mr. Lyman, you said it clearly has to be more than bilateral, which I agree with you on. And I would love to get your perspective on how to define the effectiveness of a sanctions regime. Would you limit it to the ability to influence a government or a group towards a specific result, or is there also a value in communicating to a government or its people that we, the United States, will not be seen as helping a regime to violate the democratic or human rights of its people or to break the peace of their society?

Ambassador LYMAN. Thank you, Senator.

And this is my personal views. But, I think, first of all, you have to ask, Why would President Kabila want to stay on? Is it just for financial gain? Is it because he is worried about retribution after he leaves? Is it something else? And if you do not know that, you are not quite sure what kind of pressures are going to be significant.

Second, we have a time factor here. His term is up in December. It is not clear to me, given the complexity of the DRC, that we could really impose and have far-reaching effect on the government between now and December, by the time you pass them, try to implement them, and the complexities of commodity exchanges with neighboring countries, especially if they are not cooperative.

So, the question is, What are we trying to do? And it seems to me that the first thing we are trying to signal—we are trying to signal, it seems to me, two things. One, continuation in office is a destabilizing act and will lead to very dangerous instability in the DRC. Second, we are signaling that maintaining yourself in power by repressive techniques is unacceptable. So, those are the two messages.

And then the question is, Can we rally enough support around that, with the threat of sanctions or the readiness to impose them, that the neighboring countries who would have to participate in enforcing them and others will put that kind of pressure and deal with whatever it is that is motivating President Kabila to stay.

If this fails, if, come December, and he stays in power, and things to start to get worse, then the objectives are a little bit different. Then they become putting pressure on the regime so that it cannot function very well, and then hopefully it will step down.

So, I think we have to think about the timing, when those things take effect, and how they will impact on the strategy and politics of the neighboring countries in the Africa Union.

As I said earlier, I am troubled that the Africa Union is not forceful and organized in this regard. There is another point that Sue Eckert raised, which is very important if you want to get to U.N. sanctions. The rule of thumb that we have found is that, when the Africans are unified on wanting U.N. sanctions, we can usually get them through. China and Russia will not say no if the Africans say, "This is what we want." But, when the Africans are divided, the Chinese and the Russians say no. So, if you want to move this to U.N. sanctions, for the reasons that Sue mentioned, then you have really got to get the Africans united behind you.

Senator MARKEY. Okay. Thank you.

Thank you, Mr. Chairman.

Senator FLAKE. Thank you.

Dr. Moss, let us talk for a minute about the relationship between Congress and the administration, and where the impetus for sanctions comes from. When I was in Zimbabwe a couple of months ago, we met with the Foreign Minister, and he had the letter in his hand that Chairman Corker had written with regard to sanctions. He was obviously paying attention, as was the government there, the letter saying, "Do not, you know, provide sanctions relief." What—is that the case across the board? How many governments that we are talking about pay attention to that? Where is it useful for Congress to be pushing harder than the administration or give the administration the flexibility to move? Can you talk about the relationship a little between Congress and the administration?

Dr. MOSS. Sure. I think it is very useful for Congress to push the administration, which, maybe for other reasons, is less motivated to take action. And that could be, you know—there are lots of examples of that. However, I do think that the ideal relationship is where Congress is giving a sense of the legislature to the administration, giving them authorities to take certain actions, but not overly prescribing them, because it tends to be very blunt, it is hard to be creative and selective, and it can actually wind up undermining U.S. influence by constraining policymaker action.

Now, if you do not see policymakers being creative and aggressive in pursuing what you see as U.S. interests, then you might need to come over the top on that. I can understand that frustration.

In the specific case that we are talking about in Zimbabwe, the ZDERA legislation calls for the administration to consider targeting top agitators for travel and financial sanctions. It also—it is a separate piece that calls for—it is unrelated to bilateral sanctions that it is calling for the U.S. to vote against debt relief or new lending at the international financial institutions. So, it is actually not the case—although the Zimbabwean government does not quite understand this—that they believe they cannot get loans from the World Bank because of U.S. sanctions. That is not true. The reason

they cannot get loans from the World Bank is because they have not been paying their World Bank loans, and they have accumulated over a billion dollars in arrears, and the World Bank will not lend to you if you owe back payments of—large back payments.

So, the question now for the U.S. is, As Zimbabwe is trying to figure out some accounting gimmicks to clear its arrears, would we support new lending if they are able to clear that hurdle? And that is why I believe Chairman Corker's letter was very clear and very constructive.

Senator FLAKE. Thank you.

Ambassador Lyman, kind of the same question. You have been Ambassador to two very important African countries, you know, with a history of sanctions. With regard to South Africa, the Comprehensive Anti-Apartheid Act, Congress overrode a presidential veto in that regard. Talk about the relationship between Congress—can—I know that sometimes the State Department will, obviously, want enabling or authorizing legislation or simply "cover" so they can point to Congress with these countries. When is that useful? How can Congress play a constructive role and not undermine what the administration would like to do, given what all of you have talked about, about sanctions being used as a tool, as part of a broader strategy?

Ambassador LYMAN. First of all, let me draw on my experience working on Sudan in—during the negotiations of the Comprehensive Peace Agreement. The tremendous value of both the public's and the Congress's focus on this issue gave us much more authority and leverage to play a role in those negotiations than it would have been otherwise, because it was clear that this was a U.S. high priority, and it was of concern not just to someone in the administration or one element here, but a broad concern of the United States.

What is troubling—and I have thought of this for a long time—how little attention the United States, relatively, has been given to the DRC, which—civil wars there have taken over 5 million deaths, and it is such an important country. So, the fact that the Congress—you and Senator Markey and others—are raising the importance of this and making it a priority for the United States, I think is very helpful. And if I were in the administration, I would think it is very helpful.

Now, I do think, as Todd spoke, you want to be encouraging the administration, you want to—supporting what they are trying to do, if they are trying to do this, and you want to have a discussion with them as to how what you are doing here can reinforce what they are doing there, and then see how the two can reinforce each other. And I think, in those cases, it is very important.

Clearly, the congressional enactment of sanctions on South Africa came at a very critical time at the end of the Cold War, when we were looking at South Africa much more in terms of the anti-apartheid movement, and it sent a very strong signal and was part of a larger process. Here, I think you are signaling to the administration that Congress cares about this issue that, as Senator Markey said, some of the actions going on there are unacceptable. I think that bolsters the role of the administration with its allies and in the field.

Senator FLAKE. Thank you.

Ms. Eckert, do you have any thoughts on this?

Ms. ECKERT. Thank you, Mr. Chairman.

I confess to some tugging, because, having been on both sides, but being both on the staff side——

Senator FLAKE. Right.

Ms. ECKERT [continuing]. And working on sanctions legislation on the House Foreign Affairs Committee, and then being in the position of implementing, in the Clinton administration——

Senator FLAKE. That is why I am asking you. [Laughter.]

Ms. ECKERT [continuing]. Where you stand depends on where you sit——

Senator FLAKE. Right.

Ms. ECKERT [continuing]. Or vice versa. But, I think that what is most important is that for them not to be opposed. In other words, to have outright opposition, to have the sanctions with so little flexibility that the executive branch feels that its hands are too bound, that it cannot conduct adequate foreign policy, puts everyone in the bad position of sending a mixed signal. And I think that is what we have seen in the past, on a number of cases in which it just undermines the sanctions. We send a mixed message. We are not effective at achieving the goals. And, frankly, people have used that, in terms of rally-round-the-flag effect, and it undermines the credibility and effectiveness of the sanctions.

I think that the reinforcing nature can be quite important. And I think, frankly, what you are doing here today—there are so few hearings and so little focus on African sanctions and how to make those more effective, so I think that this is a tremendous way of trying to get the executive branch to focus, to have a broader understanding in the public of why these are important, and how and why they can be effective.

Senator FLAKE. Thank you.

Mr. Brooks-Rubin, do you have any thoughts?

Mr. BROOKS-RUBIN. I do, thank you.

Yeah, having been in the executive branch, there is something of a sort of natural reaction, but I am certainly learning a lot from being on the other side. And I think there are a few very key things that Congress can do.

As I mentioned, passing Global Magnitsky Human Rights Accountability Act is key. I mentioned, in my statement, appropriations to Treasury and other agencies. A lot of what we have talked about is developing the right intelligence and having the right resources devoted to this. At the moment, they are not, partially because the agencies now do not see that it—they do not feel that kind of public and congressional importance that Ambassador Lyman referenced. That needs to come—we are certainly trying to do as much as we can, but Congress can deliver an important message.

There are a lot of very good working-level staff who have a lot of very good ideas about what can be done on these programs. They need senior leadership to devote the resources to them. And so, maybe that is—some additional appropriations. But, then you can also hold them to account. When sanctions are renewed and a part of the legislation that underlies sanctions requires Treasury and

other agencies to report to Congress on how they are implementing and what they are doing, hold those to account. There is often, you know, a sense that those—there is a lot of very good information in there, and a lot of very good material that Congress could use to really push Treasury.

We saw, in the Iran context, that a lot of the very creative tools that are now in place and that really played a role in moving that process forward came from Congress and really pushed the administration to think more creatively. What they have done in the Russia and Ukraine context, again, a lot of very good ideas and being pressed to be creative and get out of the rut. And I think the rut that we are in with respect to sub-Saharan African sanctions can be moved—that needle can be moved quite a bit by clear direction from Congress.

Senator FLAKE. Thank you.

Senator Markey.

Senator MARKEY. Thank you, Mr. Chairman, very much.

Mr. Brooks-Rubin, you suggest, in your testimony, that one of the key shortcomings in our current approach to sanctions in sub-Saharan Africa is the unwillingness to use them at critical moments to build leverage. The elections in Congo are approaching very rapidly. This is a key juncture in the whole history of popular democracy in Africa. Congo is a big, big country. It sends signals to an entire region. So, could you give us your thoughts on the appropriate timing for sanctions in DRC?

Mr. BROOKS-RUBIN. Thank you, Senator.

Yes, One of the contrasts between sanctions in sub-Saharan Africa and sanctions in other contexts is often the willingness to back off at key moments and sort of wait for the next moment, the next process, which then, too often, does not come. We saw this just unfold in South Sudan, where there were months and months of delay of implementation of the peace agreement, and more violence and more looting by corrupt officials, always waiting.

Senator MARKEY. You are saying in sub-Saharan Africa, in Sudan, we did not act at the appropriate time. When the crisis was about to arrive, was building, we stood on the sidelines. And that is a mistake. If you extrapolate that over now into Congo with their elections on the way, knowing the ramifications in Kenya and other countries, if an example is set, which will be hard, then to say is something that the next country should not do.

Mr. BROOKS-RUBIN. Yeah. Agreed. I think now is the time to deliver that message. At—we cannot act soon enough. I helped to coordinate the executive order on Congo sanctions in 2006, and we did a lot of scurrying around for the right message then, and the right things to do, and we waited. And then I was at State in 2011, and again we waited, and we had kind of a muddled response to that election. Here we are again.

It is time to act on this, because it is not just this election. We have seen this movie before, sadly. And the time is now to act.

And, you know, at every key moment in the Iran negotiation process, we issued an enforcement or designation process to deliver the message of accountability, "In order for this process to be serious, we are going to take a step and show you that we will hold

you to account if you do not move forward." And I think we need to do the same with Congo.

Senator MARKEY. Okay, thank you.

Back to you, Ambassador Lyman, if we could.

And we thank each of you for being here. You each have distinguished careers. And I know Sue Eckert from the House Foreign Affairs Committee, where she was an excellent, excellent staffer.

The role of Congress, Mr. Lyman. The executive branch could take action, if they wanted to, but what role do you think Congress can play in helping to reinforce that point with any country that we are trying to send a strong signal that the United States wants a change in course of action?

Ambassador LYMAN. Well, Senator, I would say, as I indicated earlier, I think it signals that these are issues that are of relevance to the American public, which you represent. And therefore, it says something more than just the administration. The administration obviously represents people. But, it sends a very strong signal. I think it strengthens the hand of American diplomacy. Yes, there are questions of, you know, how much leeway you give and leverage you give each—you know, the administration operating. But, I think the role of Congress, as others here have said, in calling attention to the issue, saying it is important to the Congress, "The Congress is prepared to consider some very tough legislation"—I think this is very important.

I do think that we want to be—and I would hope Congress is very clear on what it is that we are looking for here and what it is that Congress wants to see. And—because one of the problems of sanctions is, When do you lift them, and under what circumstances do you lift them? It is often harder to lift them than to put them on. So, the clearer it is as to what we are aiming for and what any sanctions would be aimed at would be very helpful.

But, on the whole, I think what you are doing is strengthening not only public attention to this, but, in my view, strengthening the hands—Tom Perriello and others in the administration who, I think, are working along the same lines for the same objectives.

Senator MARKEY. And I agree with you. And, you know, from this committee's perspective, or back when I was in the House, I was always a very strong supporter of sanctions on Iran, just to send the signal that this was just not some diplomat coming from the State Department, but the Congress itself was making sure to emphasize their need to change their behavior. Many administrations objected to passing those sanctions. We know, ultimately, that is what led to the final agreement that diplomats could reach.

So, could you each kind of try to deal with this question? Because the resolution that I have introduced has no actual specific prescription for what the sanctions regime should look like. What, in your opinions, would be the best way to craft sanctions, knowing that it should be international in nature? What should it look like, in your opinions, if you want to start signaling to the Congo Government as soon as possible that we are serious?

Mr. Lyman? Or Ms. Eckert? Let us start with you, Ms. Eckert.

Ms. ECKERT. Thank you, Senator Markey.

There are things to go beyond legislation. And I think that hearings are very important, and having the legislation out there, and

the threat of sanctions, is extremely important. Some of the most uncomfortable positions I was in, in the executive branch, was when I was called up for briefings that were not public. And it got into very detailed, "What are the plans? How are we going to do this?" And it was an engagement, I think, that was constructive for the purpose of how we were going to move forward. So, nonpublic oversight, I think, is extremely important.

Another is the use of sanctions, in terms of resources. I am very fond and supportive of my colleagues at the Treasury Department, but the State Department has labored for years with increasing sanctions and no additional resources. And they are drowning. Because we have so many sanctions regimes, the activity level has increased significantly—they do not have the resources to do some of this. So, I think you send a strong signal with regard to your seriousness of sanctions by increasing staff, by increasing attention, even high-level engagement. We have a sanctions coordinator at State, which is relatively new in this administration, but it is focusing almost exclusively on Russia or, you know, on Iran previously. It is very difficult, because these sanctions get left behind. All the African sanctions do not have a strong advocate. We do not even have someone in the National Security Council whose job is to deal with sanctions.

Senator MARKEY. There is no one on the National Security Council whose job it is to deal with sanctions?

Ms. ECKERT. Not specifically sanctions. They deal with it through the bureaus, the regional bureaus. But, again, if you had some higher-level focus, both within agencies and also within the NSC mechanism, it brings a seriousness to better coordination.

The final thing I would just say is that talking about these issues and educating the American public, I think, is incredibly important, because most do not understand how important it is, what is happening there.

So, clarity of purpose, as the Ambassador said, and not moving the goalposts. Be clear about what it is we are trying to achieve. All of these things help.

As to timing, we have to get the AU and the countries and the neighbors onboard. And I think that may take some time, but that is critically important.

Senator MARKEY. Thank you, Ms. Eckert.

Mr. Brooks-Rubin.

Mr. BROOKS-RUBIN. Thank you, Senator.

To be specific on what some of those sanctions measures could be, again, I think we are talking about using whatever financial intelligence we have to go at the high level, both targets within the government and their enablers and their facilitators. And, as I said, too often there is not that intelligence inside the government. The research that we are doing as Sentry and that other NGOs are doing, should be used to get at those targets. And again, in the narcotics sanctions, you rarely see a narcotics sanctions designation with one entity. They designate a network. They find the key nodes of networks. We need to take the same approach with respect to Congo, identifying the key nodes and the networks that President Kabila and those in his regime are using, that then enable subsequent action.

I think the financial crimes enforcement network at FinCEN is—it is high time that they were asked to take specific action. It can start with a—they have a lot of authority to request information that can prompt due diligence and information-gathering that law enforcement can use. Let us ask them to issue an advisory or a request—a private request to other governments and financial institutions—they have access to thousands of institutions—to get information on accounts related to the regime that we can then act upon and demonstrate that we can seize assets, freeze assets. That is what will send a message locally. And I think there is——

Senator MARKEY. Okay. And I—I am going to run out of time here.

Mr. BROOKS-RUBIN. Oh, sure.

Senator MARKEY. I would just apologize to you.

Mr. Moss, do you have a quick set of suggestions?

Dr. MOSS. Yeah, I would just make the point that if Congress is trying to send a signal to the Congolese and trying to motivate the executive branch, the legislation should be as broad and clear as possible. I think you only need to get into specificity if that is necessary for policymakers, if they need those tools to do what they are trying to do already. And that is Ambassador Lyman's point—if it is not supportive of what the administration is trying to do, that needs to get worked out. You are not going to be able to over-legislate something the State Department does not want to do.

Senator MARKEY. Although I would say that we did over-legislate on sanctions on Iran. And ultimately, coordination caught up. So, I would say that that was the sequence there. But, I would hope, here, that it would all be done together, in conjunction. And I think there is a common goal, here, to make sure that Kabila and the Congo get that message.

And, Mr. Lyman, can I just ask you to quickly respond? The Chairman has been very indulgent with me.

Ambassador LYMAN. On this question, I do think that sometimes it is a good-cop/bad-cop thing, like you mentioned on the Iran thing, that works. But, here, if the administration is really working toward the same objective and willing to put pressure on, I think probably you want to work in close support.

But, I think, again, the timing is important. We only have a few months. So, the more coordinated effort that can be put together in the next few months, it seems to me, is critical.

Senator MARKEY. Thank you.

Thank you, Mr. Chairman, very much.

Senator FLAKE. Thank you, to all of you. This has been incredibly informative.

This subject has been one that I have followed for a long time, and had some experience with. I spent a year in Africa, in Namibia, 1989–90. It was a time that—there was a transition going on in South Africa. Sanctions were lifted, the Comprehensive Anti-Apartheid Act was being lifted in South Africa. And, after Namibia's independence, those sanctions were also—because of Namibia's governance by South Africa, Namibia was included. But, the Comprehensive Anti-Apartheid Act did not mention Namibia specifically by name, as well it should have been. Several state and local governments around the country actually mentioned Namibia

by name. Those sanctions remained on the books for years afterwards. And it became troublesome, because sometimes lower-level bureaucrats in a city office or state office, when it was the sale of some good from Namibia, they might say, "No, this contract cannot be had, because sanctions are still applied."

And so, these are important, and we have often used sanctions in the past, particularly in Africa, with smaller countries, like Namibia, kind of in a driveby fashion, and have forgotten about them afterwards. Gratefully, not the Congress, in that case.

But, this is very helpful as we move forward, particularly given the timely nature of this discussion with regard to the DRC. So, we appreciate the testimony you have given here today.

And you have——

Ms. ECKERT. Mr. Chairman, I just wanted to correct the record, because I have just heard that, in fact, there may be a person at the NSC who is very much a leader on sanctions, who has come down from U.S./U.N. And if that is the case, I think that that is very good news. But, before that point, there was no one who was addressing sanctions specifically.

Senator FLAKE. Let the record note.

And thank you all.

The hearing record, for the benefit of members and staff, will remain open til Friday. If the questions come to you, if you could respond in a timely fashion, it would be appreciated.

And, with the thanks of the committee, this hearing is adjourned.

[Whereupon, at 3:35 p.m., the hearing was adjourned.]

Additional Material Submitted for the Record

PREPARED STATEMENT OF AMBASSADOR (RTD) PRINCETON N. LYMAN

Chairman Flake, Ranking Member Markey, and members of the subcommittee, thank you for holding this hearing. It is an honor to appear before you today to present my views on U.S. sanctions policy in Sub-Saharan Africa. The views I express today are my own and not those of the U.S. Institute of Peace (USIP).

Africa has been far and away the target of more sanctions from the UN, the European Union (EU), and the U.S. than any other continent. Most of these sanctions and related restrictions are aimed at resolving conflicts, and in recent years these have been overwhelmingly civil wars. Only two sanctions regimes in Africa have been aimed at inter-state war, between Ethiopia and Eritrea and between Eritrea and Somalia. While aimed at threats to international peace and security, sanctions have increasingly targeted individuals for gross human rights violations and in a few cases for leading unconstitutional usurpations of power, recognizing that these factors impinge directly on the intensity and duration of conflicts. These targeted restrictions have also largely replaced the use of broad based economic sanctions that have had a negative impact on the populations of affected countries. Both kinds of sanctions have nevertheless been used in Africa and are worthy of evaluation as to their effectiveness.

I was asked to address four questions in my testimony.

Before doing so, let me state my general view of sanctions:

1. They are a tool, not a policy. Without a larger strategic framework and set of supporting activities, they are not likely to achieve their objectives.
2. Sanctions work best when they are supported by the international community. Individual country sanctions, by the U.S. for example, can be effective where the U.S. has particular advantages, but by and large targeted regimes or individuals will find ways around them if they are not more widely enforced.
3. Sanctions have worked best when aimed at a specific outcome, such as a peace agreement, or ending one country's support for war in a neighboring country as

with Rwanda's support for rebels in the Democratic Republic of Congo (DRC). But sanctions, especially by themselves, have least effect if the objective is to pressure dictatorial regimes to give up power, or in their eyes, to commit political suicide. Only in combination with engagement, and organized and effective domestic democratic pressure can sanctions help lead to transitions to democracy.

Let me now turn to the questions put to me for this hearing.

First, what is the recent track record of sanctions in Africa? Have they proven a useful tool in achieving our policy objectives? Have they had unintended consequences?

There has been a wide array of sanctions applied in Africa in recent years, to include arms embargoes, targeted sanctions on individuals, restricting trade of commodities that support combatants, and travel restrictions. There are several instances where, together with other steps and activities, these have been effective. In Angola, Sierra Leone, Liberia, and Cote d'Ivoire, restrictions on the trade in diamonds and other commodities weakened rebel or anti-democratic forces, and facilitated either their defeat or their agreement to peace. But without supporting actions, sanctions alone would not have been sufficient. In Sierra Leone, Liberia, and Cote d'Ivoire, international troops were necessary to finally defeat the targeted elements. A similar combination of targeted sanctions and international peacekeepers has reduced and contained the conflict in the Central African Republic (CAR), but it is too soon to know if peace will be secured there.

At the same time, sanctions have not produced the depth of political transition needed in Sudan, nor the end of autocracy in Zimbabwe. While most sanctions on Sudan are directed specifically to the conflict in Darfur and more recently that in Southern Kordofan and Blue Nile, it is generally recognized that without a political transformation in Sudan, these conflicts are unlikely to be resolved. Yet sanctions, however they have impacted the economy and isolated the regime, have not led the regime to undertake fundamental reform. Some, like the organization ENOUGH, have proposed more sanctions, especially better targeted and enforced financial sanctions to move the regime. But there is little international support that would complement such U.S. action. And U.S. sanctions alone will not convince a regime to undertake what it still sees as losing power. A much more sophisticated policy, that includes both the existing sanctions and the clear prospect of how sanctions would be lifted, engagement with the regime and opposition elements, and support for civil society, will be necessary to affect such transformation.

Second, what is the relationship between international and U.S. sanctions in Africa? Is one more effective than the other, or must they be combined to achieve success?

As I indicated earlier, sanctions which have widespread international support prevent targeted states or individuals from evading sanctions or finding alternative sources of support to lessen their effect. Politically, moreover, a multilateral regime ties any individual sanctions to a broader strategy with valuable partners aimed at addressing the conflict or other matter at which sanctions are aimed. Finally, different states and institutions have particular sources of leverage and influence that can be brought to bear on the targets of the sanctions.

U.S. comparative advantage in applying sanctions derives from our major role in banking and other financial institutions. Asset freezes, sanctions against doing business with targeted individuals or companies, and restricting investment in sanctioned regimes all are instruments which the U.S. wields with particular effect. Moreover, the U.S. has recently made more use of secondary sanctions, i.e., sanctioning or threatening to sanction institutions in other countries for doing business with those the U.S. has sanctioned. The U.S. also plays a major role in shaping UN Security Council (UNSC) sanctions. The U.S. has held the "pen" in such cases more than any other UNSC member.

It is significant, however, that most UN sanctions in Africa have proceeded from recommendations, and prior action, by the African Union (AU) or a sub-regional body like the Economic Community Of West African States (ECOWAS). Of 43 African targeted sanctions packages, regional African organizations are involved in 41, or 95 per cent. In the initiation of UN Security Council sanctions packages, seven of the first fourteen African were preceded by regional sanctions.

African engagement reduces the likelihood of the sanctions being evaded by the targeted individuals. It also ties sanctions into other efforts in the region to overcome the conflict. Moreover, when Russia and China recently became more aggressive in opposing sanctions, a unified African recommendation for them is virtually essential to obtain UNSC approval. When African organizations or regional powers

are divided, as they are currently over South Sudan, it is not possible to get Russian and Chinese support for sanctions.

The other side of this relationship is when sanctions lose their appeal, especially when they go on for long periods of time without effect or when African countries do not agree with the objective. African countries are less likely to enforce the sanctions regime. We see this in growing African unhappiness with the indictments of the International Criminal Court (ICC) and thus more African countries willing to invite Sudan President Omar el Bashir to visit. Sudan's foreign policy switch from close relations with Iran to providing troops to help Saudi Arabia in Yemen has led to more Arab financial support for Sudan despite heavy U.S. sanctions designed to inhibit such financing. South Africa which has the most outside influence on the situation in Zimbabwe, has never gone along with Western sanctions on the country, which are focused on internal political practices and human rights. South Africa is more concerned about the danger of economic or political collapse in Zimbabwe, which would heavily impact South Africa. More broadly, President Mugabe recently served as the elected Chairman of the African Union. U.S. and EU sanctions are thus of questionable effect.

EU sanctions are nevertheless quite significant in Africa overall. While working hand in hand with the UN, but also often preceding UN action, EU sanctions have been focused on promoting human rights and support for democracy, whereas UN sanctions are directed to issues of peace and security. By 2013, the EU had applied 22 sanctions regimes against 19 African states, utilizing the Common Foreign and Security Policy adopted in 1992, and more important in Africa, the benefits under the Cotonou Agreement which governs trade and economic assistance. EU sanctions often work in concert with African Union sanctions in cases of unconstitutional seizures of power. The suspension of EU aid has been particularly effective in this regard. The EU has an advantage over the U.S. in the use of aid as a lever. U.S. aid to Africa has become increasingly dominated by HIV/AIDS and emergency humanitarian aid, neither of which lends itself to being cut off for political or even security objectives.

Third, are certain types of sanctions (i.e., arms embargoes vs. financial asset freezes) more effective than others in Africa? In what political contexts are they most effective?

Sadly, arms embargoes do not have a good track record. The literature suggests that without strong enforcement, especially by neighboring countries and countries with active arms exporters, they fail to reduce the level or intensity of conflict. And such enforcement is rare. That is one reason the U.S. and others have been hesitant to enact an arms embargo on South Sudan. Not only are the neighboring countries in the Intergovernmental Authority on Development (IGAD), which is also the institution directing the peace process in South Sudan, divided over this issue, individuals in some of those countries are actively involved in selling arms to one or the other of the contending parties.

As Guy Lamb, author of an Institute for Security Studies paper on enforcement of arms embargoes in Africa, pointed out some years ago:

> In the majority of case studies . . . it was states bordering countries targeted by the sanctions regimes, along with some arms-producing states in Europe and Asia that were largely responsible for embargo contraventions. In many of the cases, when the panels of experts sought to investigate allegations of arms embargo infringements, their efforts were frustrated by the governments concerned. Numerous reports by panels of experts bemoaned the lack of co-operation and even deliberate obstruction to conceal information, by state authorities and commercial enterprises that had been implicated in embargo-busting activities.[1]

Moreover, some such embargoes are practically unenforceable. The embargo on arms reaching rebel groups in Darfur, not an embargo on arms entering Sudan, is one glaring example.

Since the mid-1990s, targeted economic sanctions have become the preferred form of sanctions. That is because broad sanctions on a country that affect imports of vital products, restrictions on investment and trade, and other broad economic sanctions, have had a disproportionate impact on the population, less on the regime or rebels. Nevertheless, looking back on the sanctions placed on cocoa exports from Cote d'Ivoire, diamond exports from Liberia and Sierra Leone, and general economic sanctions on Sudan in the final stages of the Comprehensive Peace Agreement, one can argue that they had significant positive effect on the outcome in those cases.

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[1] Guy Lamb, "Beyond 'Shadow-Boxing' and 'Lip Service,'" 2007, 12, http://www.issafrica.org/uploads/Paper135.pdf.

However, their effectiveness wears off as regimes learn to accommodate to them, evade them, or simply allow their people to suffer or migrate. Sudan is a case in point. Zimbabwe is another.

Targeted sanctions, particularly financial ones and travel bans, have become steadily more sophisticated and effective, especially when enforced by the U.S. and its specialists in the Office of Foreign Assets Control (OFAC) of the U.S. Department of the Treasury and other parts of the U.S. government. They are aimed more at individuals than regimes or countries at large. Thus their impact is often to isolate individuals guilty of gross human rights violations, and in some cases achieve accountability as with those individuals sent to the ICC from the DRC. But because they are aimed at individuals, their effect on regimes may be limited. It depends on the roles those individuals play in their governments or organizations, the degree to which they are easily replaceable, and the extent that they have either assets abroad that are affected or any desire to travel. Beyond the specific individuals targeted, such sanctions may also act as a warning to others in the regime, especially top leaders who the international community are hesitant to target lest it complicate the peace process, but who still remain vulnerable. This is the aim in South Sudan.

The record of wider effects are nevertheless mixed. Reports from the CAR suggest the threat of more targeted sanctions had some impact. But in Sudan, indictment by the ICC of several top officials for their part in the genocide in Darfur, have not prevented them from continuing in government positions at senior levels. The same is true of some of those targeted in South Sudan. While not a scientific conclusion, when one looks at the thousands of names on various UN, U.S. and other targeted sanctions lists, one can wonder if the overall impact on the actions of regimes and armed institutions has been proportionally very great.

That leads to the question of political contexts. Right now, the U.S., and other countries and institutions are wrestling with whether to impose additional targeted sanctions on individuals in the DRC. The immediate justification is these individual's roles in human rights violations. But the longer term aim is to pressure President Kabila to abide by the constitutional limit on his presidency and to step down in December of this year rather than thrust his country into what could be widespread instability and chaos. Human rights violations are a rightful cause in-and-of themselves, but the broader message of such sanctions would be that the regime must stop using repression to maintain the president in power.

But targeted sanctions will have little impact on the ultimate objective without a broadly based, unified international diplomatic effort to convince the regime to abide by the constitutional limit. Such a concerted effort is not yet in place. The African Union has yet to weigh in on this matter, divided over how to address concrete instances of regime "extensions." It stumbled over this issue in Burundi. Countries surrounding the DRC also have competing interests in the mineral rich country with its many ethnic rivalries and frequent uprisings abetted from abroad. African countries fought on both sides in the previous two "African World Wars" in the DRC. Without consensus within the African Union, it will be hard to exert the political pressure that uniquely resides within Africa through its former presidents and other political leaders to influence President Kabila to change what appears to be his present course. Without such consensus, other sanctions would not be enforceable.

The answer to the current crisis in the DRC is to raise it to a high level of international concern and debate, within the African Union and the UN. The threat to instability and renewed civil war should be analyzed jointly by the UN, the AU, and the institutions of neighboring countries. DRC officials should be held to account for how they plan to address the crisis and demonstrate that they have a realistic path to an election and stability. As consensus is developed on both the threat and the means for engaging and pressuring the regime, agreement can be reached on the role of sanctions as one tool in that undertaking. Should the fragile peace process in South Sudan fail, a similar process should be undertaken.

Four, are we now over- or under-using sanctions in Africa?

It is easy to reach for the sanctions box when conflict erupts, or terrible human rights violations occur. Sanctions make us feel we are doing something. Sanctions, especially targeted financial and other economic sanctions, allow concerned nations to withhold direct participation in, and even indirect support to, what is happening. But sanctions are a tool, they are not a policy. Without a policy, without a strategy for dealing with what in most cases is a complex political and social situation, they are of limited impact.

Sanctions, moreover, are most effective if aimed at a fairly specific objective, i.e., a cease-fire, humanitarian access, or participation in a peace process. The more sanctions are linked to long-term processes of transformation, which could drag on

for years, they are less likely to have an effect and support for them will wane. Further, the more sanctions aim at or demand processes that threaten the political survival of those in power, the less they will be effective. That may not be very satisfactory, but true nevertheless. Rulers will resist the latter at almost any cost, including those to their people. On the other hand, more specific demands such as cease-fires or peace negotiations may serve the survival interest of the regime. Sudan agreed to the allow South Sudan the right of self-determination and ultimately independence, because it saw continuation of the civil war depleting its resources, preventing it from coming out of economic and political isolation, and even allowing for a stronger internal base for the regime. As President Bashir commented after the separation: without the troublesome south, Sudan could now be a unified Islamic country. This proved not to be true, but he believed it at the time.

Nevertheless, longer term political transformations are often the desired outcome in many countries. Underlying problems of marginalization, repression, and other grievances are very likely to recur in violence after a piece-meal peace agreement. But for political transformations to occur, a different strategy is needed than that which ended the conflict. It may include sanctions, but carefully layered ones that can be removed as steps toward transformation are taken. A transformation strategy must also include engagement with leaders, opposition figures, civil society, neighboring countries, and regional experts. It should encourage the belief that transformation need not be a zero sum game, as it has not been in many other transforming countries such as South Korea, Indonesia, and Brazil. Political transformation requires the development of truly democratic political parties to govern in a transformed polity: democratic and inclusive as Nelson Mandela demonstrated in South Africa. These are the strategies necessary for countries like Sudan, Eritrea, Ethiopia, and others where democratic transformation is essential, but a delicate process.

Let me conclude with an emphasis on building indigenous democratic political parties and institutions as an essential part of transformation strategies. I remember in 1995 when a delegation of Nigerian activists came to see Nelson Mandela, then president of South Africa, to appeal for his support for international oil sanctions against the regime of Sana Abacha. They pointed out that sanctions had helped bring about the end of apartheid in South Africa. Mandela replied, "Yes, sanctions were helpful. But they would not have been sufficient if there were not a strong indigenous democratic movement in South Africa. Until you have that in Nigeria, sanctions will not help." Fortunately, today there is a strong democratic movement in Nigeria and a remarkable electoral process just took place. Let us hope we find the right combination of instruments to help that process emerge in other countries whose people yearn for it.

The views expressed in this testimony are those of the author and not the U.S. Institute of Peace.

PREPARED STATEMENT OF SUE E. ECKERT

Chairman Flake, Ranking Member Markey, and distinguished members of the subcommittee, thank you for the opportunity to appear before you to discuss the effectiveness of targeted sanctions in Africa. I applaud you for addressing this important instrument of U.S. and international peace and security policy, one that does not often receive adequate attention.

My comments today are based on my previous experience as Assistant Secretary of Commerce responsible for regulating dual use goods and technology, as well as more recent academic research and initiatives to strengthen the instrument of UN sanctions. The Watson Institute for International and Public Affairs at Brown University has been engaged in research on UN targeted sanctions for more than 15 years, collaborating with Member States and the Secretariat to make such measures more effective. Along with colleagues at The Graduate Institute in Geneva, we formed the Targeted Sanctions Consortium (TSC), an international group of scholars and practitioners conducting a comprehensive and comparative analysis of the impacts and effectiveness of UN sanctions, which resulted in publication of the book, Targeted Sanctions: The Impacts and Effectiveness of United Nations Action this April. In addition to developing new qualitative and quantitative databases on the universe of UN sanctions (which also resulted in an online tool, SanctionsApp), I also helped to organize with colleagues at Compliance and Capacity Skills International, the High Level Review of UN Sanctions which focused on strengthening implementation of UN sanctions. In this capacity, I've had the opportunity to engage with and international policymakers, national regulators, and civil society involved

in UN and U.S. sanctions. The views expressed today, however, are my own, and are not necessarily endorsed by any entity or colleagues with whom I am affiliated.

Due to time constraints and the wealth of experience of other witnesses, my statement will focus on the effectiveness of UN sanctions in addressing threats to international peace and security in Africa. I am happy to provide any additional information, including greater statistical analysis based upon our book and other initiatives addressing aspects of U.S. sanctions.

Evolution of UN Sanctions [1]

The past quarter century has witnessed a significant transformation in the use of UN targeted sanctions. Instead of comprehensive economic embargoes such as the one employed against Iraq in the early 1990s with resulting injurious humanitarian consequences, the Security Council deliberately shifted to "targeted" or "smart" sanctions as a means of focusing measures on the decision-makers and their principal supporters responsible for violations of international norms. All UN sanctions since 1994 have been targeted in some manner.

As global threats have evolved, innovation in the design and application of UN sanctions has ensued. From the original focus on primarily cross-border attacks and civil wars in Africa, the rationale for sanctions has expanded to encompass prevention of new forms of human rights violations (such as sexual and gender-based violence and recruitment of child soldiers), thwarting the development of weapons of mass destruction and their delivery systems, stemming terrorism, countering the financing of conflict through exploitation of natural resources or criminal activities, controlling natural resources to prevent exploitation of mineral development, restoring democratically elected governments, and countering violent extremism. At the same time, UN sanctions are increasingly used along with other crisis management tools—diplomacy, mediation, peacekeeping, referrals to international judicial processes, as well as the imposition of sanctions by entities other than the UN, including regional groups as well as individual countries.

With UN sanctions targeting specific goods, services, individuals and entities, new issues have arisen over time—the need to ensure that UN sanctions are reconciled with the rule of law, particularly respect for due process and human rights; the focus on nonstate actors; new expert mechanisms to monitor implementation; and greater reliance on the private sector to implement sanctions, requiring new partnerships and strategies to ensure effectiveness. These institutional dynamics reflect the need for the Security Council, the Secretariat and UN agencies, Member States, and related international actors to adapt continually to the intricacies of new threats to international peace and security.

Objectives and Types of UN Sanctions in Africa [2]

Under Chapter VII of the United Nations Charter, the Security Council imposes sanctions to maintain or restore international peace and security. Sanctions have been used for a variety of purposes, and have expanded over time as the Security Council has encountered a broader array of threats to international peace and security. Sanctions have been used to neutralize spoilers in conflict and peacekeeping contexts, and the Council has signaled its intention to sanction recruiters of child soldiers, suspected pirates, and groups using natural resources, including wildlife products, to finance conflict. Sanctions have also been focused on actors disrupting peace agreements and peacekeeping missions, those involved in unconstitutional changes of government (Cote d'Ivoire, Sierra Leone, and Guinea Bissau). Today, the UN utilizes sanctions to address six general categories of threats to international peace and security: armed conflict (including support for peace negotiations and peace enforcement often in African countries), terrorism, WMD proliferation, unconstitutional changes of government, governance of resources, and protection of civilians.[3]

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[1] For more detailed discussion of the evolution of UN targeted sanctions, see "The Role of Sanctions" in The UN Security Council in the 21st Century.

[2] *See also* Appendices 2 and 3 for more detail on the primary objectives of UN African sanctions and a chart on African states subject to UN and African regional sanctions.

[3] Principal objectives of sanctions referred to here reflect the general categories adopted by the Targeted Sanctions Consortium to differentiate the political objectives that UN sanctions seek to achieve. Following are the categories and percentages of sanction episodes determined by the TSC: armed conflict (cease hostilities, negotiate or enforce peace agreement, support peacebuilding) 59 percent; counterterrorism 14 percent; nonproliferation 11 percent; and support democracy (restoration of an elected government) 10 percent. The remaining includes protection of civilians under the Responsibility-to-Protect, support of judicial processes, and more effective governance of natural resources. While respect and support for human rights is a frequently cited rationale for UN sanctions, human rights is rarely a primary objective of sanctions.

To address these challenges, the Security Council employs sanctions for three strategic purposes: 1) to coerce targets into changing policies or behavior (the most widely perceived goal of sanctions); 2) to constrain targets in their ability to conduct proscribed activities; and 3) to signal support for an international norm or stigmatize targets. Such purposes are not mutually exclusive, and most sanctions have multiple objectives.[4] For example, nonproliferation sanctions against Iran and North Korea attempted to change regimes' behavior and to stigmatize their violations of nonproliferation norms, but primarily focused on constraining access to goods, technology, and finance that could assist WMD programs. All UN sanctions address threats to international peace and security and involve signaling or stigmatizing in some manner.

Sanctions are targeted in variety of ways-against individuals, corporate entities (e.g., firms, political parties, or other nonstate actors such as UNITA, al-Qaeda, ISIL), sectors of an economy (e.g., aviation or arms, financial, or commodities such as oil, diamonds, or timber); or specific regions of a country (as in Darfur in western Sudan). Targeted sanctions attempt to deny targets the means to wage conflict or otherwise threaten international peace and security, while minimizing the impact on innocent civilians and the population as a whole. Specifically, targeted measures include asset freezes, travel or visa restrictions, aviation bans, arms embargoes, and restrictions on commodities such as diamonds, timber, oil, charcoal, and luxury goods. The most frequently utilized sanctions include arms embargoes, and financial and travel measures.

Currently the UN maintains thirteen sanctions regimes, including eight country-based regimes in Africa—Somalia/Eritrea, the Democratic Republic of Congo, Sudan, Libya, Guinea-Bissau, the Central African Republic, Yemen, and South Sudan.[5] The following table provides an overview of sanctions imposed on African countries by the United Nations.

[4] Notwithstanding the multiple purposes of sanctions, popular discourse remains fixated on the coercive aspect, often to the exclusion of the other purposes. Public commentary usually focuses on whether sanctions "work" in forcing a change of behavior, failing to understand and appreciate the important constraining and signaling functions of UN sanctions.

[5] The remaining regimes include sanctions against al-Qaeda/ISIL and globally affiliated terrorist groups, the Taliban, Iraq, nonproliferation sanctions on the Democratic People's Republic of Korea, and individuals suspected of involvement in the 2005 bombing in Beirut that killed then-Lebanese Prime Minister Rafiq Hariri.

UNITED NATIONS SECURITY COUNCIL SANCTIONS ON AFRICAN COUNTRIES

(1990–2016)

Cases	Targeted								
	Arms	Financial	Travel	Aviation	Oil	Diamonds	Timber	Other	Panel of Experts
Somalia/Eritrea (1992–	X	X	X	—	—	—	—	X (i)	X
Libya I (1992–2003)	[X]	[X]	—	[X]	—	—	—	[X] (ii)	—
Libya II (2011–	X	X	X	—	X	—	—	—	X
[Liberia] (1992–2016)	[X]	[X]	[X]	—	[X]	[X]	—	[X]	
[Angola (UNITA)] (1993–2002)	[X]	[X]	[X]	—	[X]	[X]	—	[X] (iii)	[X]
[Rwanda] (1994–2008)	[X]	—	—	—	—	—	—	—	[X] (iv)
[Sudan I] (1996–2001)	—	—	[X]	[X]	—	—	—	[X] (v)	
Sudan II (2004–	X	X	X	—	—	—	—	—	X
[Sierra Leone] (1997–2010)	[X]	—	[X]	—	[X]	[X]	—	—	[X]
[Eritrea/Ethiopia] (2000–2001)	[X]	—	—	—	—	—	—	—	—

UNITED NATIONS SECURITY COUNCIL SANCTIONS ON AFRICAN COUNTRIES—continued

(1990–2016)

Cases	Targeted								
	Arms	Financial	Travel	Aviation	Oil	Diamonds	Timber	Other	Panel of Experts
Democratic Republic of Congo (2003–	X	X	X	X	—	—	—	—	X
[Cote d'Ivoire] (2004–2016)	[X]	[X]	[X]	—	—	[X]	—	—	[X]
Guinea-Bissau (2012–	—	—	X	—	—	—	—	—	—
Central African Republic (2013–	X	X	X	—	—	—	—	—	X
Yemen (2014–	X	X	X	—	—	—	—	—	X
South Sudan (2015–	—	X	X	—	—	—	—	—	X

Brackets [ ] indicate UN sanctions terminated

(i) Charcoal exports and imports

(ii) Oil-related equipment

(iii) Sanctions against UNITA included diplomatic measures (closing of offices), a ban on the supply of aircraft, spare parts and servicing, prohibition on equipment for mining/mining services, and a transportation ban on motorized vehicles, watercraft, and ground or water-borne services to areas in Angola

(iv) Commission of Inquiry to collect information on the arms embargo (first expert-panel type mechanism)

(v) Diplomatic restrictions including reduction in the number and level of staff at Sudanese missions

While more than sixty percent (eight of thirteen) of current UN regimes remain focused on armed conflict and peacebuilding objectives in African countries, sanctions focused on the threat of terrorism (al-Qaeda, ISIL, the Taliban) and the threat of nuclear proliferation (North Korea) receive a disproportionate share of the Security Council's attention and resources.[6]

Research Results

The Targeted Sanctions Consortium adopted two distinctive conceptual innovations in assessing the impact and effectiveness of UN sanctions: first, the unit of analysis is a case episode rather than a country sanctions regime, some of which have been in existence for more than twenty years. This allows for a more detailed assessment of changes in types and purposes of targeted sanctions over time (as a result, the TSC database includes 23 different country regimes broken down into 63 case episodes for comparative analysis). Secondly, sanctions are assessed according to three different (and frequently simultaneous) purposes: to coerce a change in the target's behavior; to constrain a target from engaging in proscribed activity (by denying access to critical resources such as financing, technology, etc.); and to signal and/or stigmatize a target or others about the violation of an international norm.

Following are TSC findings relevant to African sanctions:

- UN sanctions in Africa constitute the majority of all UN sanctions—about 70% of the episodes. In the early days, sanctions frequently were imposed in an ad hoc manner, without a coherent coordinated strategy; rather than as part of a well-designed comprehensive approach to address conflict, sanctions were often the tool of first resort that substituted for policy. While understandable that during times of crisis, governments act quickly, the use of sanctions to demonstrate resolve without integrating them into an overall strategy is largely ineffective.

  For this reason, it is important that the objectives of sanctions are clearly articulated at the outset, for the targets to understand precise actions that need to be taken for sanctions to be lifted. Too often, vague criteria and moving goalposts prolong sanctions unnecessarily. The Security Council (and even Member States) has difficulty terminating sanctions regimes once imposed (for example, in Liberia). Automatic extension of sanctions regimes diffuses signals as to expected actions, undermining their credibility.
- Targeting (the list of specific individuals and entities subject to sanctions) is important and should reflect the purposes of sanctions. Too many, or more commonly in the case of African sanctions, too few, or even wrong targets undermine credibility of sanctions.
- Different types of targeted sanctions differ in degree of discrimination.[7] With the exception of the 2011 sanctions on Libya, most UN sanctions largely remain targeted in design. In implementation of sanctions, however, Member States or private sector actors concerned with the reputational risks if found to be noncompliant, may interpret measures in an overly broad manner, which expands the impact and unintended consequences of sanctions.

Following are characteristics of effective UN sanctions:

- *Relationship to other policy instruments.*

  UN sanctions do not exist in isolation, and always include the presence of other policy instrument seeking to achieve related objectives. Diplomatic negotiations occurred more than 95% of the time, and peacekeeping forces are on the ground in 62% of episodes. Some aspects of force (i.e. limited strikes and operations, robust military missions, no fly zone or naval blockages) were used 52% of the time, and legal tribunals were present in 46% of the cases. Sanctions need to be part of a broader coordinated strategy. (Effective sanctions are associated with multiple (at least 3) policy instruments).

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[6] While most UN sanctions are aimed at ending conflict, supporting peacebuilding, or restoring democratically elected governments in Africa (68% of TSC episodes), there is an inverse relationship between the number of sanctions regimes and the resources put at their disposal. See appendices B and C in the chapter by Alix Boucher and Caty Clement, "Coordination of UN sanctions with other actors and instruments," in Targeted Sanctions.

[7] Degrees of Discrimination (or "comprehensiveness") of different types of targeted sanctions include the most discriminating/targeted individual sanctions (e.g. travel ban, assets freeze, diplomatic restrictions (in which only one sector of government directly affected), to arms embargoes (which are largely limited to affecting fighting forces) and commodity sanctions (e.g. diamonds, timber, charcoal which tend to affect some regions disproportionately), to broad sectoral sanctions such as oil and financial (which affect an entire population and therefore are the least discriminating of targeted sanctions). Comprehensive sanctions are non-discriminating.

- *Objectives and types of sanctions.*
  In terms of effectiveness, UN targeted sanctions are effective more than 20% of the time and are nearly three times more effective in constraining or signaling than coercing a change in target behavior.
  Arms embargos, the most frequently imposed sanction especially in African conflicts (in 89% of episodes) are the least effective especially when applied in isolation. Arms embargoes are frequently the first type of sanction imposed.
  Most targeted sanctions are employed in combination with other sanctions measures. Travel bans are the next most utilized measure (69% of cases), followed by asset freezes (66%); travel bans are frequently employed in combination with asset freezes (73% of cases).
  Commodity sanctions are employed in 40% of cases, and always in situations of armed conflict in Africa (77%). Sanctions on diamonds (Liberia, Sierra Leone, Angola, Cote d'Ivoire), oil (Libya, Angola, Sierra Leone), charcoal (Somalia), timber (Liberia), when appropriate, appear highly effective, especially for purposes of constraint (69%) and signaling (76%).
  Also, secondary sanctions applied to neighboring states, although applied infrequently (only two times or 6% of cases - against Liberia in the case of its support for the RUF in Sierra Leone, and against Eritrea over its arms exports to Al Shabaab in Somalia), appear to be highly effective.
- *Importance of regional sanctions.*
  The past several decades have witnessed an increase in sanctions applied by regional organizations. In 74% percent of the episodes analyzed by the TSC, other regional sanctions of the European Union, the African Union,[8] or the Economic Community of West African States preceded initial imposition of UN sanctions. Often resulting from a request by a regional body that has already imposed individual sanctions (travel ban or assets freeze) on targets, UN sanctions often complement pre-existing sanctions, and effectiveness appears enhanced by regional measures.
  Moreover, targeted sanctions are more complicated to design and implement than comprehensive economic measures; greater technical expertise is required to administer asset freezes, enforce travel sanctions, implement arms embargoes, and calibrate sanctions. The 2011 sanctions on Libya, while targeted on the financial and oil sectors, affected a significant volume of assets (reportedly in excess of $160 billion) and posed significant complications for the sanctions committee and national governments. Less targeted financial measures against a central bank or economic sector such as petroleum, affect a greater portion of the population as a whole and can have the effect of making sanctions more comprehensive.

I also want to call attention to the fact that even targeted sanctions have unintended consequences. TSC research highlighted some of these effects, including increases in corruption and criminality, strengthening of authoritarian rule, and decline in legitimacy of Security Council. Additional consequences of international policies/sanctions related to countering the financing of terrorism/anti-money laundering also include "derisking" or the inability of remitters or money service businesses and charities to access financial services. These problems have been particularly acute in African countries such as Somalia, Sudan, and Angola where humanitarian assistance needs are greatest. Access by nonprofit groups to banks and international funds transfers necessary to get aid into regions of conflict is the subject of new research funded by the Gates Foundation.

Security Council sanctions have played an important role in numerous African countries, helping to end violence, promote peace agreements and transition to post-conflict societies, gain governmental control of natural resources, and support transitions to democratically-elected governments. Appendix 1 provides examples of effective African sanctions for the purposes of coercion, constraint, and signaling. Institutional learning by the Security Council and States over the past two decades implementing UN sanctions reflects undeniable progress, but challenges persist that continue to hamper more effective utilization of the sanctions instrument.

Challenges to Effective Sanctions

As the international community increasingly relies on United Nations sanctions, problems regarding implementation have become more pronounced. Weak imple-

[8] The African Union is primarily concerned with non-constitutional changes of government and routinely applies sanctions to its own members. ECOWAS has sanctioned about half of its members.

mentation, inadequate monitoring and enforcement, and misperceptions and a lack of understanding constitute the primary obstacles to more effective UN sanctions.

- *Weak Implementation and Capacity.*
  Many countries lack basic legal authority and administrative mechanisms to translate UN sanctions into domestic law and regulations, fundamental to give full force to sanctions. The ability to freeze assets without prior judicial action, exercise appropriate border and visa controls, and enforce restrictions on exports of arms and dual-use goods and technology is often limited or nonexistent. In many cases, failure to implement sanctions boils down to simple lack of capacity at the domestic level. There are no systematic UN attention, resources, and training to support national sanctions capacity building.
- *Inadequate Monitoring and Enforcement.*
  Outside the work of panels of experts, there is little tracking of sanctions implementation or other means to monitor national compliance efforts. There is no enforcement mechanism or body to address sanctions violations. When no consequences result, targets come to regard the threat of coercion as empty, further eroding the credibility of sanctions.
  With P5 members' predominant focus on counterterrorism and nonproliferation issues and disproportionate attention and resources, sanctions dealing with armed conflict, especially in Africa receive far fewer resources and attention, notwithstanding the fact that they constitute the majority of UN sanctions. Distinct challenges posed by African regimes-including inconsistent cooperation with peacekeeping operations and the failure to devote adequate attention to human rights, conflict prevention, and peace enforcement sanctions, translate into weaker enforcement than for counterterrorism and nonproliferation sanctions.
- *Misperceptions and Lack of Understanding.*
  Notwithstanding the move to targeted measures and significant procedural innovations, public perception remains largely skeptical of sanctions. Many UN conflict resolution actors view sanctions as politically toxic complications for their mandates, and shy away from association, contributing to a lack of coherence and effective implementation of UN peace and security policies.
  More broadly, public understanding of the purpose and effects of sanctions is extremely limited. Fears of the consequences of comprehensive economic sanctions persist, despite the fact that the last time the Security Council imposed comprehensive measures was in 1994. Policy debates remain fixated on whether they "work" in forcing a change of behavior, failing to recognize the important constraining and signaling functions of UN sanctions. Perceptions that "sanctions don't work," especially related to Africa, contribute to a profound cynicism regarding the utility and efficacy of sanctions.

Recommendations to Strengthen UN Sanctions in Africa

P5 interests will continue to diverge, especially those related to national economic interests which loom large in Africa. Nevertheless, more can and should be done to prioritize and strengthen the implementation of UN sanctions.[9] Recommendations for UN sanctions to be more effective instruments of international conflict resolution include:

- *Improve Member States and Regional Capacities to Implement Sanctions.*
  Notwithstanding practical limitations on the adoption of new sanctions, as witnessed in the case of Syria, the Council and Member States should vigorously implement and enforce all existing UN sanctions, focusing especially on African sanctions and not just those related to nonproliferation and counterterrorism. Greater U.S. leadership and focus on conflict-related sanctions is important for sustained credibility of sanctions. The High Level Review of UN Sanctions recommended that new measures and resources be undertaken for sanctions assistance generally, including cooperation with regional organization in strengthening and coordinating efforts to implement asset freezes, travel bans, and arms embargos. In particular, the African Union has expressed interest in such assistance previously and represents an ideal opportunity to develop new approaches to capacity-building training and services.
- *Enhance Sanctions Monitoring and Enforcement.*
  More vigorous monitoring and enforcement of UN sanctions, as well as specific consequences for noncompliance, would strengthen their credibility. When

[9] The 2015 *Compendium of the High Level of UN Sanctions* contains a detailed discussion of these issues annd related recommendations. *See* http://www.hlr-unsanctions.org/.

the Security Council determines that a country is deliberately violating Council sanctions, consequences should result, with the Council developing a menu of secondary sanctions against UN members found to violate sanctions. Member States should revive enforcement assistance, particularly initiatives similar to the sanctions assistance missions (SAMs) deployed in the early 1990s to monitor implementation of sanctions against the former republic of Yugoslavia, expanding beyond border controls to enforcement of travel bans, financial sanctions, and arms embargoes.

- *Strengthen Cooperation with Regional Groups and Civil Society.*
  Coordination of regional measures with UN and national sanctions should be strengthened, and civil society, including both the private sector and NGOs, should become more involved partners in implementing UN sanctions so as to promote enhanced effectiveness.
- *Develop Better Analysis and Understanding of Sanctions.*
  Finally, the UN and Member States should promote better understanding and analysis of conditions under which more effectual sanctions are likely to result. Effective implementation of sanctions is made more difficult by the lack of accurate information and misunderstanding about the impacts and effectiveness of targeted measures. Greater understanding of the optimal conditions under which sanctions are most effective, and appreciation that sanctions have multiple and simultaneous purposes (coercion, constraint, and signaling), will result in more realistic expectations of what sanctions can reasonably be expected to achieve. Since UN targeted sanctions are nearly three times more effective in constraining and signaling targets than in coercing a change of behavior; more resources should be invested in sanctions intended to constrain/signal, given their relative effectiveness.

Conclusion

UN targeted sanctions have made important contributions in achieving U.S. policy objectives, but to a limited degree and not without important unintended consequences. Progress has been made in recent years to enhance implementation, but more needs to be done for sanctions to be used to full effect in advancing U.S. and international security objectives in Africa.

Notwithstanding the mixed record of effectiveness of UN sanctions, the fact remains that sanctions are one of the few tools of the international community to promote international peace and security, short of the use of force. Sanctions will continue as an essential component of U.S. and the Security Council's response to international threats.

Concerted attention, leadership, and action by like-minded states to strengthen the implementation and enforcement of sanctions, as well as enhancing the capacity of Member States to carry out their obligations, are necessary to make sanctions an even more potent and indispensable tool of collective security in Africa.

Thank you Mr. Chairman for the opportunity to discuss the effectiveness of U.S. and international sanctions as policy tools in Africa. I look forward to questions and being of assistance to the subcommittee as you continue to address these critical foreign policy challenges.

APPENDIX 1: Examples of Effective African Sanctions [10]

EFFECTIVE COERCION: LIBYA

LIBYA—EPISODE 3 (5 APRIL 1999–12 SEPTEMBER 2003)

Summary

Sanctions were suspended on 5 April 1999 once the two Lockerbie suspects were handed over to the special Scottish Court in the Netherlands (as specified in UNSCR 1192) and terminated on 12 September 2003 (UNSCR 1506) once compensation was provided and Libya renounced terrorism.

Purposes

Coerce the Government of Libya to provide compensation and renounce terrorism; and signal Libya and international community about norm against state-sponsored terrorism.

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[10] From Targeted Sanctions Consortium database at http://graduateinstitute.ch/home/research/centresandprogrammes/international-governance/research-projects/UN—Targeted—Sanctions/targeted-sanctions-consortium-da.html.

Sanction type

All sanctions (aviation ban, arms imports embargo, diplomatic sanctions, government asset freeze, and oil services equipment ban) were suspended in April 1999 (seven months after the conditions for suspension were set in UNSCR 1192) but not terminated until September 2003.

Effectiveness

Coercion (Effective)

Policy outcome: 4/5, Suspects were turned over, trials conducted, compensation provided, and terrorism renounced, but not on the precise terms of the original UNSCRs.

UN sanctions contribution: 4/5, Suspension of sanctions was significant to reinforce legal procedures underway in domestic and international courts regarding compensation.

Constraint (N/A)

Policy outcome: N/A.

UN sanctions contribution: N/A.

Signaling

Policy outcome: 3/5, Norms against state-sponsored terrorism were consistently articulated in relevant UNSCRs (1192 and 1506), but Qadhafi was able to mobilize support from the AU. Arab League, Non-Aligned Movement and Organization of the Islamic Conference to limit the extent of his stigmatization.

UN sanctions contribution: 4/5, Sanctions suspension created an incentive to accept norms against state-sponsored terrorism in order for Libya to be re-legitimized and reintegrated into the international community.

Unintended consequences: Strengthening of authoritarian rule

EFFECTIVE CONSTRAINT: LIBERIA

LIBERIA—EPISODE 4 (22 DECEMBER 2003–16 JUNE 2006)

Summary

Following the departure of Charles Taylor and progress in the peace process in Sierra Leone, a peace enforcement sanctions regime was established in Liberia to ensure compliance with the comprehensive peace agreement signed in Accra on 18 August 2003 and to support the transitional government of national unity. The Liberian ceasefire was maintained, DDR implemented, and elections were held during this episode. UNSCR 1521 lifted the previous sanctions and immediately re-imposed them in support of a new objective: peace enforcement. The Council also articulated specific criteria for lifting.

UNSCR 1532 imposed financial sanctions on Charles Taylor, his family, and other close associates for misappropriating Liberian funds and property and using them to destabilize the transitional government during the early phase of this episode. Taylor appeared before the Sierra Leone Special Court in April 2006 and was extradited to the Hague in June 2006. Elections were held in 2005 with Ellen Johnson Sirleaf taking office January 2006.

Purpose

Constrain and signal parties that might threaten the comprehensive peace agreement and the transitional government of national unity.

Sanction type

Ongoing arms imports embargo (now exempting internationally trained armed forces and police), ban on exports of rough diamonds, travel ban on individuals undermining peace and stability or supporting armed rebel groups in Liberia and the subregion (including senior members of former President Charles Taylor's Government, their spouses, and members of Liberia's former armed forces retaining links to Charles Taylor), and ban on export of timber (until certification schemes are in place). Newly imposed asset freeze on Charles Taylor, his family members, and close associates (from March 2004).

Effectiveness

Coercion (N/A)

Policy outcome: N/A.

UN sanctions contribution: N/A.

Constraint—(Effective)

Policy outcome: 4/5, Panel of Experts concludes that sanctions helped to stabilize the situation in Liberia; elections were held, DDR took place, though Taylor tried to destabilize the process at the outset.

UN sanctions contribution: 3/5, Sanctions against the remnants of Taylor's regime reinforced the peacebuilding efforts of the government of Liberia, but international tribunals (the Sierra Leone Special Court and ICC) played a major role in constraining Charles Taylor.

Signaling—(Effective)

Policy outcome: 5/5, Potential spoilers were deterred from destabilizing the regime. UN sanctions contribution: 3/5, Sanctions reinforced the peacebuilding efforts of the government of Liberia and international tribunals played a major role in constraining the remnants of Charles Taylor's regime.

Unintended consequences

Increase in international enforcement capacity in different issue domains, humanitarian consequences, widespread harmful economic consequences.

EFFECTIVE SIGNALING: ANGOLA

ANGOLA—EPISODE 4 (12 JANUARY 1999 9 DECEMBER 2002)

Summary

The shooting down of the second of two UN aircraft over UNITA controlled territory prompted strong reaction from UNSC (UNSCR 1221). Given the return to full-scale war, UN peacekeepers were removed in February 1999.

Canadian Ambassador Robert Fowler assumed chair of Angola Sanctions Committee in January, which sets up two expert panels in May (one on financing of UNITA and another on arms, later merged). This results in a major strengthening of the sanctions regime in terms of implementation at the UN level. The PoE "Fowler Report" is released and created a storm of protest by naming and shaming of African heads of state for their role in undermining UN sanctions. UNSC sets up a mechanism for monitoring sanctions violations (threat of secondary sanctions) in April 2000, but no secondary measures imposed.

Sanctions were continued in December 2000, and there was evidence that sanctions monitoring had disrupted UNITA's supply lines. A December 2001 offensive against UNITA ended with Savimbi (and his Vice President's) death in February 2002.

Phase out—A truce quickly followed in March, negotiations in April, and UNITA dismantled its armed wing in August. UN lifted sanctions in December 2002.

UNSCRs during the episode included UNSCR 1221 (January 1999) which expressed outrage and specifically named Savimbi and UNSCR 1237 (May 1999), which created a panels of experts. In March 2000 the "Fowler Report" S/2000/203 was released. Following this, UNSCR 1295 (April 2000), established a monitoring mechanism and UNSCR 1448 (December 2002) terminated sanctions immediately before Angola joined the UNSC.

Purposes

Coerce UNITA to cease hostilities and implement the peace agreement; constrain UNITA from being able to act autonomously; stigmatize UNITA and its supporters in other African countries (including heads of state).

Sanction type

Ongoing arms imports embargo, petroleum and petroleum products imports ban, and aviation ban on UNITA (except through points of entry named by the Government of Angola), asset freeze on UNITA, senior UNITA officials, and their adult family members, diamond exports ban, prohibition on supply of mining and ground or waterborne transportation services and equipment into UNITA controlled areas. Travel ban on senior UNITA officials and their adult family members and visa cancelation measures were suspended in May 2002 and lifted later that year, in No-

vember. Diplomatic sanctions on UNITA in the form of limitations of diplomatic representation persisted until the end of the sanctions regime.

Effectiveness

Coercion (Ineffective)

Policy outcome: 1/5, Sanctions contributed to shifting the balance of forces, but Savimbi showed no sign of concessions before his death.

UN sanctions contribution: 2/5, Ultimately, the use of force was decisive.

Constraint (Effective)

Policy outcome: 5/5, Diplomatic sanctions terminated much of UNITA's official presence abroad; diamond sanctions weakened the prospects of UNITA's raising of funds; squeezing the financial sources led to no salt, no beer, and demoralization of Savimbi's forces.

UN sanctions contribution: 4/5, Acknowledgment by the target of the impact of sanctions.

Signaling (Effective)

Policy outcome: 5/5, Savimbi became the principal target and was thoroughly isolated by UNSCR 1221.

UN sanctions contribution: 4/5, Diplomatic pressure was also significant.

Unintended consequences

Increase in corruption and criminality, strengthening of authoritarian rule, decline in the credibility and/or legitimacy of UN Security Council, increase in international enforcement capacity in different issue domains.

APPENDIX 2

PRIMARY OBJECTIVE OF UN AFRICAN SANCTIONS

Primary Objectives	TSC Episodes
Counterterrorism	5 Libya in the 1990s (1-3), Sudan in the 1990s (1-2)
Good governance	1 Liberia (5)
Democracy support	3 Sierra Leone (1), Cote d'Ivoire (4), Guinea-Bissau (1)
Armed conflict (cease hostilities, negotiation of settlement, peace enforcement. support peacebuilding)	32 Somalia (1-5), Liberia (1-5), Angola (1-4), Rwanda (1-2), Sierra Leone (2-5), Ethiopia-Eritrea (1), DRC (1-4), Sudan over Darfur (1-2), Cote d'Ivoire (1,2,3,5), Libya in 2011 (3), CAR (1)
Protection of civilians under R2P	2 Libya in 2011 (1-2)
Total	43 UN African episodes out of a total of 63 UN Episodes (original TSC database)

Table created by Andrea Charron and Clara Portela, ''The relationship between UN and regional sanctions regimes,'' in Targeted Sanctions: The Impacts and Effectiveness of United Nations Action, pg.104.

APPENDIX 3

AFRICAN STATES SANCTIONED BETWEEN 1990 AND 2013

	UN	AU	ECOWAS	SADC
Number of African States Sanctioned	13	10	7	1
Number of Member States	193 (54 African)	54	15	15
Percent of States Sanctioned	7 (24 if Africa only)	19	47	7
Which States	Angola, CAR, **Cote d'Ivoire,** DRC, Eritrea (twice), Ethiopia, **Guinea-Bissau,** Liberia, Libya (twice), Rwanda, **Sierra Leone,** Somalia, Sudan (twice)	CAR, Comoros, **Cote d'Ivoire,** Guinea, **Guinea-Bissau,** Madagascar, Mali, Mauritania, Niger, Togo	**Cote d'Ivoire,** Guinea, **Guinea-Bissau,** Liberia, Mali, Niger, **Sierra Leone**	Madagascar
Most Sanctioned States	Sudan (twice), Libya (twice), Eritrea (twice)	Guinea-Bissau (twice), Mauritania (twice)	Guinea-Bissau (twice)	

Note: States sanctioned by three or more organizations are emboldened.

Table created by Andrea Charron and Clara Portela, as contained in ''The relationship between UN and regional sanctions regimes,'' in Targeted Sanctions: The Impacts and Effectiveness of United Nations Action, pg. 106.

PREPARED STATEMENT OF DR. TODD J. MOSS

Thank you Chairman Flake, Ranking Member Markey, and other members of the subcommittee. I appreciate being invited to testify again before the subcommittee and the opportunity to highlight ways the United States can more effectively pursue its objectives in Sub-Saharan Africa, a region of growing economic and national security importance. I proudly served in the State Department under Secretary Condoleezza Rice and continue to work closely on U.S.-Africa policy as a researcher at the Center for Global Development.

I have three points about the utility of U.S. sanctions, and one clarification. I will conclude by highlighting each point using the troubled case of Zimbabwe.

First, sanctions are a visible and potent political signal from the world's most powerful nation. Financial and travel restrictions can be a public declaration against tyranny and an affirmative statement of American values. If you steal elections, you don't get to send your children to school in Boston. If you rob public coffers, you don't get to invest in California real estate. If you mistreat your own people, you don't get to seek medical care in Houston hospitals. If anything, this forceful statement that the United States will not turn a blind eye to the most oppressive, violent, and kleptocratic regimes is not used enough. For example, it is time for serious consideration of adding sanctions to political leaders in the Gambia.

Second, well-crafted and aggressively executed targeted sanctions can have a significant impact on influencing the decisions and policies of regimes and bad actors. Both financial sanctions implemented by the Treasury Department and travel sanctions imposed by the State Department can have direct traceable effects when policymakers have clear concrete objectives in mind and the intelligence community is given the time and means to identify financial levers and vulnerabilities. However, for such sanctions to be effective, they must be imposed within a broader strategy that includes other levers of power. Sanctions are one pressure point, but they must

be accompanied by unambiguous diplomatic messages and through alliances with other powers that share our objectives. Congressional action can be motivating, but overly-prescriptive legislation can be blunt and static, which can undermine smart policy by reducing the scope for future action.

Third, regime change is the wrong metric for success. Critics may complain that sanctions do not work if a target regime survives. Yet no one claims, nor should anyone expect, that sanctions on their own will bring down a regime. Sanctions complement—rather than replace—other diplomatic, economic, or military tools.

Finally, there is often confusion between targeted financial or travel sanctions and the exclusion of rogue regimes from the international financial system. Some governments, like Cuba, have voluntarily opted out of the IMF, the World Bank, and other international financial institutions. Others, like Somalia or Eritrea, are unable to access finance from these organizations, not because of specific U.S. sanctions, but because of their own record of nonpayment.

I'll conclude by outlining how these points matter for U.S policy toward Zimbabwe.

The current legislation, the Zimbabwe Democracy and Economic Recovery Act of 2001 (ZDERA) states: "It is the policy of the United States to support the people of Zimbabwe in their struggle to effect peaceful, democratic change, achieve broad-based and equitable economic growth, and restore the rule of law." ZDERA includes a sense of Congress that the President should implement travel and economic sanctions against individuals responsible for violence and the breakdown of the rule of law.

First, U.S. sanctions have been a powerful signal of U.S. policy in support of democracy. When introduced, ZDERA attracted strong bipartisan support in Congress. The bill was co-sponsored by senators from across the political spectrum: Bill Frist, Jesse Helms, Russell Feingold, Joseph Biden, and Hillary Clinton. The actual executive branch sanctions advocated by ZDERA were not directed at the country as a whole, but aimed at specific individuals, barring them from holding assets in the United States, traveling here, and doing business with U.S. entities. As of 2016, none of the key conditions contained in the original ZDERA legislation—restoration of the rule of law, free and fair elections, and depoliticization of the security forces—have been met either in letter or in spirit. Thus, sanctions should remain in place on Zimbabwe for the time being.

Second, U.S. policy objectives have not been achieved as the country has yet to experience peaceful democratic change, broad-based economic growth, or the restoration of the rule of law. But it is a mistake to judge the lack of progress as a failure of sanctions per se. Zimbabwe's morass continues primarily because of a highly entrenched abusive regime that has shown little regard for the basic welfare of its own citizens, combined with unhelpful regional dynamics.

While recognizing the lack of progress, before removing sanctions, we must ask whether such a change will advance U.S. policy goals or play into the hands of the regime. It is true that the ruling cabal cynically blames sanctions rather than its own failures. But will eliminating a false excuse lead to a better outcome? More specifically, if sanctions are lifted, what happens next that helps the country on a path towards democracy? Is it credible to argue that removing U.S. sanctions at this time will change Zimbabwe's internal dynamics in a way that bolsters the forces for democracy, much less force Robert Mugabe to stand down? In my view, lifting U.S. sanctions at this time will merely strengthen Robert Mugabe and the military circle around him by providing a major propaganda victory. Mugabe will claim that the regime has vanquished the country's imaginary imperialist oppressors and has now received a formal American endorsement of his undemocratic rule.

Third, sanctions could be much more effective in Zimbabwe if they were embedded in a broader strategy that included other tools of U.S. power. The United States has generally disengaged from Zimbabwe in recent years, leaving our policy little more than sanctions plus humanitarian assistance. A forward-leaning strategy could employ a range of support for democratic forces, more aggressive diplomacy, and utilize the sanctions list more creatively to selectively encourage positive behavior and increase U.S. influence in a post-Mugabe transition. This absolutely must include continuing to collect information on those who one day should face charges of war crimes and/or embezzlement.

Finally, the issue of targeted U.S. bilateral sanctions is separate from arrears clearance and access to new lending at international financial institutions like the IMF and World Bank. ZDERA calls for the United States to exercise its shareholder vote against debt relief or new loans to Zimbabwe until the stipulated conditions have been met. As the recent letter from Chairman Corker to Treasury Secretary Lew makes clear, it is premature for the United States to support any new lending

to the Government of Zimbabwe, absent clear and meaningful reforms.[1] Preconditions should include ensuring basic political freedoms, accountability for missing diamond revenues, and official acknowledgement of gross human rights violations committed by state agents, such as the Matabeleland massacres in the 1980s and, just fifteen months ago, the abduction and probable murder of human rights activist Itai Dzamara.

Until the Government of Zimbabwe has met the ZDERA criteria and shown unequivocally that it is on an irreversible path to true reform, it is not yet time for the United States to abandon its targeted sanctions. In fact, the U.S. government should be preparing specific targets and options for further ratcheting up pressure, which could be deployed on a timely basis as needed. More broadly across Africa, sanctions will continue to be a practical and symbolic tool for U.S. policymakers, provided they are carefully targeted, deployed among a set of other policy tools, and not expected to serve as a substitute for other actions.

PREPARED STATEMENT OF BRAD BROOKS-RUBIN

Chairman Flake, Ranking Member Markey, members of the subcommittee, I am grateful for the opportunity to testify on this critical yet often misunderstood element of U.S. foreign policy.

When once asked his opinion of Western civilization, Mahatma Gandhi reportedly responded, "I think it would be a good idea."

Men, women, and children across sub-Saharan Africa pay a price every day for the unchecked violence and resource theft committed by leaders who do not believe they will face real consequences for their actions. Sanctions have become the non-military tool of choice of the U.S. government to try to deliver those types of consequences across the globe, but sanctions in sub-Saharan Africa have thus far generally failed to achieve the desired impact. This is in large part because we repeatedly use the same types of tools. We do not target key decision makers and their international facilitators. We rarely follow up or enforce sanctions with further actions. We do not integrate sanctions with other tools designed to promote improved governance. And we do not sufficiently mitigate the negative consequences associated with sanctions. Quite simply, we do not approach sanctions with respect to sub-Saharan Africa the way we do other critical national security and foreign policy crises.

So when asked my view of U.S. sanctions policy in sub-Saharan Africa in 2016, I would invoke Gandhi and say that it would be a good idea.

As of today, at least with respect to addressing conflicts and violent kleptocracies across the continent, sanctions and financial pressure are under-leveraged. But these tools could have tremendous impact if they were used as they are in other contexts—and if sanctions are integrated with pressure toward good governance. This effort and the new ideas that can drive it need leadership and action from both the Executive Branch and Congress.

It is not that we have neglected to use sanctions in sub-Saharan Africa, of course. In my experience, as a former attorney at the U.S. Treasury Department advising the Office of Foreign Assets Control (OFAC), and as an officer in the Economic Bureau of the State Department focused on natural resources and conflict, I have worked on many such sanctions efforts related to the continent. I have seen, when a crisis emerges, from Zimbabwe to the Democratic Republic of the Congo to South Sudan to Burundi, we almost immediately look in the sanctions toolbox. But despite the existence of good examples and incredible expertise within the interagency, we too often end up resigned to using the same necessary but insufficient tools: limited numbers of asset freezes, travel bans, and, on occasion, an arms embargo. These tools tend to be long on message and short on financial impact. When these sanctions measures are not flanked well by other efforts, they frequently fail.

The understandable temptation, then, is to say that sanctions related to these countries and contexts just do not work.

This is absolutely the wrong response. Sanctions can and do have beneficial impact when they are carefully designed and strongly enforced. The failure has not been with our choice to use sanctions. The failure thus far, which can be readily addressed for the future, is in the limited way in which we have viewed the problems and use sanctions as a tool with sub-Saharan Africa. We have not yet ap-

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[1] "No New Lending to Zimbabwe without Meaningful Reform," Letter from Senator Corker to Secretary Lew, January 29, 2016 http://www.foreign.senate.gov/press/chair/release/corker-no-new-lending-to-zimbabwe-without-meaningful-reform.

proached these countries with the serious economic lens they deserve, especially before situations become crises. As a result, we have thus far deployed only a limited selection of sanctions measures or approaches in sub-Saharan Africa. We have not yet brought to sub-Saharan Africa the same sense of urgency to counter threats related to terrorism or drug trafficking. We have not yet brought to sub-Saharan Africa the same seriousness of purpose to advance peace, democracy, and human rights that we have brought to Iran, North Korea, and Burma.

Today I will draw on my experience, offer a constructive critique of U.S. sanctions policy in the region, and present alternative approaches that would make these sanctions efforts much more impactful. We would want to do six critical things in order to deliver an effective and modernized sanctions approach in sub-Saharan Africa:

1. Ensure that sanctions fit within a broader policy approach with clear policy goals;
2. Develop better intelligence and expertise on a broader set of potential targets that ensure the actions we take will fulfill the policy goals we are seeking to achieve and disrupt the financial flows involved;
3. Employ modern sanctions tools beyond targeted designations and travel bans;
4. Build on the actions we take and have the courage to double down at key junctures rather than easing pressure;
5. Prioritize civil and criminal enforcement actions under these programs to prevent them from becoming empty gestures; and
6. Take better steps to keep sanctions temporary and mitigate negative impacts.

To deploy this approach with the situations in South Sudan or the Democratic Republic of the Congo, for example, we would want take the following types of steps:

- Use the particular kinds of designation criteria that are designed to deliver financial impact, such as for acts of public corruption and looting of state assets, and go after much high-level targets overall;
- Keep the pressure on designated individuals and entities at key junctures and enforce the sanctions we put forward;
- Employ sectoral and even secondary sanctions as needed to act specifically on key economic vulnerabilities and pressure banks to take these crises seriously;
- Push the Financial Crimes Enforcement Network (FinCEN) to look beyond drugs and terrorism when acting against money laundering on the continent, something it has never done;
- Develop public reporting requirements for private-sector actors, particularly investors, in target countries, as used effectively in Burma;
- Integrate sanctions more holistically with broader policy efforts advancing good governance and responsible business; -Issue strong messages against de-risking; and -Pass the Global Magnitsky Human Rights Accountability Act and allocate to the Department of the Treasury and other U.S. government agencies a greater share of intelligence and investigative resources that can be dedicated to sub-Saharan Africa.

Actions like these would directly increase the impact of sanctions in sub-Saharan Africa.

REFOCUSING ON THE COST OF VIOLENT KLEPTOCRACY

Over the past 16 years, I have worked on sanctions issues not only at the Treasury and State departments, but also at a private law firm, a private sector organization, and now for a human rights NGO and investigative project. I have seen how sanctions can work and why they fail or fall short of having the full desired impact. And I have heard the full range of criticism and rationales concerning their use. But for those of us who spend a lot of time examining the technical aspects of how they work, we can too often forget why we are having the discussion in the first place.

The human suffering caused by the violent conflicts and kleptocratic behaviors of brutal regimes is immense. Millions of people have been killed, injured, raped, or forced to flee their homes. Many are displaced within the region and now many are on the move to Europe and other areas. Instability reigns and violent extremism—with other threats to security—have increased. Generous international donors, including the U.S. government, with taxpayer money, send billions of dollars in direct aid, or provide funds for peacekeeping operations and development projects to support citizens in these countries and mitigate the effects of these disasters.

Too often we underestimate or misunderstand the sources of violence, thinking of them simply as brutal conflicts between rival ethnic groups or strongmen seeking power. At the Enough Project, we analyze five countries—Sudan, South Sudan, the Democratic Republic of the Congo (DRC), the Central African Republic, and Somalia—through the lens of what we call "violent kleptocracy." We view these violent kleptocracies as systems in which those in power and their networks of facilitators and enablers engage in grand corruption and foment violence. The state is completely hijacked to these purposes. And there is little to no meaningful governance or public service provision to benefit the people. Violence and mass corruption are not aberrations of the system; they are the system itself. The particular structure, actors, and specific means of implementing violent kleptocracy may differ between countries, but they all feature these hallmarks, as do many others on the continent.

The Enough Project is analyzing these systems as violent kleptocracies and examining how these systems depend on the international financial system, particularly the U.S. dollar. As the Panama Papers' revelations and the work of our investigative initiative The Sentry investigations show, the networks involved are using many of the same types of transactions that narco-traffickers, terrorist networks, and corrupt regimes in other parts of the world are using, and against which we have deployed the full array of tools of financial pressure. The violent kleptocracies in Africa all come back to money, and as a result, we have the power to use sanctions and other tools to disrupt them.

Despite the similarities with other national security concerns, these regimes and their networks have hardly faced any costs or pressure. For example, despite the constant discussion of corruption in Africa through money laundering, our agency within Treasury dedicated to fighting money laundering and which has an enormous suite of tools, the Financial Crimes Enforcement Network (FinCEN), has only ever acted against issues in sub-Saharan Africa that relate to drugs or terrorism. It is time that we show that we are willing to address the suffering of tens of millions of people in sub-Saharan Africa and the instability and security threats that result, with the same resolve we use to address other crises.

SIX QUESTIONS TO FRAME AFRICAN SANCTIONS ACTIONS

Considering the enormous human cost, increasing threats to national security, and billions of aid dollars being spent, we need to approach conflict and violent kleptocracy in sub-Saharan Africa with something approaching the prioritization that we see for other crises. Contrary to the assumption of some who view these as "off the grid" conflicts, the violent kleptocratic systems that generate these conflicts depend on the international financial architecture and the U.S. dollar to thrive. We have failed thus far to use this important leverage to advance peace and human rights the way we do in other situations.

Why? To start, we often fail to ask the basic questions that lead to effective sanctions action.

1. What is the policy goal?

Sanctions actions are only effective if they are integrated as one tool within a comprehensive foreign policy strategy. Sanctions are best used as a means of financial pressure that is designed to work with other measures to prompt a process that can be the catalyst to change behavior. There must be a foreign policy process to pick up what the sanctions begin and move it forward, rather than expect the sanctions to do it all. Regardless of your particular view on the result of the negotiation processes involved, this is what sanctions in Iran and to some extent Burma were able to achieve. These steps have thus far been too often lacking in sub-Saharan Africa.

As noted sanctions expert and researcher Gary Huffbauer has explained, "history has indeed shown that sanctions have limited success when the goal is fundamental change in the core policy of an autocratic regime." Huffbauer is correct that sanctions alone are not a panacea. Sanctions cannot become a replacement for the comprehensive policy strategies that are needed and that use leverage and accountability along with other policies to promote good governance and the protection of civil society and the media needed for peace. Sanctions can be used strongly to prompt certain responses from a regime or a target, but they should not be the automatic first choice unless they are integrated with other measures.

2. What intelligence—and financial intelligence—do we have?

In a recent address on the key lessons in making sanctions more effective, Secretary of the Treasury Jack Lew noted, "Powerful sanctions require investigators and analysts to track how key actors move and store their money and to build detailed cases drawing on intelligence analysis." This assessment from Secretary Lew

is borne out by a recent study from the Center for New American Security, showing that sanctions rarely deliver immediate economic losses but do result in instability and elevated risk. That means that sanctions often do not directly cause change; instead, they create the opportunity for change if it is properly leveraged.

Simply stated, we have not yet devoted the investigative and analytic resources to sub-Saharan African issues that Secretary Lew himself says we need in order to make these efforts more effective. Time and time again, I have seen this administration and the previous one search for usable information too late and then be unable to identify strategically how best to use it. Worse, the information sought is not aimed at the financial side, targets with bank accounts, assets, and networks, but too often rests on individuals where we have nothing more to find or achieve than messaging opportunities. There are simply an insufficient number of intelligence analysts in the Treasury department or across the interagency to focus on Africa effectively at the present time.

In the same speech, Secretary Lew said, "We must guard against the impulse to reach for sanctions too lightly or in situations where they will have negligible impact." Without proper intelligence gathering to identify targets we can impact and a comprehensive description of the process we want to achieve, we will only equip ourselves with sanctions that are able to have a negligible impact at best.

3. What tools do we use?

Once the administration does decide to deploy sanctions, too often there are just three tools involved: targeted asset freezes, travel bans, and in some cases, arms embargoes. These tools are all necessary, but they are not sufficient.

Noted sanctions expert Gary Huffbauer's research has consistently found that financial sanctions are more effective than trade sanctions, and I would include arms embargoes in the latter category. But financial sanctions must be broader than simply the designation of a few individuals. Huffbauer noted in an essay back in 2000 that "Targeted sanctions may satisfy the need . . . to 'do something,' they may slake humanitarian concerns, and they may serve to unify fraying coalitions. But they are not a magic bullet for achieving foreign policy goals." That assessment remains true in 2016.

Targeted sanctions remain essential, but we must be willing to use financial pressures that go beyond a few designations of low-level targets. In a recent report, Enough Project Founding Director John Prendergast and I outlined several types of "modernized" measures that could be used to make sanctions more effective in Sudan. These measures include engagement with banks and possible secondary sanctions, sectoral sanctions, anti-money laundering tools, and sanctions measures more focused on corruption issues. Sadly we see little to no willingness to consider these kinds of tools with Sudan, or anywhere else in sub-Saharan Africa. There is too heavy a reliance on a narrow set of targeted measures as the magic bullet Huffbauer described. Again, FinCEN has never taken an action directed at sub-Saharan Africa to target money laundering issues beyond connections to global narcotics or terror networks.

4. When do we take follow-up steps?

When targeted financial sanctions and travel bans are deployed, we often start with an initial approach and promise follow-up measures. But the follow-up steps rarely come, and, at key moments when additional leverage could play a key role, we instead ease pressure.

We can look to South Sudan as a perfect example. After 18 months of brutal and horrific violence, the U.S. implemented in mid-2015 only the targeted sanctions, focused on mid-level commanders that could get through the veto threats of Russia, China, Angola, and others on the U.N. Security Council. Follow-up was promised. Yet even after the delay and one obstacle after another in implementing the peace agreement, with further violence and destruction of the country, the administration has found one reason after another not to act. Earlier this year, Enough saw strong interest from the administration in acting and was pleased to provide the results of investigations by The Sentry, including information that identified specific targets for action. Instead of acting to demonstrate the need for the parties to focus seriously on implementing the peace agreement, the administration has eased off, implying that any further pressure could cause further destabilization. The same approach marked our response to the elections in the Central African Republic, where pressure to ensure accountability and good governance eased following the recent elections.

Yet at key moments in other negotiations and processes, the U.S. has been successful when it was willing to take a strong sanctions step to show resolve and seriousness. Days before or after at least three key junctures in the Iran nuclear nego-

tiation process, including in February 2014 when the first real talks began, the United States showed its resolve by taking strong new sanctions actions. Press releases from Treasury said clearly we believed that more accountability was necessary to reach the desired negotiated end. That same resolve and commitment to accountability is necessary in Africa as well.

5. How do we enforce?

Secretary Lew noted in his recent speech that powerful sanctions also "rely on enforcement officers to investigate violations and levy penalties for significant wrongdoing." Indeed, in order to be effective, sanctions cannot amount to empty rhetoric and messages. In sub-Saharan Africa programs, unfortunately that has been the norm.

In the last five years, there have been few enforcement actions taken by OFAC implementing programs related to sub-Saharan Africa, and almost no enforcement actions taken by the U.N. Security Council or U.N. member states. What we do see are enforcement actions focused principally on other sanctions programs, particularly Iran, having an impact in sub-Saharan Africa. Sudan, in particular, is now preoccupied with the removal of sanctions because of the shock its banking sector experienced as a result of the mega-settlement against BNP Paribas, which included Sudan-related violations but, like other cases against big banks, was principally focused on Iran. The U.S. Department of the Treasury took an important step this past February, by acting against Barclay's Bank for failing to take necessary due diligence when implementing Zimbabwe sanctions. We need to ensure that all of the sanctions programs are more consistently enforced.

Enforcement is necessary because, even if we are missing out on the most important targets, violations occur. For example, two of the sanctioned mid-level South Sudanese commanders maintained U.S. dollar-denominated accounts at Kenya Commercial Bank and traveled openly to major international hotels in the region for months after being sanctioned, with little to no action taken.

Enforcing sanctions properly not only means ensuring that both U.S. and foreign authorities are fulfilling their obligations. The State Department and the Treasury Department often need to follow up with outreach to foreign authorities and counterparts to support more consistent enforcement. Our research indicates, for example, that the Kenyan government does not appear to have taken the same public measures to ensure implementation of U.N. sanctions on South Sudan by its private sector as it has for other sanctions programs. Consistency of capacity and political will is critical to proper enforcement.

6. How do we ensure that sanctions are treated as temporary measures, and unintended consequences are mitigated?

Secretary Lew noted in his speech "sanctions are not meant to dole out punishment for past actions. They are forward-looking, intended to keep illicit or dangerous conduct out of our system and create pressure to change future behavior." Sanctions are meant to be temporary tools that create a process to change behavior. In many cases, these measures last for decades and become quasi-punitive measures. It can be nearly impossible for targets to be removed from designations list, and clear explanations of how they work and what their connection is to underlying policy may be lacking. This provides sanctions targets with less incentive to change than in a program where they can see a clear improvement and tangible step if they take expected actions.

When sanctions are treated or viewed as replacements for punitive criminal measures, it can undermine the message of sanctions and the long-term beneficial impacts while allowing the targets of sanctions to generate propaganda that benefits their image. Just weeks after Barclay's Bank received the aforementioned penalty, the bank announced it would close all of its African operations because the risk was too great. To be sure, the most important factor Barclay's Bank cited for this was the risky and corrupt business environment that exists in too many countries on the continent. But the potential for "over-compliance" approaches by businesses for which it is simply easier to cut off whole countries or regions, rather than manage compliance with sanctions against a few dozen individuals, is substantial.

My portfolio at Treasury included the Cote d'Ivoire sanctions, and I once received a call from a compliance officer who proudly told me that his company was no longer doing business in the country. At the time, there were three people designated. In the entire country. When I replied that the company's action may have been unnecessary and that there were more people in Chicago on the sanctions list than in Cote d'Ivoire, there was an uncomfortable silence.

When sanctions measures are expected from the outset to last for many years and are not properly understood, they can feel like more comprehensive types of meas-

ures. Regimes from Sudan to Zimbabwe have blamed sanctions for all manner of economic problems, many of which have nothing to do with sanctions at all but instead result from the authoritarian leaders within these regimes and the catastrophic economic decisions that they have made. But when we fail to explain how the sanctions work and show that they can evolve and be nimble over time, rather than become permanent forms of punishment, we give the likes of Bashir and Mugabe easy wins.

ANSWERING THESE QUESTIONS WITH A MODERNIZED SANCTIONS APPROACH

These six questions are relatively straightforward. We answer them clearly and plainly in other contexts, but not in sub-Saharan Africa. The simple fact is that we can do so much to modernize our sanctions approach for greater impact. But we need to choose sanctions and other financial pressures that will have the greatest economic impact on the particular networks in the area we're targeting. We need to look beyond the pressure measures to the broader foreign policy goals and diplomatic engagement that promote good governance. And we must do more to mitigate different types of unintended consequences.

First and foremost, we must focus on using the types of sanctions and financial pressures that can make a direct economic impact on the kleptocratic networks of perpetrators, enablers, and facilitators, when we have the information needed. These include making sure we:

- Use more effective targeted designation language and identify higher-level targets that result in sanctions designations with financial impact.
- Consider the applicability of language used in the recent Libya Executive Order—"actions that may lead to or result in the misappropriation of state assets of Libya" or "threatening or coercing Libyan state financial institutions or the Libyan National Oil Company"—for countries like Congo and South Sudan, where leaders and their networks routinely engage in contract or procurement fraud and the outright theft of funds. Our Sentry investigations in both of these countries show these patterns and the types of activities and accounts involved, and we intend to continue to provide this information to relevant authorities. It is time for action to be taken that would finally impose a cost on this behavior that have enabled officials to divert billions of dollars across the region with essentially no consequences. Even without language like that in the Libya Executive Order, the United States must focus on higher-level targets who have tangible financial assets and decision-making authority. This should include the key leaders in South Sudan and the elites surrounding Congolese President Joseph Kabila. This is why we strongly support S. Res 479, introduced by Senators Markey, Durbin, and Murphy, which calls for targeted sanctions on President Kabila's inner circle in concert with efforts to see elections held as constitutionally mandated.
- Empower Treasury and State officials to turn up the pressure on banks, insurance companies, and other financial institutions to know their customers and stop turning a blind eye to doing business with kleptocratic regimes on the continent.
- Seriously consider the potential ways to apply secondary sanctions. In the Iran context, the use of secondary sanctions, which in essence allows enforcement of certain U.S. sanctions against non-U.S. persons, proved quite impactful. Secretary Lew used strong words of caution about future deployment of secondary sanctions, but Treasury and State may be able to achieve the same goals simply by raising these concerns with banks in Kenya, Uganda, and South Africa. Identifying the problematic transactions or accounts will likely be sufficient, but we need to actually do it. For a country like Sudan, which has developed a sophisticated banking network to counter long-term U.S. sanctions, we believe limited use of secondary sanctions would be appropriate.
- Identify countries where the sectoral sanctions approach that was developed for Russia/Ukraine and expanded for North Korea could work. For example, as South Sudan turns to develop the mining sector as a new source of revenue, sectoral measures could be considered in the future if necessary to ensure that new investments are free from corruption and licensing fraud. The officials responsible for the development of this sector raise concerns about the potential for misuse, based on information in previous U.N., African Union, and other reports... Use of sectoral sanctions could provide a powerful mechanism to ensure that new investments are undertaken in a limited manner and cannot be misused.

- Push FinCEN to devote resources to evaluating how its authorities could impact sub-Saharan Africa beyond drugs and terror. In both South Sudan and Congo, there are strong opportunities for FinCEN to use its power to issue advisories and conduct investigations through Section 314 of the U.S.A. Patriot Act to learn more and identify the key money laundering nodes. Once identified, FinCEN should follow up and use Section 311, and can look to one of the five special measures that provision includes short of primary laundering concern designation. The other four special measures would require greater due diligence and information-sharing among financial institutions and law enforcement. Greater information-sharing would enable FinCEN and other financial intelligence units around the world to develop more specific typologies and analyses that can better target the way these officials launder the proceeds of corruption, or use natural resource sectors such as gold and oil to launder funds. These special measures may enable the development of information critical to law enforcement for use in overseas corruption investigations and prosecutions. FinCEN's work over many years related to the way narco-traffickers, oligarchs, and others who launder money through real estate led to an important step last January through a Geographic Targeting Order focused on properties purchased in New York and Miami. This kind of investigation and analysis can lead to similar strong steps related to money laundering out of sub-Saharan Africa, particularly from South Sudan and Congo.
- Promote financial and private sector transparency. The Burma Responsible Investment Reporting Requirements have served as one of the most innovative measures with sanctions in recent years. In exchange for generally licensing new investment in Burma, Treasury required those investing above certain levels in Burma to report publicly on their activities, including their steps to address human rights and environmental concerns, as well as their engagement with potentially corrupt officials.

  This type of reporting model has proved quite effective, with both advocates and the private sector recognizing the benefit of publicly available reporting on a government website as a way of sharing experience and avoiding suspicion. The model could be greatly expanded within the sub-Saharan context. These measures could not only be implemented in conjunction with general licensing that allows for new activity, but also be adapted to serve as a replacement for potentially sensitive sectoral sanctions. For example, this type of reporting requirement could likely be used within existing sanctions authorities on Congo, specifically in connection with new investment in the natural resources sector, as a way of ensuring that there are no concerns with illicit trade.
- Swiftly pass the Global Magnitsky Human Rights Accountability Act. This legislation, which has bipartisan support in both the House and the Senate will bolster the U.S. government's infrastructure to take action against those who commit human rights abuses or are complicit in acts corruption. There is no reason that this bi-partisan and bi-cameral legislation cannot pass Congress before the summer recess.
- Allocate substantial new resources from Congress to the agencies most responsible for investigating and enforcing U.S. sanctions regimes in sub-Saharan Africa. In order to advance these and other tools, Treasury needs the new Congress to provide financial allocations across the board, with clear restrictions to ensure new full-time employees focus on sub-Saharan Africa. Congress should use the appropriations process to ensure that these offices have increased resources, and can use report language to send a message to Treasury that this region of the world is a critical part of its efforts. For OFAC, this would include new resources for global targeting, enforcement, licensing, and for personnel to develop stronger collaboration with FinCEN and other elements of Treasury. FinCEN, too, should receive new resources for its office of special measures, as well as its global liaison and intelligence units. Finally, additional staff focused on Africa should be added within the coordinating Office of Terrorist Financing and Financial Crimes to ensure sufficient senior level attention. Skeptics on the use of sanctions in Africa point to the bandwidth problem, which can and should be addressed with more resources.

Most observers, including Secretary Lew, have emphasized how much more effective sanctions are when they are multilateral. This is undoubtedly true in the end, but it rarely exists at the beginning. The broad coalition the United States assembled over years of outreach and pressure related to Iran proved essential to forcing Iran to the negotiating table. But nothing like that coalition existed in the years before. It took tremendous commitment and action from multiple presidential administrations and congressional sessions to achieve this outcome.

We are fully aware of the panoply of U.S. security concerns and interests, and we are sanguine about where sub-Saharan Africa tends to rank. The point, however, is that while our sanctions approach to the region need not rise to the level of Iran in order to be effective, it still needs to rise. So we must be determined and committed and, even where it is difficult, we must deliver a strong message to our partners and seek to build coalitions over the long-term through leadership.

Second, for these sanctions and financial pressures to be successful, a range of steps can be taken to develop the broader set of tools that complement them:

- Build on the commitments made to the recent U.K. Anti-Corruption Summit. Last month in London, a number of countries committed to measures that would expand beneficial ownership due diligence requirements, enhance public access to business registries, and counter corruption. Enabling broader access to information on companies can enhance intelligence-gathering for the U.S. government and non-governmental watchdogs, as well as enable banks to more publicly demonstrate the steps they are taking to conduct due diligence. The United States should also incorporate into diplomatic messaging the need for progress on the commitments made by countries like Kenya and South Africa.
- Enhance the responsible business agenda. The Obama administration's National Action Plan on Responsible Business Conduct could mark an important addition to the broader policy landscape. With a National Action Plan that emphasizes the need for stronger human rights due diligence by business, including banks, through engagement and risk mitigation, the private sector may be able to take steps that complement the goal of sanctions well.
- Focus on stronger implementation from the Extractive Industries Transparency Initiative and other transparency, development, and quasi-regulatory bodies. Transparency and accountability, including through the Open Government Partnership, Open Contracting Partnership, EITI, and even steps like Sustainable Development Goal 16 (Peace, justice and strong institutions) can deliver important progress on good governance that integrates well with the aims of effective sanctions.
- Encourage civil society and media protection, including stronger promotion of the World Bank's Global Partnership for Social Accountability, which provides for capacity building for these critical components of society working against grand corruption.

Third and finally, the U.S. government must always look to guard against unintended consequences. Sanctions measures can result in harm, and we cannot entirely shy away from them. But the administration can take at least the following measures:

- Issue strong messages on de-risking. There have been no magic wands to balance derisking with financial inclusion in any context in which it has emerged; the issues are too complex and multi-layered for easy approaches, as the Barclay's Bank example demonstrated. One measure that can have a positive impact as a first step is clear messaging on the focal areas of risk, and where engagement would be encouraged. Too often, the U.S. government simply fails to clearly and thoroughly explain what the sanctions are, and are not, for fear of over-simplifying or encouraging business it does not want to encourage. Where that vacuum exists, propaganda from the targets will usually fill in the gaps with misinformation.

  Where this messaging is unsuccessful, Treasury should investigate further the potential of "non-enforcement" approaches for banking services related to certain categories of transactions, such as those for international and non-governmental organizations. We should always remember, however, that most of these countries remain very risky jurisdictions for financial institutions, with limited reward in terms of scale of the markets.

  Even if all sanctions were removed on sub-Saharan Africa overnight, this would still be the case, so until the market is a safer and less corrupt place to do business, there is only so much that the United States can, or arguably should, do.
- Clarify sanctions targeting. One of the most difficult areas for the private sector to manage is understanding the extent of a target's network. Because the Treasury Department considers any entity that is 50 percent owned or controlled by a sanctioned entity to also be sanctioned, even if not specifically named as such, compliance can be daunting if information provided is not complete and updated. This challenge is particularly acute for Sudan, where the comprehensive blocking of the government of Sudan means any entity owned or controlled by

the Omar al-Bashir regime is considered sanctioned. Yet the last public additions to the list happened more than nine years ago, with only a few removals since that time. Clear information about which parties are and are not subject to sanctions designations can help mitigate many unintended and unnecessary consequences for sanctions.

Chairman Flake, Ranking Member Markey, members of the subcommittee, sanctions are a critical component to our foreign policy toolbox in many contexts, but thus far they have not been used to their full potential with sub-Saharan Africa. They can play an even more critical role in shaping the future of the U.S. response to violent kleptocracies, conflicts, and other crises on the continent. But our approach needs to change if we are to use these tools most effectively.