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U.S. SANCTIONS POLICY IN SUB-SAHARAN AFRICA

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HEARING CONTENTS:

WITNESS STATEMENTS

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Statement for the Record
Senate Committee on Foreign Relations
Subcommittee on Africa and Global Health Policy
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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 US and international peace and security policy, but one that does not 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 both qualitative and quantitative databases on the universe of UN sanctions (which also resulted in an online tool, [*SanctionsApp*](#)), I also helped to organize 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 the private sector, national regulators, and international policymakers involved in UN and US sanctions. The views expressed today, however, are my own, and 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, this abbreviated 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 US sanctions.

Evolution of UN Sanctions¹

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.

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*](#).

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 preventing 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 is authorized to take action 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 (Côte 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), terrorism, WMD proliferation, unconstitutional changes of government, governance of resources, and protection of civilians.³

To address these challenges, the Security Council employs sanctions to achieve three strategic purposes: to coerce targets into changing policies or behavior (the most widely perceived goal of sanctions); to constrain targets in their ability to conduct proscribed activities; and to signal support for an international norm or

² See also Appendices 3 and 4 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.

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 from 1990 to 2016.

UNITED NATIONS SECURITY COUNCIL SANCTIONS ON AFRICAN COUNTRIES (1990-2016)

CASES	Compre- hensive	Targeted								Panel of Experts
		Arms	Financial	Travel	Aviation	Oil	Diamonds	Timber	Other	
Somalia/Eritrea <i>(1992-</i>		✓	✓	✓					✓ ⁱ	✓
[Libya I] <i>(1992-2003)</i>		[✓]	[✓]		[✓]				[✓] ⁱⁱ	
Libya II <i>(2011-</i>		✓	✓	✓		✓				✓
[Liberia] <i>(1992-2016)</i>		[✓]	[✓]	[✓]			[✓]	[✓]		[✓]
[Angola (UNITA)] <i>(1993-2002)</i>		[✓]	[✓]	[✓]		[✓]	[✓]		[✓] ⁱⁱⁱ	[✓]
[Rwanda] <i>(1994-2008)</i>		[✓]								[✓] ^{iv}

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.



[Sudan I] <i>(1996-2001)</i>				[✓]	[✓]				[✓] ^v	
Sudan II <i>(2004-</i>		✓	✓	✓						✓
[Sierra Leone] <i>(1997-2010)</i>		[✓]		[✓]		[✓]	[✓]			[✓]
[Eritrea/Ethiopia] <i>(2000-2001)</i>		[✓]								
Democratic Republic of Congo <i>(2003-</i>		✓	✓	✓	✓					✓
[Côte d'Ivoire] <i>(2004-2016)</i>		[✓]	[✓]	[✓]			[✓]			[✓]
Guinea-Bissau <i>(2012-</i>				✓						
Central African Republic <i>(2013-</i>		✓	✓	✓						✓
Yemen <i>(2014-</i>		✓	✓	✓						✓
South Sudan <i>(2015-</i>			✓	✓						✓

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

TSC 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.

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*.



The following is a brief summary of TSC findings relevant to African 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.

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.

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.

UN sanctions in Africa constitute the majority of all UN sanctions – about 70%. In the early days, sanctions were often imposed in an *ad hoc* manner, without a coherent coordinated strategy; rather than be part of a well-designed response to address conflict/threats to international peace and security, at times the imposition of sanctions has substituted as a policy. While understandable that during times of crisis, governments want to act quickly, the use of sanctions to show resolve without integrating them into an overall strategy is largely ineffective. Sanctions then take on a life of their own.

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) have difficulty terminating sanctions regimes once imposed (for example, in Liberia). Automatic extensions of sanctions regimes diffuses signals as to expected actions, undermining their credibility.

While important progress has been made in making UN sanctions more effective, more needs to be done for sanctions to be used to full effect and be effectual instruments to advance US and international security objectives in Africa.

Effective targeted sanctions

Following are characteristics of effective UN sanctions:

Relationship to other policy instruments

UN sanctions do not exist in isolation, and in no case have they been put into place without 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

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.

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, closer to 4) policy instruments).

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 nearly always in armed conflict in Africa (77%). Transportation sanctions, most recently shipping provisions, occur in 23% cases. Diplomatic restrictions are rarely used now (10%), bans on proliferation-sensitive goods (11%) and financial restrictions (6%).

Commodity sanctions, such as 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%).

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 Union⁸, 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. States subject to sanctions are increasingly targeted by a combination of UN and regional measures, and effective coordination among these measures are important.

Complexity/Unintended Consequences

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. In the 2011 sanctions on Libya (with reported assets in excess of \$160 billion frozen pursuant to UNSCRs) an unprecedented array of resources and activities were subject to financial sanctions; Libyan students in the United States and Canada had their bank accounts frozen, and telecommunications providers in neighboring countries teetered on the verge of bankruptcy. The volume of assets frozen posed significant complications for the sanctions committee and national governments in requests for exemptions and information. 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.

In addition, sanctions can have unintended consequences. TSC research highlighted some of these effects,

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.

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 appears to be “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. While institutional learning by the Security Council and States over the past two decades in implementing UN sanctions reflect undeniable progress, challenges persist, however, that continue to hamper more effective utilization of the sanctions instrument to limit conflict and build peace.

Challenges to Effective Sanctions

As the international community increasingly relies on United Nations sanctions, problems regarding implementation have become more pronounced. Political will, weak implementation, inadequate monitoring and enforcement, and misperceptions and a lack of understanding constitute the primary obstacles to more effective UN sanctions.

Insufficient Political Will

The UN is inherently a political entity, and sanctions are essentially political instruments that can be neither separated from the politics of the Security Council, nor considered in isolation. Conflicting perspectives among the P5 members regarding the objectives and utility of sanctions often result in a lack of unity of purpose and political will. China and Russia resent the P3’s tendency to use sanctions as punitive rather than as bargaining instruments, and are predisposed against them. With a strong aversion to coercive diplomacy and anything that suggests interference in internal affairs, the two countries view sanctions as ineffective, isolating targets, limiting diplomatic leverage, and increasing risks of instability. Competing political and economic interests especially in Africa often lead to compromises masking differing objectives, resulting in diluted or unclear language in Council resolutions which result in inconsistent interpretations and confusion down the road as member states struggle with national implementation.

Weak Implementation and Capacity

Once sanctions are adopted by the Security Council, practical problems regarding implementation abound. Many countries lack basic legal authority and executive bodies 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, aside from the focus of the CTC and 1540 Committee on counterterrorism and nonproliferation mandates.

Inadequate Monitoring and Enforcement

After expending significant political capital to reach agreement to impose sanctions, Member States often falter in monitoring implementation. Policymakers tend to view sanctions compliance as “technical” and accord it low priority. Outside the work of panels of experts, there is little tracking of sanctions implementation or other means to monitor national compliance efforts. Committees rely on reports by member states, but there is reporting fatigue, and reporting remains spotty for African sanctions regimes. There is no enforcement mechanism or body to address sanctions violations; monitoring of sanctions evasions largely depends on the capabilities of independent panels of experts to assess sanctions compliance. When no consequences result, targets come to regard the threat of coercion as empty, further eroding the credibility of sanctions.

Moreover, the predominant focus of P5 members on counterterrorism and nonproliferation issues results in disproportionate attention and resources flowing to related sanctions. Those regimes addressing armed conflict, especially in Africa, represent the majority of current sanctions, yet receive little sustained attention and far fewer resources. With 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, these factors 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.

Another challenge relates to nonstate actors as targets. The UN as an intergovernmental body was established to manage interstate conflict, but with increasing frequency, the Council is targeting sanctions on nonstate actors. Sanctions against the Angolan rebel group UNITA in 1993 led the way and were followed by targeted measures against the RUF in Sierra Leone in 1997, al-Qaeda and the Taliban in 1999, and ISIL subsequently. Designations of rebel groups and their leaders have increased significantly in recent years, including al-Shabaab in Somalia, the M23 and the Lord’s Resistance Army (LRA) in the DRC, the Democratic Forces for the Liberation of Rwanda (FDLR), the Sudan Liberation Army (SLA), and the Islamic State in Iraq and the Levant (ISIL). As a result, the Security Council has had to adjust its practice of dealing exclusively with states.

Notwithstanding progress, innovations, and institutional learning over the past two decades by the Security Council, Secretariat, and member states, further improvement of UN sanctions remains an important and necessary objective for the promise of effective sanctions to be realized.

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 Implementation and Capacity

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 US leadership and focus on conflict-related sanctions is important for sustained credibility of the sanctions instrument, and greater capacity among Member States and the Secretariat to provide essential support to implement sanctions is needed.

Because many states simply do not have the capacity to monitor transactions within their borders, new initiatives for development of model legislation, training of national officials on sanctions lists, border controls, financial restrictions and export controls, and new procedures to inspect and interdict proscribed goods are required to help States meet their obligations to implement and enforce UN sanctions. While there has been greater recognition of the need for such assistance, capacity-building initiatives comparable to those for counterterrorism and nonproliferation are still lacking. The UN High Level Review of UN Sanctions recommended that new measures and resources be undertaken for sanctions assistance generally, including cooperation with regional organizations, which could play an important role 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. Measures should include better utilization of expert panels and systematic implementation of their recommendations, addressing noncompliance, reviving enforcement assistance, and strengthening cooperation with the private sector. When 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. Rigorous and routine monitoring and enforcement of sanctions should be expanded beyond border controls to enforcement of travel bans, financial sanctions, and arms embargoes.

Strengthen Cooperation with Regional Groups and Civil Society

To maximize effectiveness of sanctions overall, greater coordination of regional measures with UN and national sanctions should be enhanced. Civil society, including both the private sector and NGOs, are critical partners in implementing UN sanctions, including enlisting them to advise on, participate in the monitoring of, and even help to enforce sanctions, which could enhance effectiveness. To this end, the Global Compact initiative and the

⁹ The 2015 Compendium of the High Level Review of UN Sanctions contains a detailed discussion of these issues and related recommendations.

Organization for Economic Cooperation and Development's (OECD) Guidelines for Multinational Corporations are useful foundations on which to build. As part of a follow-up to the "Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect, and Remedy' Framework"—an initiative led by UN special representative on human rights and business John Ruggie and endorsed unanimously by the General Assembly—focused discussions with relevant groups (especially financial institutions, resource-related corporations, and NGOs) on UN sanctions are necessary. Existing capacities aimed at terrorists and proliferators should be applied to enforcement of arms embargo violators and enablers of atrocities.

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 sanctions. Informing broader public debate with empirically based information and engaging relevant stakeholders will help address pervasive misperceptions about sanctions and provide a basis for more informed engagement and education of various publics at multiple levels.

Part and parcel of such an initiative is a sound analytical understanding of the optimal conditions under which sanctions are most effective. While UN sanctions have multiple and simultaneous purposes (coercion, constraint, and signaling), the public and even the Council continue to disproportionately focus on the coercive purpose of sanctions. In contrast, UN targeted sanctions are more 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. Clear understanding of the purposes for which sanctions are more likely to work, and more realistic expectations as to what sanctions can reasonably be expected to achieve, will likely increase the overall effectiveness of the UN sanctions instrument.

Conclusion

UN targeted sanctions have made important contributions to achieving US policy objectives but to a limited degree and with some significant unintended consequences.

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 the Security Council's response to international threats. Concerted attention, leadership, and action by like-minded states to strengthen the implementation and enforcement of sanction, as well to enhance 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 Sanctions¹⁰

Effective Coercion: 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.

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.

Constrain

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.

¹⁰ From Targeted Sanctions Consortium database.

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

Episode 4 (22 December 2003 – 16 June 2006)

Summary

Following the departure of Charles Taylor (regime change) 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

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 November. 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.

13

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)

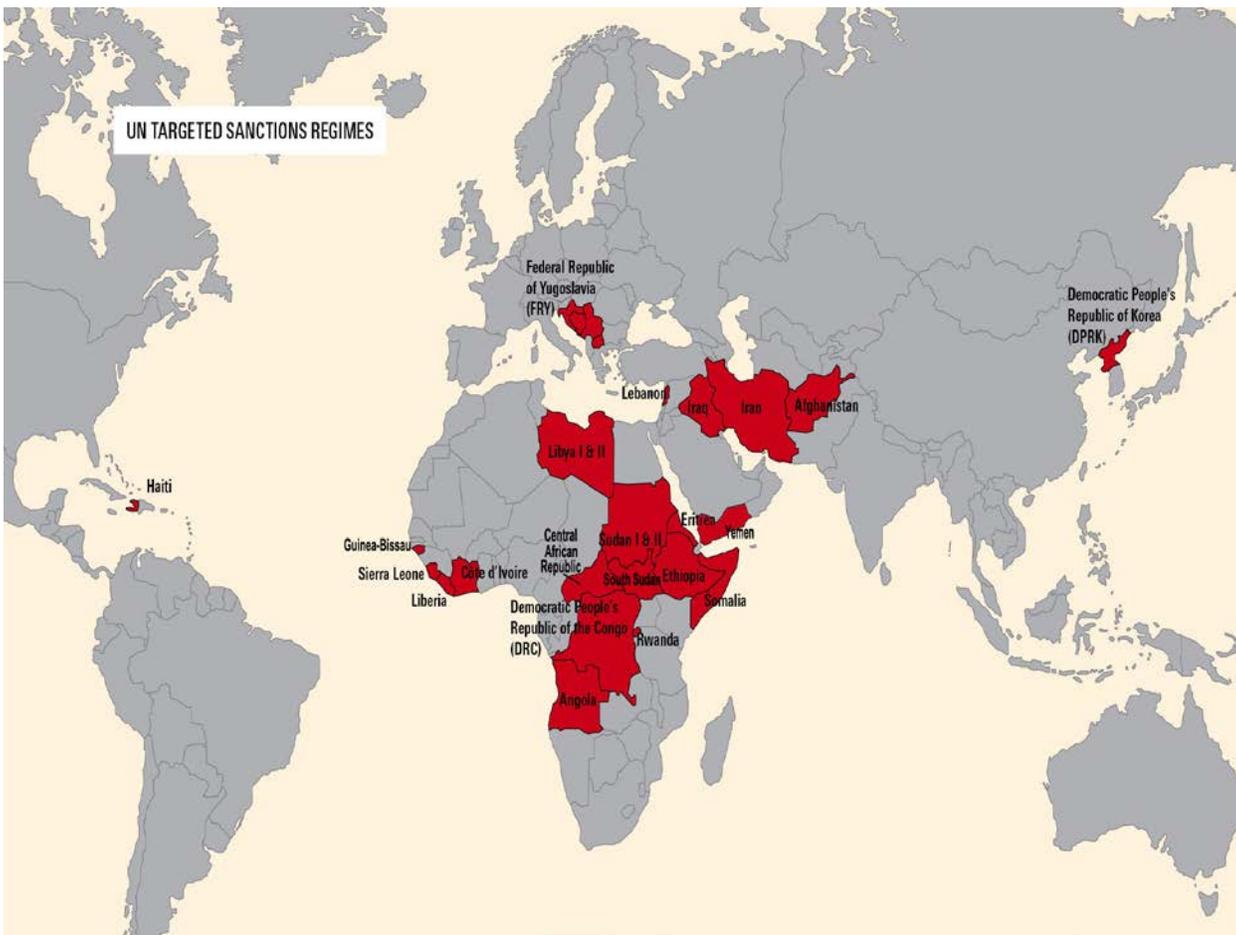
Policy outcome: 5/5, Savimbi became the principal target and was thoroughly isolated by UNSCR 1221.

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: UN Targeted Sanctions Regimes



Note: UN nuclear-related sanctions on Iran were lifted in January 2106 pursuant to UNSCR 2231 endorsing the JCPOA.

APPENDIX 3: Primary objective of UN African sanctions

Primary Objective		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), Côte 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), Côte 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)

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.



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APPENDIX 4: 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
Per cent of states sanctioned	7 (24 if Africa only)	19	47	7
Which states	Angola, CAR, Côte d'Ivoire , DRC, Eritrea (twice), Ethiopia, Guinea-Bissau , Liberia, Libya (twice), Rwanda, Sierra Leone , Somalia, Sudan (twice)	CAR, Comoros, Côte d'Ivoire , Guinea, Guinea-Bissau , Madagascar, Mali, Mauritania, Niger, Togo	Côte d'Ivoire , Guinea, Guinea-Bissau , Liberia, Mali, Niger, Sierra Leone	Madagascar
Most sanctioned state	Sudan (twice), Libya (twice), Eritrea (twice)	Guinea-Bissau (twice), Mauritania (twice)	Guinea-Bissau (twice)	

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

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. 106.



Well-Targeted Sanctions Remain a Useful U.S. Policy Tool: The Case of Zimbabwe

Testimony before the Senate Foreign Relations Subcommittee on Africa and Global Health Policy

Dr. Todd J. Moss
Chief Operating Officer and Senior Fellow
Center for Global Development
June 8, 2016

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.

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>



United States Institute of Peace

U.S. Sanctions Policy in Sub-Saharan Africa

**Testimony before the
Senate Foreign Relations Subcommittee on Africa and
Global Health Policy**

**Ambassador (rtd) Princeton N. Lyman
Senior Adviser
United States Institute of Peace**

June 8, 2016

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. 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 US 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

¹ Guy Lamb, "Beyond 'shadow-Boxing' and 'lip Service,'" 2007, 12, <http://www.issafrica.org/uploads/Paper135.pdf>.

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 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.

**Testimony of Brad Brooks-Rubin
Policy Director, Enough Project**

**Senate Foreign Relations Committee
Subcommittee on Africa and Global Health Policy**

June 8, 2016

“U.S. Sanctions Policy in Sub-Saharan Africa”

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 approached 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 our 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 Hufbauer'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. Hufbauer 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 Hufbauer 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 negotiation 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 measures. 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 USA 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 de-risking 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.