



United States Department of State

Washington, D.C. 20520

September 27, 2021

Case No. FL-2021-00512

[REDACTED]
Citizens for Responsibility & Ethics in Washington
[REDACTED]

Dear [REDACTED]:

As we noted in our letter dated August 23, 2021, we are processing your request for material under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552. Since its last letter, the Department has identified an additional 31 responsive records subject to the FOIA. Upon review, we have determined that 17 records may be released in full, 5 records may be released in part, and 9 records must be withheld in their entirety. The processing of your request is ongoing.

An enclosure explains the FOIA exemptions and other grounds for withholding material. Where we have made redactions, the applicable FOIA exemptions are marked on each document. The records withheld in full are exempt from release pursuant to FOIA Exemptions 5 and 6, 5 U.S.C. §§ 552 (b)(5) and (b)(6). All non-exempt material that is reasonably segregable from the exempt material has been released and is enclosed.

We will keep you informed as your case progresses. If you have any questions, your attorney may contact Derek S. Hammond, Assistant U.S. Attorney, at 202-252-2511. Please refer to the case number, FL-2021-00512, and the civil action number, 21-cv-01246, in all correspondence about this request.

Sincerely,

A handwritten signature in cursive script that reads "Jeanne Miller".

Jeanne Miller
Chief, Programs and Policies Division
Office of Information Programs and Services

Enclosures: As stated.

The Freedom of Information Act (5 USC 552)

FOIA Exemptions

- (b)(1) Information specifically authorized by an executive order to be kept secret in the interest of national defense or foreign policy. Executive Order 13526 includes the following classification categories:
- 1.4(a) Military plans, systems, or operations
 - 1.4(b) Foreign government information
 - 1.4(c) Intelligence activities, sources or methods, or cryptology
 - 1.4(d) Foreign relations or foreign activities of the US, including confidential sources
 - 1.4(e) Scientific, technological, or economic matters relating to national security, including defense against transnational terrorism
 - 1.4(f) U.S. Government programs for safeguarding nuclear materials or facilities
 - 1.4(g) Vulnerabilities or capabilities of systems, installations, infrastructures, projects, plans, or protection services relating to US national security, including defense against transnational terrorism
 - 1.4(h) Weapons of mass destruction
- (b)(2) Related solely to the internal personnel rules and practices of an agency
- (b)(3) Specifically exempted from disclosure by statute (other than 5 USC 552), for example:
- | | |
|----------------|---|
| ARMSEXP | Arms Export Control Act, 50a USC 2411(c) |
| CIA PERS/ORG | Central Intelligence Agency Act of 1949, 50 USC 403(g) |
| EXPORT CONTROL | Export Administration Act of 1979, 50 USC App. Sec. 2411(c) |
| FS ACT | Foreign Service Act of 1980, 22 USC 4004 |
| INA | Immigration and Nationality Act, 8 USC 1202(f), Sec. 222(f) |
| IRAN | Iran Claims Settlement Act, Public Law 99-99, Sec. 505 |
- (b)(4) Trade secrets and confidential commercial or financial information
- (b)(5) Interagency or intra-agency communications forming part of the deliberative process, attorney-client privilege, or attorney work product
- (b)(6) Personal privacy information
- (b)(7) Law enforcement information whose disclosure would:
- (A) interfere with enforcement proceedings
 - (B) deprive a person of a fair trial
 - (C) constitute an unwarranted invasion of personal privacy
 - (D) disclose confidential sources
 - (E) disclose investigation techniques
 - (F) endanger life or physical safety of an individual
- (b)(8) Prepared by or for a government agency regulating or supervising financial institutions
- (b)(9) Geological and geophysical information and data, including maps, concerning wells

Other Grounds for Withholding

- NR Material not responsive to a FOIA request excised with the agreement of the requester

From:	(b)(6)
SentVia:	
To:	
Subject:	RE: SBU Cable Pull
Date:	2021/02/16 21:42:20
Type:	Note

Thanks! All good.

SENSITIVE BUT UNCLASSIFIED

From: (b)(6)
Sent: Tuesday, February 16, 2021 4:30 PM
To: (b)(6)
Subject: RE: SBU Cable Pull

Final PDF attached. Is there anything further I can provide tonight? (b)(5)

(b)(5)

--

(b)(6)
 Economic Sanctions Policy and Implementation
 m: (b)(6) | +5 hrs ahead of Washington, D.C.

SENSITIVE BUT UNCLASSIFIED

From: (b)(6)
Sent: Tuesday, February 16, 2021 9:16 PM
To: (b)(6)
Subject: Fw: SBU Cable Pull

Hi (b)(6)

Here are the open source PDFs, courtesy of (b)(6) minus the RFI article. (b)(6) and I both tried to turn it into a PDF, but the PDF generated is blank. I'll continue to try workarounds.

Best

(b)(6)

--

(b)(6)
 Economic Sanctions Policy and Implementation
 m: (b)(6) | +5 hrs ahead of Washington, D.C.

From: (b)(6)
Sent: Tuesday, February 16, 2021 9:04 PM
To: (b)(6)
Subject: Re: SBU Cable Pull

Hi (b)(6)

Attached please find the PDFs. I was unable to create one for the Radio France Internationale article because for some reason the page was showing up blank in the PDF preview. Would you mind trying to create a PDF for that one?

All the best,

(b)(6)

From: (b)(6)
Sent: Tuesday, February 16, 2021 3:32 PM
To: (b)(6)
Subject: Re: SBU Cable Pull

Hi (b)(6) can you create PDFs of the articles you linked to (today if possible)? Thanks so much!

--

(b)(6)

Economic Sanctions Policy and Implementation
m: (b)(6) +5 hrs ahead of Washington, D.C.

From: (b)(6)
Sent: Tuesday, February 16, 2021 7:09 PM
To: (b)(6)
Cc:
Subject: RE: SBU Cable Pull

Hi all,

(b)(5)

(b)(5)

Best,

(b)(6)

SENSITIVE BUT UNCLASSIFIED

From: (b)(6)

Sent: Tuesday, February 16, 2021 6:50 AM

To: (b)(6)

Cc:

Subject: RE: SBU Cable Pull

Hi (b)(6)

(b)(5); (b)(6)

TFS intern (b)(6) (copied) conducted an excellent review of open-source response to the January 15 license. (b)(5)

(b)(5)

(b)(5) (b)(6) put this together quickly and is on standby if there are other angles or reports which could be helpful to pull. Her summary is linked here:

 [docx icon Gertler Evidence Appendix.docx](#).

Best

(b)(6)

--

(b)(6)

Economic Sanctions Policy and Implementation

m: (b)(6) | +5 hrs ahead of Washington, D.C.

SENSITIVE BUT UNCLASSIFIED

From: (b)(6)

Sent: Monday, February 15, 2021 8:35 PM

To: (b)(6)

Cc:

Subject: Re: SBU Cable Pull

Hi (b)(6)

Thank you for the heads up! I'll have this ready with my edits and open source attachments for consideration by OOB Tuesday for you (b)(6) to review. We can give our leadership a heads up it will be coming for their review later Tuesday. Pending any concerns that may pop up during their review, COB Tuesday should be realistic.

Best

(b)(6)

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(b)(6)

Economic Sanctions Policy and Implementation

m: (b)(6) | +5 hrs ahead of Washington, D.C.

From: (b)(6)

Sent: Saturday, February 13, 2021 1:26 AM

To: (b)(6)

Cc:

Subject: RE: SBU Cable Pull

Hi guys - (b)(5)

(b)(5) Let me know what you think is feasible on your end, but I can try to help get something ready by Tuesday if possible.

Thanks

(b)(6)

Sent from Workspace ONE Boxer

On February 12, 2021 at 12:37:48 PM EST, (b)(6) wrote:

Hi (b)(6)

(b)(5) We also have someone pulling open source reporting on recent Gertler activities and the impact of the license on GloMag/US anticorruption efforts writ large also by Tuesday morning.

Best

(b)(6)

Sent from Workspace ONE Boxer

On Feb 12, 2021 5:16 PM, '(b)(6)' wrote:

(b)(5) ; (b)(6)

Best,

(b)(6)

SENSITIVE BUT UNCLASSIFIED

From: (b)(6)

Sent: Friday, February 12, 2021 10:50 AM

To: (b)(6)

Cc:

Subject: FW: SBU Cable Pull

(b)(6)

(b)(5)

Best,

(b)(6)

SENSITIVE BUT UNCLASSIFIED

From: (b)(6)

Sent: Thursday, February 11, 2021 11:33 PM

To: (b)(6)

Cc:

Subject: SBU Cable Pull

(b)(6)

Please see the attached zip file with the SBU cables related to Gertler, Gecamines, and DRC Anti-Corruption. I was unable to combine them into one PDF as discussed because the State Adobe reader does not have that feature. I have included a TOC in MS Word; it includes the MRN, document title, the page number where the relevant material is located, and the number it was assigned in the zip file. I can convert the TOC into PDF once you have confirmed that you want all the documents included.

Please let me know if you want me to make any adjustments or have any questions.

Best,

(b)(6)

SENSITIVE BUT UNCLASSIFIED

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SENSITIVE BUT UNCLASSIFIED

SENSITIVE BUT UNCLASSIFIED

SENSITIVE BUT UNCLASSIFIED

Sender:	(b)(6)
Recipient:	
Sent Date:	2021/02/16 21:42:20

From:	(b)(6)
SentVia:	
To:	
Subject:	RE: Gertler license NGO letter
Date:	2021/02/03 22:35:37
Type:	Note

(b)(5) ; (b)(6)

SENSITIVE BUT UNCLASSIFIED

From: (b)(6)
Sent: Wednesday, February 3, 2021 4:51 PM
To: Woodhouse, Erik J (b)(6)
Cc: (b)(6)
Subject: Re: Gertler license NGO letter

(b)(5) ; (b)(6)

From: Woodhouse, Erik J (b)(6)
Sent: Wednesday, February 3, 2021 3:47 PM
To: (b)(6)
Subject: FW: Gertler license NGO letter

Hi (b)(6)

(b)(5)

(b)(5)

Thanks,
Erik

SENSITIVE BUT UNCLASSIFIED

From: Rob Berschinski (b)(6)@humanrightsfirst.org>
Sent: Tuesday, February 2, 2021 5:22 PM
To: Woodhouse, Erik J (b)(6)
Subject: Fwd: Gertler license NGO letter

Erik,

I was just informed of your new gig — congrats on the appointment!

Please see below, and looking forward to working with you again.

Best,
Rob

From: Rob Berschinski (b)(6)@humanrightsfirst.org>
Sent: Tuesday, February 2, 2021 4:53:22 PM
To: (b)(6)

(b)(6)

Cc: Brad Brooks-Rubin (b)(6)@thesentry.org>; Allie Robins (b)(6)@globalwitness.org>; Gary Kalman (b)(6)@transparency.org>; Margot Mollat Du Jourdin (b)(6)@globalwitness.org>; Henri Thulliez (b)(6)@cabinet-thulliez.com>; (b)(6)@pplaaf.org (b)(6)@pplaaf.org>; Elisabeth Caesens (b)(6)@resourcematters.org>; Joseph Kraus (b)(6)@one.org>; Jonathan Temin (b)(6)@freedomhouse.org>; Daniel Mulé (b)(6)@oxfam.org>; Ida Sawyer (b)(6)@hrw.org>; Sarah Margon (b)(6)@opensocietyfoundations.org>; Anneke Van Woudenberg (b)(6)@raid-uk.org>
Subject: Gertler license NGO letter

(b)(6) et al,

Please find attached a letter signed by 14 Congolese and 16 international human rights, anti-corruption, and humanitarian NGOs, addressed to Secretaries Blinken and Yellen, urging immediate action to suspend and ultimately reverse the decision to issue to Dan Gertler and associated persons the license GLOMAG-2021-371648-1. I'd ask that you please share this letter with your AF counterparts.

As detailed in the letter, the Gertler license:

1. • Directly undermines U.S. strategy and policy concerning anti-corruption efforts in the DRC;
2. • Sets a dangerous precedent that undercuts the efficacy and legitimacy of the Global Magnitsky sanctions program; and
3. • Thwarts the critical, challenging, and sometimes dangerous work of Congolese and other civil society organizations and activists.

We will shortly be sending a similar message to Treasury.

On a related note, in case it otherwise didn't make its way to you, we also wanted to flag a letter on the same matter sent to Secretary Yellin yesterday by Senators Booker, Cardin, and Durbin.

Thanks again,
Rob (on behalf of signatories)

Rob Berschinski
Senior Vice President for Policy
Human Rights First American ideals. Universal values.
 @RobBerschinski | Mobile: (b)(6) | Desk: (b)(6)

From: (b)(6)
Date: Monday, January 25, 2021 at 11:05 AM
To: Rob Berschinski (b)(6)@humanrightsfirst.org>, (b)(6)

(b)(6)

Cc: Brad Brooks-Rubin (b)(6)@thesentry.org>, Allie Robins (b)(6)@globalwitness.org>, Gary Kalman (b)(6)@transparency.org>, Margot Mollat Du Jourdin (b)(6)@globalwitness.org>, Henri Thulliez (b)(6)@cabinet-thulliez.com>, (b)(6)@pplaaf.org" (b)(6)@pplaaf.org>

Subject: [EXT]-Re: Gertler license

Email originates externally.

Rob,

Thank you for reaching out. As you know, we deeply value our candid and extremely close relationship with you and the broader NGO community on this program and recognize the importance of your comments below.

Happy to receive any information about the impact of this license from you and the broader community you have included on this chain.

Please do continue to engage on this issue.

Respectfully,

(b)(6)

From: Rob Berschinski (b)(6)@humanrightsfirst.org>

Sent: Monday, January 25, 2021 10:50 AM

To: Ruggles, Taylor V (b)(6)

(b)(6)

Cc: Brad Brooks-Rubin (b)(6)@thesentry.org>; Allie Robins (b)(6)@globalwitness.org>; Gary Kalman (b)(6)@transparency.org>; Margot Mollat Du Jourdin (b)(6)@globalwitness.org>; Henri Thulliez (b)(6)@cabinet-thulliez.com>; (b)(6)@pplaaf.org (b)(6)@pplaaf.org>
Subject: Gertler license

Hi all,

I expect you may have seen word emerge over the weekend that in one of its last actions, the previous administration issued a license (attached) for Dan Gertler that undercuts GMA/EO 13818 sanctions related to his alleged corrupt dealings in the DRC (NYT [article](#) and Sentry [press release](#)). Our understanding is that this license was issued seemingly without the involvement or consultation of many of the career officers at Treasury who would normally review and approve such an action.

The Gertler sanctions are arguably the most impactful anti-corruption designations made to date under 13818, and the license that undermines them seems to have been issued extraordinarily quickly and not in keeping with normal procedure, following extensive lobbying from well-known lawyers close to former President Trump. **In sum, this is a massive setback for the integrity and legitimacy of the Global Magnitsky program as a whole.**

We are urging that Treasury immediately investigate this last minute license, and, subject to relevant information, reverse its decision. In the meantime, we urge that you work with your Treasury colleagues to communicate to the banks and financial institutions named in the license that they not unblock funds or allow further activities pursuant to the license – an action that would be in keeping with Biden administration policy putting a moratorium on implementation of last-minute Trump administration action.

We expect this action to engender significant criticism from Congolese and international civil society, as well as the Congress, and are likely to follow up with additional messages from NGO partners in the near future.

Thanks as always for your attention to this this matter.

Best,
Rob

Rob Berschinski
Senior Vice President for Policy
Human Rights First American ideals. Universal values.
@RobBerschinski | Mobile: (b)(6) Desk: (b)(6)

SENSITIVE BUT UNCLASSIFIED

SENSITIVE BUT UNCLASSIFIED

Sender:	Woodhouse, Erik J (b)(6)	Woodhouse, Erik J
Recipient:	(b)(6)	
Sent Date:	2021/02/03 22:35:37	

Withheld pursuant to exemption

(b)(5); (b)(5); (b)(6)

Withheld pursuant to exemption

(b)(5); (b)(5); (b)(6)

Withheld pursuant to exemption

(b)(5); (b)(5) ; (b)(6)

Withheld pursuant to exemption

(b)(5); (b)(5); (b)(6)

Josep Borrell Fontelles
High Representative of the EU for Foreign Affairs and Security Policy
Vice-President of the European Commission

Dear High Representative Borrell,

Corruption in the Democratic Republic of Congo is still alive and well and brings in its wake violence, impunity and human rights abuses.

Between 2007 and 2020, the European Union (EU) and its member states provided no less than 11.6 billion euros in aid to the DRC, making the country the fifth largest recipient of EU aid in the world. The EU, as a major donor to the DRC, therefore has a crucial role to play in encouraging transparent governance of the country while ensuring that corrupt funds do not enter the European market.

Yet the EU is slow to take action against Dan Gertler, a close friend of former DRC President Joseph Kabila. The Israeli tycoon is said to have amassed a fortune through opaque, corrupt mining and oil operations. Between 2010 and 2012, the DRC reportedly lost at least \$ 1.4 billion in revenue due to the undervaluation of mining and oil assets sold to offshore companies linked to Gertler. At that time, this sum was double the national expenditure allocated to health and education, or about 20% of the annual national budget.

In 2017, the US Department of the Treasury fined Dan Gertler for his fraudulent activities in the DRC, aimed at ending a decade of opaque business and siphoned off foreign revenues. But Dan Gertler appears to have managed to circumvent these sanctions by receiving his mining revenues in euros rather than US dollars, but also by incorporating at least one of his holding companies in a EU member state.

Global Witness and PPLAAF report in July 2020, details more precisely how Dan Gertler allegedly escaped US sanctions by using a money laundering network spanning to Europe and relying on the euro .

Dan Gertler's case is emblematic, because it demonstrates how the EU is becoming, de facto, a safe haven for corrupt funds and demonstrates the urgency to strengthen European measures taken against such individuals. It is imperative that the EU ensure that its institutions as well as the common currency do not allow economic crimes that harm the DRC, by facilitating or contributing to transactions that benefit Dan Gertler and his associates.

As you know, the Sub-Committee on Human Rights has welcomed your initiative on the sanction regime for human rights violations, although it regrets that the Council has not withdrawn the unanimity rule, which could have made this tool more efficient in its decision-making. It also appears that the facts of corruption are not covered by the mechanism even though it is clearly established that corruption contributes directly and indirectly to serious violations of human rights. Although the procedures, which determine the link between corruption and violation of human rights, might still need to be correctly established, it nevertheless seems essential to us that these phenomena be part of the system.

Therefore, can you tell us how flagrant cases of corruption generating serious human rights violations could be covered by the new sanction regime?

How will this new device cover a case like Dan Gertler's, thus preventing him from using European territory to launder ill-gotten money and generate serious human rights violations?

The United States and Canada have already incorporated corruption into their sanction regimes, while the United Kingdom is committed to doing so. We know that sanctions are more effective when they are multilateral. We therefore believe it is important to put in place a European sanctions regime based on the same model so that the EU does not become a safe haven for corrupt actors.

We would be grateful if you could give us your perspective on these specific points.

Best regards,

Maria Arena MEP
Köster Dietmar MEP
Yenbou Salima MEP
Jordi Solé MEP
Manon Aubry MEP
Toussaint Marie MEP
Daniel Freund MEP
Ivan Štefanec MEP
Ernest Urtasun MEP
Bettina Vollath MEP
Strugariu Ramona-Victoria MEP
Benifei Brando MEP
Mounir Satouri MEP
Milan Brglez MEP
Engerer Cyrus MEP
Samira Rafaela MEP
Fabio Massimo Castaldo MEP
Idoia Villanueva MEP
Franco Roberti MEP
Sylvie Guillaume MEP
Philippe Lamberts MEP
Eleonora Evi MEP
Javier Nart MEP
Glucksmann Raphaël MEP
Bricmont Saskia MEP
Giuliano Pisapia MEP
Smeriglio Massimiliano MEP
Helmut Scholz MEP
Marquardt Erik MEP
Alviina Alametsä MEP
Tineke Strik MEP
Katrín Langensiepen MEP
Margrete Auken MEP
Juan Fernando López Aguilar MEP
Pascal Durand MEP
Hojsík Martin MEP
Urtasun Ernest MEP

Radosław Sikorski MEP

Hannes Heide MEP

AUSTREVICIUS Petras MEP

Diana Riba i Giner MEP

Marc Angel MEP

From:	Elisabeth Caesens <(b)(6)@resourcematters.org> (b)(6)@resourcematters.org>
SentVia:	Elisabeth Caesens <(b)(6)@resourcematters.org>
To:	(b)(6)
Subject:	Letter Gertler License
Date:	2021/02/03 19:44:40
Type:	Note

Dear (b)(6)

A wide coalition of international and Congolese NGOs have co-written the attached letter to the State Department and Treasury in the hope their directors will swiftly review the license granted to Dan Gertler and his network. We strongly believe that the license goes against the US Embassy's anti-corruption policies and truly hope the Biden administration will revoke it as soon as possible.

Best regards,
Elisabeth

--

Resource Matters
co / Mundo-Madou
Avenue des Arts 7
1210 Bruxelles
Belgique

Sender:	Elisabeth Caesens <(b)(6)@resourcematters.org> (b)(6)@resourcematters.org>; Elisabeth Caesens (b)(6)@resourcematters.org>
Recipient:	(b)(6)
Sent Date:	2021/02/03 20:17:48
Delivered Date:	2021/02/03 19:44:40

Antony Blinken
Secrétaire d'État
Washington, DC 20520

Janet Yellen
Secrétaire du Trésor
Washington, DC 20220

Le 2 février 2021

Objet : Licence de M. Dan Gertler (No. GLOMAG-2021-371648-1)

Monsieur le Secrétaire,
Madame la Secrétaire,

Nous vous adressons le présent courrier en notre qualité de membres d'organisations de la société civile congolaises et internationales.

Nous aimerions vous faire part de nos profondes inquiétudes en ce qui concerne la décision de l'Office of Foreign Assets Control (OFAC) (Bureau du contrôle des avoirs étrangers), datant du 15 janvier 2021 et rendue publique le 24 janvier 2021, accordant une licence à l'homme d'affaires Dan Gertler. Ce dernier a été sanctionné pour corruption en République démocratique du Congo (RDC) en vertu du Global Magnitsky Human Rights Accountability Act (loi Magnitsky sur la responsabilité en matière de droits humains) en décembre 2017. La licence lui permet de reprendre les transactions avec des entités américaines pendant un an et de débloquer ses avoirs gelés.

Nous souhaiterions demander respectueusement une action immédiate afin de réexaminer, suspendre et annuler cette décision. Nous pensons que cette décision compromet fortement les politiques mondiales de lutte contre la corruption des États-Unis et leur stratégie de politique étrangère en RDC, qui soutient notamment le programme de lutte contre la corruption du président Félix Tshisekedi. Au cours des dernières années, l'ambassade des États-Unis à Kinshasa a joué un rôle déterminant pour mettre en avant la lutte contre la corruption et la placer au cœur de l'ordre du jour politique en RDC.

Les sanctions à l'encontre de M. Dan Gertler et de ses entités sont l'expression de cette politique : elles attestent du fait que les États-Unis sont prêts à prendre des mesures concrètes et efficaces contre ceux qui privent les citoyens congolais des moyens nécessaires pour reconstruire le pays. Cela a fourni un tremplin essentiel pour les organisations de la société civile congolaise déterminées à renforcer la lutte contre la corruption.

Il a été porté à notre connaissance que cette licence spéciale a été délivrée de manière opaque et à la hâte pendant les derniers jours de mandat du président sortant Donald Trump. Il semble que les consultations habituelles avec le Département du Trésor et le Département d'État n'ont pas eu lieu avant la délivrance de la licence, prenant complètement au dépourvu un large éventail de fonctionnaires américains qui avaient travaillé dur pour mettre en place, faire respecter et défendre publiquement ces sanctions. Cette décision est intervenue après plusieurs mois de lobbying intensif pour le compte de M. Gertler, y compris par des avocats de renom proches de M. Trump.

L'affaire Dan Gertler a illustré l'impact fort que peuvent avoir les sanctions Magnitsky. Ami de longue date de l'ancien président congolais Joseph Kabila, Dan Gertler a été ajouté à la toute première liste de sanctions Global Magnitsky en décembre 2017 pour « *des transactions minières opaques et entachées de corruption en RDC* ». Cette sanction tant attendue a eu lieu après des années de rapports publics, établis à la fois par des médias internationaux et des organisations non gouvernementales, qui ont cherché à révéler la manière dont les recettes minières publiques de RDC ont été détournées.

L'ampleur et la nature de la corruption facilitée par Dan Gertler ont eu un impact sur les droits humains de nombreux Congolais. D'après le communiqué de presse qui en a fait l'annonce, l'un des fondements des sanctions était le rôle de Dan Gertler en tant qu'intermédiaire dans des transactions entre Joseph Kabila et des sociétés pétrolières qui ont apparemment entraîné, pour les seules années 2010 à 2012, une perte de 1,36 milliard d'USD pour l'État. Cela représente près de la moitié du budget de la santé du pays sur ces trois années ; un budget bien en deçà de la moyenne régionale et des dépenses par habitant identifiées par une étude soutenue par l'Organisation mondiale de la Santé comme étant le minimum pour fournir des soins de santé adéquats en RDC.

L'initiative de l'OFAC visant à sanctionner M. Gertler était le premier cas dans lequel les efforts constants des organisations congolaises et internationales ont été reconnus. Ces sanctions ont eu des conséquences notables sur les transactions financières du milliardaire israélien qui, selon l'OFAC lui-même, avaient permis et facilité des activités de corruption majeures sous l'administration de l'ancien président congolais Joseph Kabila.

Des preuves publiées en juillet 2020 par PPLAAF et Global Witness, qui sont signataires du présent courrier, suggèrent que Dan Gertler et ses associés ont mis en place un système très complexe de mandataires, de sociétés fictives et un réseau de blanchiment d'argent international pour échapper aux sanctions américaines, afin de leur permettre de continuer à opérer en RDC et faire transiter des millions de dollars à l'étranger. L'ingéniosité et la complexité de ce qui s'apparente à un réseau indiquent que l'accès de Dan Gertler au dollar américain a été capital pour ses opérations précédentes. M. Gertler a nié avoir eu connaissance de ce réseau ou avoir eu des liens avec celui-ci tout en rejetant toutes les allégations d'acte illégal et de corruption.

En novembre 2020, un juge américain a condamné une filiale du fonds d'investissement new-yorkais Och-Ziff pour corruption en RDC. Même si M. Gertler n'a pas été inculpé dans cette affaire, les documents du tribunal incluent des informations sur le rôle présumé joué par M. Gertler dans la corruption, y compris le versement de pots-de-vin à des fonctionnaires et des juges de RDC, ce qui renforce davantage la nécessité de maintenir les sanctions en place.

Alors que l'on aurait pu s'attendre à une extension des sanctions américaines après ces révélations l'an dernier, la licence du 15 janvier envoie un signal inquiétant à ceux qui tentent d'affaiblir le régime des sanctions américaines. Cela crée un dangereux précédent et sape en grande partie les efforts pour lutter contre la corruption dans le cadre du programme Global Magnitsky, qui a été un modèle pour bien d'autres législations dans le monde comme un moyen efficace de mettre la pression sur les responsables d'actes de corruption et d'atteintes aux droits humains.

Dernier élément et non des moindres, cette licence entrave le travail essentiel et difficile des organisations de la société civile et des activistes en RDC et ailleurs pour traduire en justice ceux qui ont spolié les ressources du pays, et risque de faire de nouvelles victimes de la corruption. Selon un rapport publié par les organisations de la société civile Raid et Afrewatch, signataires de ce courrier, un contrat minier impliquant M. Gertler a, à lui seul, impacté la vie de près de 32 000 habitants, qui ont été privés d'eau potable, confrontés à une pollution constante de l'air et de l'eau, aux maladies et

au manque d'accès à l'éducation du fait de la corruption. M. Gertler a nié tout acte de corruption dans cette affaire.

Les organisations de la société civile congolaises signataires de ce courrier prennent des risques considérables pour lutter contre la corruption en RDC et ont particulièrement apprécié le soutien, dans leurs efforts, des acteurs internationaux, notamment le gouvernement des États-Unis. Dans sa dernière vidéo après l'investiture du président Joe Biden, l'ambassadeur des États-Unis en RDC, Michael Hammer, a déclaré : « *Il est dans l'intérêt des peuples américain et congolais de renforcer la démocratie, lutter contre la corruption et mettre fin à l'impunité* ». Nous prenons l'ambassadeur Michael Hammer au mot : nous restons prêts et désireux de travailler avec le gouvernement américain pour renforcer la démocratie, lutter contre la corruption et mettre fin à l'impunité. Nous espérons que vous resterez à nos côtés.

Nous demandons ainsi à l'administration Biden d'enquêter sans plus attendre sur cette licence accordée à la dernière minute et, sur la base d'informations pertinentes, d'annuler cette décision. Les États-Unis doivent veiller à ce que les recettes de la corruption présumée ne soient pas accessibles et débloquées pendant la transition, ou pour des motifs politiques.

Aussi, nous demandons respectueusement au Département du Trésor d'informer les banques et les institutions financières que la licence est en cours d'examen et qu'elles ne doivent pas débloquer de fonds ou permettre de nouvelles activités en attendant que la nouvelle administration ait pu examiner la raison et la procédure ayant abouti à l'octroi de cette licence.

Nous vous remercions par avance pour votre attention.

Nous nous tenons à votre entière disposition pour toute question ou tout complément d'information.

Nous vous prions de croire, Monsieur le Secrétaire, Madame la Secrétaire, en l'expression de notre haute considération.

Organisations congolaises

Afrewatch

Agir pour des élections transparentes et apaisées

Cadre de concentration sur les ressources naturelles de l'Ituri (CDC/RN)

Coalition pour la gouvernance des entreprises publiques du secteur extractif (COGEP)

Congo n'est pas à Vendre

Congo Nouveau

Filimbi

Initiative bonne gouvernance et droits de l'Homme (IBGDH)

Justice pour tous

Lucha

Observatoire citoyen des droits et de lutte contre la corruption en RDC (OCIDC)

Observatoire de la dépense publique (ODEP)

Observatoire d'études et d'appui à la responsabilité sociale et environnementale (OEARSE)

UNIS – Plateforme panafricaine de lutte contre la corruption

Organisations internationales

EG Justice

FACT Coalition

Freedom House

Global Witness

Human Rights First

Human Rights Watch

Never Again Coalition

The ONE Campaign

Open Society Foundations

Oxfam America

Plateforme de Protection des Lanceurs d'Alerte en Afrique (PPLAAF)

Publish What You Pay – U.S.

Resource Matters

Rights and accountability in development (RAID)

The Sentry

Transparency International

Withheld pursuant to exemption

(b)(5); (b)(6)

Withheld pursuant to exemption

(b)(5); (b)(6)

Withheld pursuant to exemption

(b)(5); (b)(6)

From:	(b)(6)
SentVia:	
To:	Kinshasa, Reporting Officers <Kinshasa_ReportingOfficers@state.gov>; (b)(6)
CC:	(b)(6)
Subject:	Civil Society Coalition and House Democrats Separately Appeal to Yellen on Gertler Sanctions
Date:	2021/02/04 08:56:06
Type:	Note

FYSA

Article re. House Dems below. International + Local CSOs' letter attached.

Best,

(b)(6)

From: bloomberg-news-congo@googlegroups.com <bloomberg-news-congo@googlegroups.com> on behalf of Michael Kavanagh (BLOOMBERG/ NEWSROOM:) <(b)(6)@bloomberg.net>

Sent: Wednesday, February 3, 2021 8:27 PM

To: bloomberg-news-congo@googlegroups.com <bloomberg-news-congo@googlegroups.com>

Subject: (BN) House Democrats Urge Yellen to Reinstate Gertler Sanctions

House Democrats Urge Yellen to Reinstate Gertler Sanctions
2021-02-03 19:24:59.164 GMT

By Saleha Mohsin

(Bloomberg) -- Several Democratic House lawmakers are urging Treasury Secretary Janet Yellen to reverse the Trump administration's decision in its final days to ease sanctions on Israeli billionaire Dan Gertler.

The U.S. sanctioned Gertler and his companies in 2017 for allegedly corrupt mining and oil deals in the Democratic Republic of Congo, one of the world's poorest countries. But in his final days in office, President Donald Trump's Treasury secretary, Steven Mnuchin, issued a license allowing Gertler and his companies to resume business through January 2022.

"We strongly encourage you to revoke this license as soon as possible," Representatives Karen Bass and Gregory Meeks from the House Foreign Affairs Committee wrote to Yellen in a letter Wednesday.

At the time of Gertler's sanctioning, Treasury said Gertler worked as a middleman between multinational companies and the Congolese state and on behalf of former President Joseph Kabila. Gertler hired high-profile defense attorney Alan Dershowitz

and Louis Freeh, a former FBI director, to petition the U.S. government to remove him from the sanctions list. Dershowitz also represented Trump in his first impeachment trial.

Lawmakers Bass and Meeks say that the license that Gertler secured “appears to have almost entirely bypassed established inter-agency processes,” saying Treasury has not illustrated how Gertler demonstrated contrition in exchange for the easing of sanctions.

The license, signed Jan. 15, allows Gertler and his companies to resume business at least until the license expires. It was authorized by Andrea Gacki, a long-time civil servant who is the director of Office of Foreign Assets Control.

“In fact, the publicly available evidence demonstrates the opposite is true. Since being sanctioned, he has created shell companies, opened accounts with tiny financial institutions in the DRC over which he maintains control, and received pay in foreign currencies to circumvent our laws,” they said.

A spokesman for Gertler did not immediately respond to an email requesting comment, but last week he told Bloomberg in a statement that “prior to engaging in any previously prohibited activities we will be adopting and implementing the most stringent anti-bribery and anti-corruption policies and measures across all our global practices.”

To contact the reporter on this story:

Saleha Mohsin in Washington at smohsin2@bloomberg.net

To contact the editors responsible for this story:

Alex Wayne at awayne3@bloomberg.net

Magan Crane, Elizabeth Wasserman

To view this story in Bloomberg click here:

<https://blinks.bloomberg.com/news/stories/QNYV29DWX2PX>

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To view this discussion on the web visit https://groups.google.com/d/msgid/bloomberg-news-congo/601AF91F00CC007C00390001_0_79107%40msl1njpmsgsv06.

Sender:	(b)(6)
Recipient:	Kinshasa, Reporting Officers < Kinshasa_ReportingOfficers@state.gov >; (b)(6)
Sent Date:	2021/02/04 08:56:05
Delivered Date:	2021/02/04 08:56:06

Billionaire Gertler threatens NGOs over Congo investigation into evading US sanctions

Issued on: 07/07/2020 - 11:01

Text by: [RFIFollow](#)

4 min

Two non-governmental organisations that ran an investigation into Israeli businessman Dan Gertler say they have been targeted by a “vexatious” lawsuit in France. The joint investigation claimed mining magnate Gertler appeared to avoid US sanctions for “corrupt mining and oil deals” in the Democratic Republic of Congo by using a suspected money laundering network.

Global Witness and the Platform to Protect Whistleblowers in Africa (PPLAAF) said they condemn a criminal complaint filed against them in France by Afriland First Bank, a Cameroonian financial institution named in the [Undermining Sanctions investigation](#).

“For two of the principal subjects of our report to threaten or file criminal complaints against PPLAAF and Global Witness for our investigation into possible sanctions evasion is beyond parody,” Henri Thulliez, director of PPLAAF, said in a statement.

Dan Gertler, who is close to former Congolese president Joseph Kabila, was accused by the two NGOs of having created a number of shell companies so that he could continue to acquire Congolese mining permits at a low price.

The report points the finger at the [Congolese subsidiary of Afriland bank](#), set up in 2006, for accepting tens of millions of US dollars in cash through accounts in the names of people close to Gertler.

‘Stolen’ documents?

Eric Moutet, a lawyer acting for Gertler as well as [Afriland bank](#), told RFI that the documents in question used in the investigation are fraudulent.

“A complaint has been filed in Paris, France against Global Witness and PPLAAF about the manner in which the evidence was gathered in this case,” [Moutet told RFI’s Sonia Rolley](#), saying documents used in the investigation were stolen.

“We have quite a bit of evidence to suggest that the stolen files have been tampered with,” said Moutet. “So an investigation will be opened - it is absolutely necessary to shed light on the way in which these NGOs work.”

Billionaire businessman [Gertler was hit by US sanctions](#) in December 2017, accused by the US Treasury of having “amassed his fortune through hundreds of millions of dollars’ worth of opaque and corrupt mining and oil deals in the Democratic Republic of the Congo (DRC).”

US authorities said Gertler used his friendship with Kabila to act as a middleman for mining asset sales in the DRC, and purchased Congolese assets at knockdown prices before flipping them, selling them back to the government in Kinshasa at a premium.

‘International money laundering network’

The report by [Global Witness](#), a London-based NGO working on corruption, and [PPLAAF](#), an organisation that supports whistleblowers, explained how Gertler allegedly circumvents US sanctions.

Gertler began creating a holding company and dozens of other companies in October 2017, a few weeks before the official announcement of US sanctions, the report said.

The names of people close to Gertler were used for these companies, enabling him to continue doing business in the DRC despite the sanctions, according to the NGOs. In fact, one of the companies signed a contract with [Gecamines](#), a company managed by the Congolese state, just before Kabila stepped down as president.

PLAAFF and Global Witness, supported by a number of investigative journalists, discovered a network of companies, many based in countries considered as tax havens or secrecy jurisdictions, others domiciled in Hong Kong, Switzerland and the Czech Republic.

Lots of transactions passed through the Congolese subsidiary of Afriland bank, effectively laundering millions of dollars in cash, according to the investigation.

The explosive revelations are unlikely to help Gertler and his business partners, such as Glencore, which is already facing judicial proceedings in Switzerland on suspicion of corruption in the [DRC](#).

The two NGOs are calling on the Congolese government to seize or freeze all property belonging to Gertler, and want international mining companies to stop doing business with him.

Gertler's lawyer Moutet said his client had not sought to avoid US sanctions, pointing out that Global Witness and PPLAAF have not formally accused his client of any crime.

From:	Woodhouse, Erik J (b)(6)
SentVia:	Woodhouse, Erik J (b)(6)
To:	'Rob Berschinski' (b)(6)
Subject:	RE: Gertler license NGO letter
Date:	2021/02/05 04:16:07
Type:	Note

Hi Rob,

Thank you!

I am recused on this particular matter. (The Sentry was a client of mine previously.) (b)(6) who is copied in your email, is handling it.

More broadly, I know our team has valued your engagement on the other issues you work on, and I look forward to the chance to do so as well.

Best regards,
Erik

From: Rob Berschinski (b)(6)
Sent: Tuesday, February 2, 2021 5:22 PM
To: Woodhouse, Erik J (b)(6)
Subject: Fwd: Gertler license NGO letter

Erik,

I was just informed of your new gig — congrats on the appointment!

Please see below, and looking forward to working with you again.

Best,
Rob

From: Rob Berschinski (b)(6)
Sent: Tuesday, February 2, 2021 4:53:22 PM
To: (b)(6)
(b)(6)
Cc: Brad Brooks-Rubin (b)(6) @thesentry.org>; Allie Robins (b)(6) @globalwitness.org>; Gary Kalman (b)(6) @transparency.org>; Margot Mollat Du Jourdin (b)(6) @globalwitness.org>;

Henri Thulliez (b)(6)@cabinet-thulliez.com>; (b)(6)@pplaaf.org (b)(6); Elisabeth
 Caesens (b)(6)@resourcematters.org>; Joseph Kraus (b)(6)@one.org>; Jonathan
 Temin (b)(6)@freedomhouse.org>; Daniel Mulé (b)(6)@oxfam.org>; Ida Sawyer
 (b)(6)@hrw.org>; Sarah Margon (b)(6)@opensocietyfoundations.org>; Anneke Van
 Woudenberg (b)(6)@raid-uk.org>

Subject: Gertler license NGO letter

(b)(6) et al,

Please find attached a letter signed by 14 Congolese and 16 international human rights, anti-corruption, and humanitarian NGOs, addressed to Secretaries Blinken and Yellen, urging immediate action to suspend and ultimately reverse the decision to issue to Dan Gertler and associated persons the license GLOMAG-2021-371648-1. I'd ask that you please share this letter with your AF counterparts.

As detailed in the letter, the Gertler license:

1. • Directly undermines U.S. strategy and policy concerning anti-corruption efforts in the DRC;
2. • Sets a dangerous precedent that undercuts the efficacy and legitimacy of the Global Magnitsky sanctions program; and
3. • Thwarts the critical, challenging, and sometimes dangerous work of Congolese and other civil society organizations and activists.

We will shortly be sending a similar message to Treasury.

On a related note, in case it otherwise didn't make its way to you, we also wanted to flag a letter on the same matter sent to Secretary Yellin yesterday by Senators Booker, Cardin, and Durbin.

Thanks again,
 Rob (on behalf of signatories)

Rob Berschinski
Senior Vice President for Policy
 Human Rights First American ideals. Universal values.
 @RobBerschinski | Mobile: (b)(6) | Desk: (b)(6)

From: (b)(6)
Date: Monday, January 25, 2021 at 11:05 AM
To: Rob Berschinski (b)(6)

(b)(6)

Cc: Brad Brooks-Rubin (b)(6)@thesentry.org>, Allie Robins (b)(6)@globalwitness.org>, Gary
 Kalman (b)(6)@transparency.org>, Margot Mollat Du Jourd'in
 (b)(6)@globalwitness.org>, Henri Thulliez (b)(6)@cabinet-thulliez.com>,
 (b)(6)@pplaaf.org (b)(6)

Subject: [EXT]-Re: Gertler license

Email originates externally.

Rob,

Thank you for reaching out. As you know, we deeply value our candid and extremely close relationship with you and the broader NGO community on this program and recognize the importance of your comments below.

Happy to receive any information about the impact of this license from you and the broader community you have included on this chain.

Please do continue to engage on this issue.

Respectfully,

(b)(6)

From: Rob Berschinski (b)(6)

Sent: Monday, January 25, 2021 10:50 AM

To: (b)(6)

(b)(6)

Cc: Brad Brooks-Rubin (b)(6) @thesentry.org>; Allie Robins (b)(6) @globalwitness.org>; Gary Kalman (b)(6) @transparency.org>; Margot Mollat Du Jourdin (b)(6) @globalwitness.org>; Henri Thulliez (b)(6) @cabinet-thulliez.com>; (b)(6) @pplaaf.org (b)(6)

Subject: Gertler license

Hi all,

I expect you may have seen word emerge over the weekend that in one of its last actions, the previous administration issued a license (attached) for Dan Gertler that undercuts GMA/EO 13818 sanctions related to his alleged corrupt dealings in the DRC (NYT [article](#) and Sentry [press release](#)). Our understanding is that this license was issued seemingly without the involvement or consultation of many of the career officers at Treasury who would normally review and approve such an action.

The Gertler sanctions are arguably the most impactful anti-corruption designations made to date under 13818, and the license that undermines them seems to have been issued extraordinarily quickly and not in keeping with normal procedure, following extensive lobbying from well-known lawyers close to former President Trump. **In sum, this is a massive setback for the integrity and legitimacy of the Global Magnitsky program as a whole.**

We are urging that Treasury immediately investigate this last minute license, and, subject to relevant information, reverse its decision. In the meantime, we urge that you work with your Treasury colleagues to communicate to the banks and financial institutions named in the license that they not unblock funds or allow further activities pursuant to the license – an action that would be in keeping with Biden administration policy putting a moratorium on implementation of last-minute Trump administration action.

We expect this action to engender significant criticism from Congolese and international civil society, as well as the Congress, and are likely to follow up with additional messages from NGO partners in the near future.

Thanks as always for your attention to this this matter.

Best,
Rob

Rob Berschinski
Senior Vice President for Policy
Human Rights First American ideals. Universal values.
 @RobBerschinski | Mobile: (b)(6) | Desk: (b)(6)

Sender:	Woodhouse, Erik J (b)(6) Woodhouse, Erik J (b)(6)
Recipient:	'Rob Berschinski' (b)(6)
Sent Date:	2021/02/05 04:16:07

Withheld pursuant to exemption

(b)(5); (b)(6)

Congress of the United States
Washington, DC 20515

February 3, 2021

The Honorable Janet Yellen
Secretary of the Treasury
U.S. Department of the Treasury
1500 Pennsylvania Ave NW
Washington, DC 20220

Dear Secretary Yellen:

We are deeply concerned about the Trump Administration's decision to lift sanctions and issue a license to Mr. Dan Gertler, an Israeli billionaire, credibly linked to corruption in the Democratic Republic of the Congo (DRC).

Mr. Gertler was designated by the United States in December 2017 under the Global Magnitsky sanctions program in the first-ever use of this landmark human rights and anti-corruption tool. In its press release announcing the designation, the Treasury Department noted that Mr. Gertler had "amassed his fortune through hundreds of millions of dollars' worth of opaque and corrupt mining and oil deals in the [DRC]," and that "between 2010 and 2012 alone, the DRC reportedly lost over \$1.36 billion in revenues from the underpricing of mining assets that were sold to offshore companies linked to Gertler."

The license (GLOMAG-2021-371648-1) Mr. Gertler obtained excludes such details, and no accompanying press release provides any further information. The licensing action appears to have almost entirely bypassed established interagency processes. No information has been provided by the Treasury Department to indicate that the Magnitsky Sanctions were wrongly implemented in the first place, nor are there any indications that Mr. Gertler has demonstrated contrition for his corrupt dealings and undertaken reform.

In fact, the publicly available evidence demonstrates the opposite is true. Since being sanctioned, he has created shell companies, opened accounts with tiny financial institutions in the DRC over which he maintains control, and received pay in foreign currencies to circumvent our laws. Instead of being further scrutinized for these evasions, Mr. Gertler has been rewarded. This is contrary to the spirit and intent of the Sergei Magnitsky Rule of Law Accountability Act of 2012.

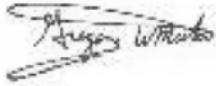
Lifting the sanctions against Mr. Gertler upends U.S. policy toward the DRC and threatens the integrity of U.S. sanctions programs more broadly. The Treasury Department's sudden reversal of its own careful 2017 decision is not only arbitrary and capricious, but as far as we can tell was done without even a scintilla of policy or legal justification.

The Honorable Janet Yellen
February 3, 2021
Page Two

Given these stark facts, we strongly encourage you to revoke this license as soon as possible. Moreover, it is crucial to uncover how, and to what extent Mr. Gertler was able to evade sanctions in the first place and continue profiting from his mining businesses in the DRC. If Mr. Gertler's sanctions are not reinstated, and any loopholes closed, he will stand as a case study in how to circumvent American sanctions. This would be detrimental to the rule of law both here at home and around the globe.

We look forward to your response, and to working with you to combat corruption and promote democratic governance in the DRC and around the world.

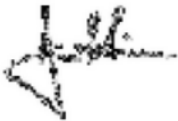
Sincerely,



GREGORY W. MEEKS
Chair
House Committee on Foreign Affairs



KAREN BASS
Chair
Subcommittee on Africa, Global
Health, and Global Human Rights



JIM HIMES
Chair
Subcommittee on National Security,
International Development and Monetary Policy



PRESS RELEASE | JULY 2, 2020

Controversial billionaire Dan Gertler appears to have used suspected international money laundering network to dodge US sanctions and acquire new mining assets in DRC



([https://twitter.com/intent/tweet?text=Controversial billionaire Dan Gertler appears to have used suspected international money laundrying network to dodge US sanctions and acquire new mining assets in DRC&url=https://www.globalwitness.org/en/press-releases/controversial-billionaire-dan-gertler-appears-have-used-suspected-international-money-laundering-network-dodge-us-sanctions-and-acquire-new-mining-assets-drc/&via=global_witness](https://twitter.com/intent/tweet?text=Controversial+billionaire+Dan+Gertler+appears+to+have+used+suspected+international+money+laundrying+network+to+dodge+US+sanctions+and+acquire+new+mining+assets+in+DRC&url=https://www.globalwitness.org/en/press-releases/controversial-billionaire-dan-gertler-appears-have-used-suspected-international-money-laundering-network-dodge-us-sanctions-and-acquire-new-mining-assets-drc/&via=global_witness))

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(<https://www.linkedin.com/company/global-witness/posts/?mini=true&url=https://www.globalwitness.org/en/press-releases/controversial-billionaire-dan-gertler-appears-have-used-suspected-international-money-laundering-network-dodge-us-sanctions-and-acquire-new-mining-assets-drc/&source=G>)

Read this content in:

[Français](#) (</fr/controversial-billionaire-dan-gertler-appears-have-used-suspected-international-money-laundering-network-dodge-us-sanctions-and-acquire-new-mining-assets-drc-fr/>)

[CORRUPTION & MONEY LAUNDERING \(/EN/CAMPAIGNS/CORRUPTION-AND-MONEY-LAUNDERING/\)](/en/campaigns/corruption-and-money-laundering/)

[D.R. CONGO \(/TAGGED/DR-CONGO/\)](/tagged/dr-congo/)

[A new joint investigation \(/en/campaigns/corruption-and-money-laundering/undermining-sanctions/\)](/en/campaigns/corruption-and-money-laundering/undermining-sanctions/) by Global Witness and the Platform to Protect Whistleblowers in Africa (PPLAAF) uncovers evidence indicating controversial mining magnate Dan Gertler used an international money laundering network to attempt to evade US sanctions and continue doing business in DRC.

2 July 2020, London & Paris – Controversial billionaire Dan Gertler appears to have used a money laundering network stretching from Democratic Republic of Congo (DRC) to Europe and Israel to evade US sanctions against him, funnel millions of dollars abroad, and acquire new mining assets in DRC, Global Witness and PPLAAF reveal today in a joint investigation, [Undermining Sanctions \(/en/campaigns/corruption-and-money-laundering/undermining-sanctions/\)](/en/campaigns/corruption-and-money-laundering/undermining-sanctions/).

The groundbreaking evidence shines a light on the workings of Gertler's complex business empire and a system apparently designed to conceal the movement of millions of dollars. This scheme would allow Gertler to continue reaping the vast financial benefits of his business deals in DRC, despite being [sanctioned by the US in December 2017 \(https://home.treasury.gov/news/press-releases/sm0243\)](https://home.treasury.gov/news/press-releases/sm0243) for "opaque and corrupt mining and oil deals".

The sanctions against Gertler, a close personal friend of DRC's long-time former President Joseph Kabila, prohibit him from doing business with US citizens, companies, or banks. PPLAAF and Global Witness today reveal evidence indicating that despite this, Gertler may

"This investigation offers an unprecedented insight into the intricacies of what appears to be a major international sanctions evasion and money laundering scheme," said Margot Mollat, Campaigner at Global Witness.

The revelations highlight critical loopholes and lapses in international sanctions enforcement and anti-money laundering frameworks, with lax banking regulations, lawyers and corporate secrecy enabling the scheme.

"PPLAAF and Global Witness' analysis, based on documents provided by whistleblowers despite great risks to their personal safety, uncovers a complex web of shell companies, secret bank accounts and proxies apparently put in place to assist Gertler and his accomplices," said Gabriel Bourdon-Fattal, project manager at PPLAAF.

The investigation lays bare the ways in which the loopholes of the international financial system may have been exploited by Gertler to dodge sanctions.

"Our investigation appears to show how the machinery of the global economy can be employed by bad actors for their own personal profit, and in this case to the detriment of the Congolese population, over 73% of whom live on less than \$2 a day," said Mollat.

The report also shows how two major international mining companies operating in DRC, Sicominex and ERG, appear to have made payments to customs and logistics agencies controlled by Gertler or his associates while Gertler was already under US sanctions. The multinational commodities giant Glencore, which has ties to Gertler stretching back to 2007, has also continued to make highly controversial royalties payments to him, despite US sanctions.

The report's findings suggest that Gertler relocated his business interests from secretive offshore tax havens to DRC with the help of proxies. Gertler and his network of proxies then set up bank accounts at the Congolese branches of Cameroon-based Afriland First Bank. New names started to appear on both companies and bank accounts connected to Gertler in a variety of subtle ways, including the name of someone implicated in a VAT carbon tax fraud costing the EU €5 billion.

In total, between June 2018 and May 2019, at least \$100 million flowed through bank accounts associated with this network. Much of it was denominated in US dollars, despite the US sanctions, and almost 70 percent of it was deposited in cash into accounts apparently connected to Gertler or his associates.

Among the various transactions revealed today, at least \$21 million was sent to unknown accounts held outside DRC and \$25 million was sent to DRC's controversial state-owned mining company Gécamines. Gertler seemingly used proxies to make these payments to Gécamines in exchange for new mining licences, just before the 2018 elections. This is reminiscent of deals Gertler did with the state miner before the 2011 elections – a scheme that contributed to the imposition of sanctions for "corruption".

While the election of new President Félix Tshisekedi in 2018 might have been expected to put an end to the long and lucrative alliance between Kabila and Gertler, DRC's elections were marred by irregularities and rumours of a deal with the ex-President. Kabila appears to have retained political power and influence over many of the countries' institutions, which could have helped his old friend Gertler to continue operating freely in DRC, despite sanctions.

"Under the new President Félix Tshisekedi, the Congolese government has vowed to prioritise the fight against corruption. If the administration is serious about this commitment, it must start by freezing Dan Gertler's assets and auditing all his deals with state-owned companies," said Bourdon-Fattal.

Gertler and other individuals and companies about whom Global Witness and PPLAAF have found evidence indicating concerted efforts to undermine US sanctions have all strenuously denied any such endeavour. Each claims to have been engaged in its own legitimate business activities and not to have operated on Gertler's behalf. There has not been, they argue, any attempt or conspiracy to evade sanctions. Glencore, Sicomines and ERG also deny any wrongdoing, including doing business with Gertler in violation of US sanctions. More detailed responses to PPLAAF and Global Witness' investigation can be found [here](http://www.globalwitness.org/underminingsanctions) (<http://www.globalwitness.org/underminingsanctions>).

Relevant competent authorities, including in the US, Switzerland, Israel and DRC, should investigate the individuals and companies named in this report to determine whether they have aided and abetted Gertler's evasion of sanctions, and, if so, hold them to account.

Global Witness and PPLAAF are also calling on the EU to ensure that its proposed 'Magnitsky sanctions regime' includes provisions to impose penalties for corruption, as well as human right abuses, to ensure that Europe does not become a safe haven for dirty money.

Listing image credit: Simon Dawson/Bloomberg via Getty Images

/ ENDS

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Notes to editor:

1. On 21 December 2017, the Office of Foreign Assets Control (OFAC) at the US Treasury Department sanctioned Dan Gertler (<https://home.treasury.gov/news/press-releases/sm0243>), a close friend to DRC's long-time former President Joseph Kabila, along with his long-time associate, his family foundation and 18 of his companies. OFAC deemed that Gertler had "used his close friendship with DRC President Joseph Kabila to act as a

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middleman for mining asset sales in the DRC, requiring some multinational companies to go through Gertler to do business with the Congolese state". On 15 June 2018, OFAC sanctioned 14 other entities affiliated to Gertler (<https://home.treasury.gov/news/press-releases/sm0417>). One of these companies was removed from the sanctions list in March 2020 (<https://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20200317.aspx>).

2. The Africa Progress Panel (https://static1.squarespace.com/static/5728c7b18259b5e0087689a6/t/57ab29519de4bb90f53f9fff/1470835029000/2013_African+Progress+Panel+APR_Equity_in_Extractives_25062013_ENG_HR.pdf), which was headed by former United Nations Secretary General Kofi Annan, estimated that between 2010 and 2012 alone, the DRC lost out on over \$1.36 billion in revenues from the underpricing of mining assets that were sold to offshore companies linked to Gertler. At the prices of the time, \$1.36 billion was equivalent to double DRC's annual budget for health and education combined. Read our report on the issue: Out of Africa (<https://www.globalwitness.org/en/campaigns/democratic-republic-congo/out-of-africa/>).
3. Glencore and Gertler were partners in mining ventures in DRC for a decade, until Glencore bought Gertler out (<https://www.bloomberg.com/news/articles/2017-02-13/glencore-said-to-agree-on-gertler-buyout-in-960-million-deal>) in a billion-dollar deal in February 2017. Gertler owns rights to royalty payments from the Mutanda mining project. In November 2015, Global Witness revealed (<https://www.globalwitness.org/en/press-releases/congo-signs-over-potential-880m-royalties-glencore-project-offshore-company-belonging-friend-congolese-president/>) that he had secretly acquired the rights to royalty payments from Glencore's other mining outfit, Kamoto Copper Company (KCC). Global Witness has reported on Glencore's deals with Gertler since 2011 (<https://www.globalwitness.org/en-gb/campaigns/oil-gas-and-mining/congo-secret-sales/>), calling into question how the commodities trader has enriched Gertler and protected his interests in mining deals.
4. At least three companies that have done business with Gertler have faced or are facing overseas bribery probes related to their dealings in DRC. In September 2016, the US hedge fund Och-Ziff (<https://www.globalwitness.org/en/press-releases/fine-hedge-fund-bribery-major-step-forward-corruption-fight/>) admitted to its role in a bribery conspiracy in Africa and entered into a deferred prosecution agreement with the US Department of Justice. Och-Ziff's partner in DRC was described in documents released by US authorities as an "infamous Israeli businessman" and is widely understood to have been Dan Gertler. Kazakh mining company ERG, formally listed in London and known as ENRC, has been under investigation by the UK's Serious Fraud Office since 2013 for possible bribery linked to its deals in DRC (<https://www.bloomberg.com/news/articles/2020-01-30/billionaire-s-daughter-found-guilty-in-fight-with-prosecutors>), several of which involved Gertler. On 3 July 2018 Glencore announced (<https://www.glencore.com/media-and-insights/news/Subpoena-from-United-States-Department-of-Justice>) it had been subpoenaed by the US Department of Justice for documents relating to its business in DRC, Nigeria and Venezuela, "with respect to compliance with the Foreign Corrupt Practices Act and United States money laundering statutes". Glencore is also being investigated by the Swiss Attorney General (<https://www.globalwitness.org/en/press-releases/global-witness-welcomes-swiss-criminal-investigation-glencore/>) over allegations that it failed to have adequate measures to prevent alleged corruption in DRC.
5. The VAT carbon tax fraud (<https://www.france24.com/en/20180129-france-trial-carbon-credits-fraud-paris-crime-emissions-scam-melgrani-marseille>) was a European scam in the carbon quota markets between 2008 and 2009. Companies in the scheme would buy carbon credits outside the EU's jurisdiction free of VAT, pass them through front companies and sell them on with the VAT added. Instead of paying the VAT to the relevant tax authority, the front companies in the chain would then quickly shut down and vanish without trace. The ill-gotten gains would subsequently be laundered. France and the EU lost €1.6 billion and €5 billion in tax revenues, respectively.

and of diverting public funds. Global Witness's 2017 report [Regime Cash Machine](https://www.globalwitness.org/en/campaigns/democratic-republic-congo/ regime-cash-machine/) (<https://www.globalwitness.org/en/campaigns/democratic-republic-congo/ regime-cash-machine/>) estimated that more than \$750 million of mining revenues paid by companies to Gécamines and tax agencies from 2013 to 2015 had not reached the public treasury.

7. The European Union is currently negotiating the adoption of a horizontal [EU global human rights sanction regime](https://www.europarl.europa.eu/doceo/document/B-8-2019-0177_EN.html) (https://www.europarl.europa.eu/doceo/document/B-8-2019-0177_EN.html) to tackle human rights violations and abuses worldwide. The initiative was first put forward in December 2018 by the Netherlands. In March 2019, MEPs backed a resolution calling for a new targeted EU human rights sanctions regime, which is now under discussion in the European Council. The current proposal focuses on 'grave human rights violations' and does not include corruption as grounds for designation.

Global Witness campaigns to end environmental and human rights abuses driven by the exploitation of natural resources and corruption in the global political and economic system.

PPLAAF is a non-governmental organisation established in 2017 to protect whistleblowers, as well as to advocate and engage in strategic litigation on their behalf when their revelations deal with the general interests of African citizens.

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REPORT

[Undermining Sanctions \(/en/campaigns/corruption-and-money-laundering/undermining-sanctions/\)](/en/campaigns/corruption-and-money-laundering/undermining-sanctions/)

Controversial mining magnate Dan Gertler appears to have evaded US sanctions by using a suspected money laundering network stretching from DRC to Europe and Israel

Trump Administration Quietly Eased Sanctions on Israeli Billionaire

The reversal by the Treasury Department during the administration's final days came after an appeal by lobbyists with close ties to the former president.



By Eric Lipton

Jan. 24, 2021

WASHINGTON — The Trump administration quietly moved in its final days to ease sanctions imposed in late 2017 on an Israeli billionaire who had been punished by the Treasury Department for corrupt and abusive mining practices in the Democratic Republic of Congo.

The reversal by the Treasury came after an appeal by lobbyists with close ties to former President Donald J. Trump who were hired by Dan Gertler, the Israeli billionaire, including the lawyer Alan M. Dershowitz, who helped represent Mr. Trump during his first impeachment, and Louis J. Freeh, a former F.B.I. director.

Mr. Gertler was accused in 2017 by the Trump-era Treasury Department of using his connections to the former Congolese president, Joseph Kabila, to arrange “opaque and corrupt mining and oil deals” that cost the citizens of Congo more than a billion dollars in lost revenue.

The reversal by the Treasury drew immediate condemnation by human rights advocates, who said they hoped that the Biden administration would move to reverse the action.

“Letting Dan Gertler off the hook sends a message to the world’s most corrupt businesspeople that the U.S. will let them walk free after a bit of lobbying,” said Sasha Lezhnev, the deputy director of policy at The Sentry, a nonprofit group that tracks African war criminals and foreigners who try to profit off them.

Calvin Mitchell, a spokesman for Janet L. Yellen, who could be confirmed as soon as Monday as Treasury secretary, said the department was aware of the move but declined to comment when asked if the agency would reconsider.

The license that the Treasury issued on Jan. 15 effectively gives Mr. Gertler, who is based in Israel, a year to do business with United States banks and other companies, while federal officials evaluate if they will more formally remove the sanctions. As part of the agreement, Mr. Gertler will hire outside monitors to confirm that he is now honoring standards set by the United States.

The license also unblocks funds of Mr. Gertler’s that have been held in financial institutions based in the United States, including Citibank, Deutsche Bank, Bank of New York Mellon and Wells Fargo.

Sanctions were first placed on Mr. Gertler in December 2017 under the Global Magnitsky Human Rights Accountability Act, a law passed in 2016 that allows the United States to impose sanctions on foreign business executives or foreign government officials implicated in “gross violations of internationally recognized human rights.”

Mr. Gertler was found to have used his friendship with Mr. Kabila to act as a middleman for mining sales in Congo, requiring other companies to go through Mr. Gertler to do business with the Congolese state, costing the country more than \$1.36 billion in revenue, the Treasury Department said in 2017.

“Gertler is an international businessman and billionaire who has amassed his fortune through hundreds of millions of dollars’ worth of opaque and corrupt mining and oil deals in the Democratic Republic of the Congo,” the Treasury Department said in 2018, as it expanded the sanctions against him.

The application to issue a new license that allows United States companies to do business with Mr. Gertler was handled by the law firm Arnold & Porter. Baruch Weiss, a lawyer at the firm who handled the matter, declined to comment Sunday, as did Mr. Dershowitz.

Mr. Gertler as of October 2018 had hired Mr. Dershowitz and Mr. Freeh, as well as Gregory A. Paw, a former federal prosecutor, to work on the matter, with the team then targeting the Treasury and State Departments to try to get the changes made, lobbying disclosure reports show. Also registered to lobby on the matter is Gary Apfel, a lawyer who like Mr. Dershowitz was involved in several successful pardon appeals to Mr. Trump in recent months.

Erich C. Ferrari, a lawyer who represents U.S. and foreign companies on sanctions issues, reviewed the license that the Treasury issued on Jan. 15 and said he was surprised at how broadly it appeared to allow United States companies to work with Mr. Gertler, despite the sanctions in 2017 and 2018.

“As hard as it is for me to believe that a license this broad was issued and exists, I have to say that it is indeed a license authorizing Gertler and companies owned 50 percent or more, directly or indirectly, to engage in business with and through U.S. banks,” Mr. Ferrari said.

The Sentry recommended in a statement Sunday that the United States banks not unblock Mr. Gertler's money or "open accounts or otherwise conduct transactions for or on behalf of Gertler and his network until this matter is fully investigated and resolved."

Kenneth P. Vogel contributed reporting.

Eric Lipton is a Washington-based investigative reporter. A three-time winner of the Pulitzer Prize, he previously worked at The Washington Post and The Hartford Courant.
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A version of this article appears in print on , Section A, Page 14 of the New York edition with the headline: Sanctions Eased on Israeli Billionaire



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Through a spokesperson, Dan Gertler, pictured at the Mutanda copper and cobalt mine in the Democratic Republic of the Congo, welcomed the move to reinstate his licence to do business while anti-graft campaigners urged President Biden's Treasury to revoke it [File: Bloomberg]

25 Jan 2021



eased sanctions against Israeli mining magnate Dan Gertler that were imposed for alleged corruption in the Democratic Republic of the Congo (DRC), according to a licence issued by the US Department of the Treasury.

The licence, which was not announced publicly, was issued by the Treasury's Office of Foreign Assets Control (OFAC), according to a January 15 letter to Gertler's lawyers that was obtained by The Sentry, a Washington DC-based anti-corruption group, and seen by Reuters news agency.

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It was not clear why the licence was issued. A spokesman for Gertler welcomed the move, but anti-graft campaigners urged President Joe Biden's Treasury to revoke the licence.

A Treasury spokesman said the Biden administration was aware of the action, but declined to comment on whether it would move to undo it.

Treasury imposed the sanctions in December 2017 and June 2018, accusing Gertler of using his friendship with DRC's former President Joseph Kabila to secure sweetheart mining deals worth more than a billion dollars.

The sanctions prohibited Gertler from doing business with US citizens, companies or banks, effectively barring him from doing transactions in dollars.

Gertler has always denied any wrongdoing and argued that his investments in DRC con-



While the licence does not remove Gertler, an associate and more than 30 of his companies from the sanctions list, it authorises, until January 31, 2022, “all transactions and activities” otherwise prohibited by sanctions against them.

It also requires them to submit detailed reports to OFAC every 90 days about their financial activities.

“Mr. Gertler is grateful to OFAC for issuing a license that will enable him to operate his businesses and philanthropic activities,” a spokesman said in a statement.

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“He welcomes the reporting requirements and, with the oversight of a distinguished compliance team, looks forward to demonstrating that all of his activities fully comply with the letter and the spirit of the OFAC license and the law.”

Brad Brooks-Rubin, The Sentry’s managing director and a former Treasury official, said in a statement that the licence served “no discernible geostrategic or national security purpose.”

“Unlike the pardons and regulatory changes done openly, or any of Treasury’s normal methods for undoing sanctions, this was done behind closed doors not only to the public



One of the lawyers who lobbied OFAC on Gertler's behalf was Alan Dershowitz, who represented Trump in his first impeachment trial before the Senate last year, according to a disclosure form filed with Congress in 2018.

Dershowitz did not immediately respond to an emailed request for comment.

SOURCE : REUTERS

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U.S. DEPARTMENT OF THE TREASURY

United States Sanctions Human Rights Abusers and Corrupt Actors Across the Globe

December 21, 2017

New Executive Order Implements Global Magnitsky Human Rights Accountability Act, Provides for Treasury Sanctions Against Malign Actors Worldwide

Washington – Today, the Trump Administration launched a new sanctions regime targeting human rights abusers and corrupt actors around the world. Building on the Global Magnitsky Human Rights Accountability Act passed by Congress last year, President Donald J. Trump signed an Executive Order (Order) today declaring a national emergency with respect to serious human rights abuse and corruption around the world and providing for the imposition of sanctions on actors engaged in these malign activities. In an Annex to the Order, the President imposed sanctions on 13 serious human rights abusers and corrupt actors. In addition, the Treasury Department’s Office of Foreign Assets Control (OFAC), acting on behalf of the Secretary of the Treasury, in consultation with the Secretary of State and the Attorney General, imposed sanctions on an additional 39 affiliated individuals and entities under the newly-issued Order.

“Today, the United States is taking a strong stand against human rights abuse and corruption globally by shutting these bad actors out of the U.S. financial system. Treasury is freezing their assets and publicly denouncing the egregious acts they’ve committed, sending a message that there is a steep price to pay for their misdeeds,” said Secretary of the Treasury Steven T. Mnuchin. “At the direction of President Trump, Treasury and our interagency partners will continue to take decisive and impactful actions to hold accountable those who abuse human rights, perpetrate corruption, and undermine American ideals.”

As a result of today’s actions, all of the assets within U.S. jurisdiction of the individuals and entities included in the Annex to the Order or designated by OFAC are blocked, and U.S. persons are generally prohibited from engaging in transactions with them. Further details on these designations are included below.

YAHYA JAMMEH

Yahya Jammeh (Jammeh), the former President of The Gambia who came to power in 1994 and stepped down in 2017, has a long history of engaging in serious human rights abuses and corruption. Jammeh created a terror and assassination squad called the Junglers that answered directly to him. Jammeh used the Junglers to threaten, terrorize, interrogate, and kill individuals whom Jammeh assessed to be threats. During Jammeh's tenure, he ordered the Junglers to kill a local religious leader, journalists, members of the political opposition, and former members of the government, among others. Jammeh used the Gambia's National Intelligence Agency (NIA) as a repressive tool of the regime – torturing political opponents and journalists. Throughout his presidency, Jammeh routinely ordered the abuse and murder of those he suspected of undermining his authority.

During his tenure, Jammeh used a number of corrupt schemes to plunder The Gambia's state coffers or otherwise siphon off state funds for his personal gain. Ongoing investigations continue to reveal Jammeh's large-scale theft from state coffers prior to his departure. According to The Gambia's Justice Ministry, Jammeh personally, or through others acting under his instructions, directed the unlawful withdrawal of at least \$50 million of state funds. The Gambian Government has since taken action to freeze Jammeh's assets within The Gambia.

In a related action, OFAC designated **Africada Airways, Kanilai Group International, Kanilai Worni Family Farms Ltd, Royal Africa Capital Holding Ltd, Africada Financial Service & Bureau de Change Ltd, Africada Micro-Finance Ltd, Africada Insurance Company, Kora Media Corporation Ltd, Atlantic Pelican Company Ltd, Palm Grove Africa Dev't Corp. Ltd, Patriot Insurance Brokers Co. Ltd, and Royal Africa Securities Brokerage Co Ltd.**

ROBERTO JOSE RIVAS REYES

As President of Nicaragua's Supreme Electoral Council, drawing a reported government salary of \$60,000 per year, Roberto Jose Rivas Reyes (Rivas) has been accused in the press of amassing sizeable personal wealth, including multiple properties, private jets, luxury vehicles, and a yacht. Rivas has been described by a Nicaraguan Comptroller General as "above the law," with

investigations into his corruption having been blocked by Nicaraguan government officials. He has also perpetrated electoral fraud undermining Nicaragua's electoral institutions.

DAN GERTLER

Dan Gertler (Gertler) is an international businessman and billionaire who has amassed his fortune through hundreds of millions of dollars' worth of opaque and corrupt mining and oil deals in the Democratic Republic of the Congo (DRC). Gertler has used his close friendship with DRC President Joseph Kabila to act as a middleman for mining asset sales in the DRC, requiring some multinational companies to go through Gertler to do business with the Congolese state. As a result, between 2010 and 2012 alone, the DRC reportedly lost over \$1.36 billion in revenues from the underpricing of mining assets that were sold to offshore companies linked to Gertler. The failure of the DRC to publish the full details of one of the sales prompted the International Monetary Fund to halt loans to the DRC totaling \$225 million. In 2013, Gertler sold to the DRC government for \$150 million the rights to an oil block that Gertler purchased from the government for just \$500,000, a loss of \$149.5 million in potential revenue. Gertler has acted for or on behalf of Kabila, helping Kabila organize offshore leasing companies.

In a related action, OFAC designated **Pieter Albert Deboutte, Fleurette Properties Limited, Fleurette Holdings Netherlands B.V., Gertler Family Foundation, Oil of DR Congo SPRL, Jarvis Congo SARL, International Diamond Industries, D.G.D. Investments Ltd., D.G.I. Israel Ltd, Proglan Capital Ltd, Emaxon Finance International Inc., Africa Horizons Investment Limited, Caprikat Limited, Foxwhelp Limited, Caprikat and Foxwhelp SARL, Lora Enterprises Limited, Zuppa Holdings Limited, Orama Properties Ltd, DGI Mining Ltd, and Rozaro Development Limited.**

SLOBODAN TESIC

Slobodan Tesic (Tesic) is among the biggest dealers of arms and munitions in the Balkans; he spent nearly a decade on the United Nations (UN) Travel Ban List for violating UN sanctions against arms exports to Liberia. In order to secure arms contracts with various countries, Tesic would directly or indirectly provide bribes and financial assistance to officials. Tesic also took potential clients on high-value vacations, paid for their children's education at western schools or universities, and used large bribes to secure contracts. Tesic owns or controls two Serbian companies, Partizan Tech and Technoglobal Systems DOO

Beograd, and two Cyprus-based companies, Grawit Limited and Charso Limited. Tesic negotiates the sale of weapons via Charso Limited and used Grawit Limited as a mechanism to fund politicians.

In a related action, OFAC designated **Preduzece Za Trgovinu Na Veliko I Malo Partizan Tech DOO Beograd-Savski Venac (“Partizan Tech”), Charso Limited, Grawit Limited, and Technoglobal Systems DOO Beograd.**

MAUNG MAUNG SOE

In his former role as chief of the Burmese Army’s Western command, Maung Maung Soe oversaw the military operation in Burma’s Rakhine State responsible for widespread human rights abuse against Rohingya civilians in response to attacks by the Arakan Rohingya Salvation Army. The Secretary of State determined on November 22 that the situation in northern Rakhine state in Burma constituted ethnic cleansing. The United States Government examined credible evidence of Maung Maung Soe’s activities, including allegations against Burmese security forces of extrajudicial killings, sexual violence, and arbitrary arrest as well as the widespread burning of villages. Security operations have led to hundreds of thousands of Rohingya refugees fleeing across Burma’s border with Bangladesh. In August 2017, witnesses reportedly described mass killings and arson attacks by the Burmese Army and Burmese Border Guard Police, both then under Maung Maung Soe’s command in northern Rakhine State. In August 2017, soldiers described as being from the Western Command allegedly entered a village and reportedly separated the inhabitants by gender. According to witnesses, soldiers opened fire on the men and older boys and committed multiple acts of rape. Many of the women and younger children were reportedly also shot. Other witnesses described soldiers setting huts on fire with villagers inside.

BENJAMIN BOL MEL

Benjamin Bol Mel (Bol Mel) is the President of ABMC Thai-South Sudan Construction Company Limited (ABMC), and has served as the Chairman of the South Sudan Chamber of Commerce, Industry, and Agriculture. Bol Mel has also served as South Sudanese President Salva Kiir’s principal financial advisor, has been Kiir’s private secretary, and was perceived within the government as being close to Kiir and the local business community. Several officials were linked to ABMC in spite of a

constitutional prohibition on top government officials transacting commercial business or earning income from outside the government.

Bol Mel oversees ABMC, which has been awarded contracts worth tens of millions of dollars by the Government of South Sudan. ABMC allegedly received preferential treatment from high-level officials, and the Government of South Sudan did not hold a competitive process for selecting ABMC to do roadwork on several roads in Juba and throughout South Sudan. Although this roadwork had been completed only a few years before, the government budgeted tens of millions of dollars more for maintenance of the same roads.

In a related action, OFAC designated **ABMC Thai-South Sudan Construction Company Limited and Home and Away LTD.**

MUKHTAR HAMID SHAH

Shah is a Pakistani surgeon specializing in kidney transplants who Pakistani police believe to be involved in kidnapping, wrongful confinement, and the removal of and trafficking in human organs. As an owner of the Kidney Centre in Rawalpindi, Pakistan, Shah was involved in the kidnapping and detention of, and removal of kidneys from, Pakistani laborers. Shah was arrested by Pakistani authorities in connection with an October 2016 incident in which 24 individuals from Punjab were found to be held against their will. Impoverished and illiterate Pakistanis from the countryside were reportedly lured to Rawalpindi with the promise of a job, and imprisoned for weeks. Doctors from the Kidney Centre were allegedly planning to steal their kidneys in order to sell them for a large profit. Police state that one of the accused arrested in connection with the events estimated that more than 400 people were imprisoned in the apartment at various times.

GULNARA KARIMOVA

Gulnara Karimova (Karimova), daughter of former Uzbekistan leader Islam Karimov, headed a powerful organized crime syndicate that leveraged state actors to expropriate businesses, monopolize markets, solicit bribes, and administer extortion rackets. In July 2017, the Uzbek Prosecutor General's Office charged Karimova with directly abetting the criminal activities of an organized crime group whose assets were worth over \$1.3 billion. Karimova was also charged with hiding foreign currency

through various means, including the receipt of payoffs in the accounts of offshore companies controlled by an organized criminal group, the illegal sale of radio frequencies and land parcels, siphoning off state funds through fraudulent dividend payments and stock sales, the illegal removal of cash, the non-collection of currency earnings, and the import of goods at inflated prices. Karimova was also found guilty of embezzlement of state funds, theft, tax evasion, and concealment of documents. Karimova laundered the proceeds of corruption back to her own accounts through a complex network of subsidiary companies and segregated portfolio funds. Karimova's targeting of successful businesses to maximize her gains and enrich herself in some cases destroyed Uzbek competitors. Due in part to Karimova's corrupt activities in the telecom sector alone, Uzbeks paid some of the highest rates in the world for cellular service.

ANGEL RONDON RIJO

Angel Rondon Rijo (Rondon) is a politically connected businessman and lobbyist in the Dominican Republic who funneled money from Odebrecht, a Brazilian construction company, to Dominican officials, who in turn awarded Odebrecht projects to build highways, dams, and other projects. According to the U.S. Department of Justice, Odebrecht is a Brazil-based global construction conglomerate that has pled guilty to charges of conspiracy to violate the anti-bribery provisions of the Foreign Corrupt Practices Act, and agreed to a criminal fine of \$4.5 billion. In 2017, Rondon was arrested by Dominican authorities and charged with corruption for the bribes paid by Odebrecht.

ARTEM CHAYKA

Artem Chayka (Chayka) is the son of the Prosecutor General of the Russian Federation and has leveraged his father's position and ability to award his subordinates to unfairly win state-owned assets and contracts and put pressure on business competitors. In 2014, reconstruction of a highway began, and Chayka's competitor for supplying materials to the project suddenly fell under prosecutorial scrutiny. An anonymous complaint letter with a fake name initiated a government investigation against the competitor. Government inspectors did not produce any documents confirming the legality of the inspections, and did not inform subjects of the investigation of their rights. Traffic police were deployed along the route to the competitor, weight control stations were suddenly dispatched, and trees were dug up and left to block entrances. The competitor was forced to shut down,

leaving Chayka in a position to non-competitively work on the highway project. Also in 2014, Chayka bid on a state-owned stone and gravel company, and was awarded the contract. His competitor contested the results and filed a lawsuit. Prosecutors thereafter raided his home. After Chayka's competitor withdrew the lawsuit, prosecutors dropped all charges.

GAO YAN

Gao Yan (Gao) was the Beijing Public Security Bureau Chaoyang Branch director. During Gao's tenure, human rights activist Cao Shunli was detained at Beijing Municipal Public Security Bureau Chaoyang Branch where, in March 2014, Cao fell into a coma and died from organ failure, her body showing signs of emaciation and neglect. Cao had been arrested after attempting to board a flight to attend human rights training in Geneva, Switzerland. She was refused visitation by her lawyer, and was refused medical treatment while she suffered from tuberculosis.

SERGEY KUSIUK

Sergey Kusiuk (Kusiuk) was commander of an elite Ukrainian police unit, the Berkut. Ukraine's Special Investigations Department investigating crimes against activists identified Kusiuk as a leader of an attack on peaceful protesters on November 30, 2013, while in charge of 290 Berkut officers, many of whom took part in the beating of activists. Kusiuk has been named by the Ukrainian General Prosecutor's Office as an individual who took part in the killings of activists on Kyiv's Independence Square in February 2014. Kusiuk ordered the destruction of documentation related to the events, and has fled Ukraine and is now in hiding in Moscow, Russia, where he was identified dispersing protesters as part of a Russian riot police unit in June 2017.

JULIO ANTONIO JUAREZ RAMIREZ

Julio Antonio Juarez Ramirez (Juarez) is a Guatemalan Congressman accused of ordering an attack in which two journalists were killed and another injured. Guatemalan prosecutors and a UN-sponsored commission investigating corruption in Guatemala allege that Juarez hired hit men to kill Prensa Libre correspondent Danilo Efrain Zapan Lopez, whose reporting had hurt Juarez's plan to run for reelection. Fellow journalist Federico Benjamin Salazar of Radio Nuevo Mundo was also killed in the attack and is considered a collateral victim. Another journalist was wounded in the attack.

YANKUBA BADJIE

Yankuba Badjie (Badjie) was appointed as the Director General of The Gambia's NIA in December 2013 and is alleged to have presided over abuses throughout his tenure. During Badjie's tenure as Director General, abuses were prevalent and routine within the NIA, consisting of physical trauma and other mistreatment. In April 2016, Badjie oversaw the detention and murder of Solo Sandeng, a member of the political opposition. In February 2017, Badjie was charged along with eight subordinates with Sandeng's murder. Prior to becoming Director General, Badjie served as the NIA Deputy Director General for Operations. Prior to becoming a member of the NIA's senior leadership, Badjie led a paramilitary group known as the Junglers to the NIA's headquarters to beat a prisoner for approximately three hours, leaving the prisoner unconscious and with broken hands. The following day, Badjie and the Junglers returned to beat the prisoner again, leaving him on the verge of death.

Identifying information on the individuals and entities designated today.

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US Backtracks on Fight Against Graft in Congo

Special License for Billionaire Dan Gertler Undercuts Magnitsky Sanctions



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Israeli billionaire Dan Gertler walks through the Katanga Mining Ltd. copper and cobalt mine complex in Kolwezi, Democratic Republic of Congo, August 1, 2012. © 2012 Simon Dawson/Bloomberg via Getty Images

A coalition of Democratic Republic of Congo and international nongovernmental organizations, including Human Rights Watch, have written to US Treasury Secretary Janet Yellen and Secretary of State Antony Blinken and urged them to revoke a decision by the Trump administration in its waning days. The last-minute US government action effectively removes for a year sanctions against Israeli billionaire Dan Gertler.

The US government had sanctioned Gertler for helping Congo's former president, Joseph Kabila, loot his country's resources. He was added to the very first Global Magnitsky sanctions list in December 2017 for "opaque and corrupt mining and oil deals in [Congo]." Last month, the US Office of Foreign Assets Control (OFAC) discreetly signed a license allowing Gertler and his companies to access the US financial system until January 31, 2022. Putting him back in business not only undermines the fight against corruption in Congo but also emboldens those ready to enrich themselves at the expense of Congolese people's human rights. It also raises questions about the implementation of the Magnitsky sanctions, an important element of the US arsenal to promote human rights abroad.

The US found that Gertler, who nurtured a close friendship with Kabila and his family for over two decades, was acting as a middleman for deals between Kabila and oil companies that reportedly deprived Congo of US\$1.63 billion between 2010 and 2012 alone. This loss in revenue could have funded about half of the country's health budget, which was already far lower than regional standards, and a minimum of adequate health care, according to a World Health Organization-supported study.

Such gross corruption is a key reason why successive Congolese governments have largely failed to harness the potential of its vast natural resources for the benefit of its people. Most Congolese live in extreme poverty, nearly half of children are malnourished, and only one in five homes have access to sanitation. It might also explain why Kabila refused to step down from the presidency when his constitutionally mandated two-term limit ended in December 2016. When the stakes are this high, this kind of corruption can undermine the democratic process.

President Joe Biden's administration should demonstrate that it is serious about restoring the US as a partner in the global fight against kleptocracy. The government should investigate the deal OFAC granted Gertler and take appropriate action, including revocation.

theafricareport

AT THE 11TH HOUR

DRC : A final gift from Trump to the Israeli billionaire Dan Gertler?

By Joël Té-Léssia Assoko

Posted on Tuesday, 26 January 2021 19:26



Dan Gertler is accused, among other things, of having garnered 1.36 billion in undue profits. © Simon Dawson / Bloomberg via Getty Images

Dan Gertler has a one-year respite – until 31 January 2022 to be precise – to continue doing business with US companies.

This is due to a “licence” that was granted to the mining magnate by the US Department of the Treasury on 15 January – five days before the handover of power between the Donald Trump and Joe Biden administrations.

“New information”

In a letter addressed to the Washington-based law firm Arnold & Porter Kaye Scholer LLP, Andrea M. Gacki, director of the Office of Foreign Assets Control, informed the Israeli tycoon’s lawyers that “based upon, inter alia, of information dated December 3, 2020, submitted on behalf of Mr. Dan Gertler, to the Office of Foreign Assets Control, the transactions described herein are authorised.”

READ MORE DRC: Embattled Dan Gertler tries communication blitz

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What follows is a long list of companies linked to the billionaire and one of his associates, the Belgian national Pieter Albert Deboutte, which were sanctioned in December 2017 under the Global Magnitsky Act. This is a law that allows the US government to sanction and freeze the assets of individuals and companies it considers to be complicit in acts of corruption or human rights violations.

“Gertler used his close friendship with DRC President Joseph Kabila to act as a middleman for mining asset sales in the DRC, requiring some multinational companies to go through Gertler to do business with the Congolese state. As a result, between 2010 and 2012, the DRC reportedly lost more than \$1.36bn in revenue from the underpricing of mining assets that were sold to offshore companies linked to Gertler,” the US Treasury Department said at the time.

A light regime before a total exoneration?

Three years later, the tone changed. In addition to Gertler and Deboutte, a total of 35 companies sanctioned in two waves (December 2017 and June 2018) – including Fleurette Properties, Oil of DR Congo and Moku Mines d’Or SA – are again allowed to carry out transactions with firms based in the US. These include financial institutions such as Citibank, Bank of New York Mellon, but also Deutsche Bank and Bank of China Limited.

The easing of these sanctions, initially reported by *The New York Times*, allows financial transactions and access to previously blocked accounts. However, this lighter regime is accompanied by various restrictions on certain transfers of property. The one-year period granted is supposed to allow the US administration to continue to examine the information provided by Gertler before deciding on the lifting of the restrictions.

“The licence does not remove Gertler and his network from the sanctions list, but it effectively undermines the sanctions by allowing all transactions and activities moving forward with Gertler and his network and by authorising a group of named banks and financial institutions to unblock, i.e. unfreeze, any accounts/funds/property they have held. The licence shows that, in the end, the [law] firm helping Gertler was one of DC’s biggest and most prestigious,” said The Sentry, an NGO that fights corruption in Africa.

The Trump administration provided no details regarding the nature of the “information dated December 3, 2020”, which led it to ease the sanctions regime imposed on Gertler and his associates.

Controversial measures

It should be noted however, that one of the lawyers and lobbyists associated with Gertler is Alan Dershowitz, who also represented former president Trump. Furthermore, the outgoing team had been particularly criticised for the list of controversial people, often accused of financial wrongdoing, who were granted presidential pardons in the final hours of the Trump administration.

READ MORE Dan Gertler and Afriland First Bank start legal fight in Paris

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“This licence may be revoked or modified at any time. If this licence was issued as a result of willful misrepresentation it may be declared void from the date of its issuance or from any other date,” states the document from the Office of Foreign Assets Control.

Neither the Biden administration nor the Kinshasa authorities have reacted officially since the easing of sanctions.

Mining

Dan Gertler wins reprieve from US sanctions over alleged Congo corruption

Trump administration eased restrictions on Israeli billionaire days before president left office



Dan Gertler, pictured in 2012, has offloaded many of his biggest investments in Congo over the past five years, selling his stake in two Glencore mining projects to the Swiss giant in 2017 © Simon Dawson/Bloomberg

Tom Wilson and **Neil Hume** in London and **James Politi** in Washington JANUARY 25 2021

Donald Trump's Treasury department eased US sanctions on Israeli billionaire Dan Gertler five days before the former president left office, quietly issuing a licence that temporarily lifts restrictions on the mining tycoon for alleged corruption in the Democratic Republic of Congo.

The decision followed an appeal by lobbyists working for Mr Gertler, including the lawyer Alan Dershowitz, who had close ties to Mr Trump.

Mr Gertler was sanctioned by the Trump administration in December 2017 under the Global Magnitsky Human Rights Accountability Act, which froze any US assets he held and prohibited him from dealing in US dollars or with any American entity.

Under the new licence — dated January 15 — those restrictions have been eased until the end of January 2022, authorising US institutions to lift asset freezes and transact with Mr Gertler and dozens of his sanctioned entities for at least the next 12 months.

The reversal was met with immediate criticism from anti-corruption groups who called on the administration of President Joe Biden to reverse the decision.

“For a sanctions designation issued specifically for corrupt and secretive activities in the DR Congo and elsewhere, to have been privately undercut under a cloud of haste and secrecy at the very end of the Trump administration strikes a terrible blow to the heart of one of the most lauded and effective anti-corruption programmes of the last decade,” said Brad Brooks-Rubin, managing director of non-profit group The Sentry.

A spokesman for Mr Gertler, who denies any wrongdoing, said: “Mr Gertler is grateful to [the Treasury] for issuing a licence that will enable him to operate his businesses and philanthropic activities. He welcomes the reporting requirements and with the oversight of a distinguished compliance team, looks forward to demonstrating that all of his activities fully comply with the letter and the spirit of the Ofac licence and the law.”

A spokesperson for the US Treasury department under Mr Biden said it was “aware of the action” by the previous administration but did not comment further.

Neither Janet Yellen, Mr Biden’s nominee for Treasury secretary, nor Wally Adeyemo, his pick for deputy Treasury secretary, have been confirmed by the Senate to take their positions. Any move to reverse the Trump administration’s licence would require their approval.

Mr Gertler amassed huge power and influence in Congo’s mining sector after arriving in the country as a 23-year-old diamond trader in 1997. He developed a friendship with former president Joseph Kabila and made a succession of deals with state-owned miner Gécamines. He secured access to some of its most lucrative mineral assets and partnerships with international companies including Glencore and ENRC.

But some of his activities became mired in allegations of corruption. In 2017 and again in 2018, the US Treasury department imposed sanctions on Mr Gertler and his global network of companies, many of which are incorporated in offshore “secrecy jurisdictions”.

Mr Gertler had used his friendship with Mr Kabila to act as a middleman for sales of mining assets in the country, one of the world’s largest producers of copper and cobalt, the Treasury said in December 2017. Between 2010 and 2012 alone, it estimated that corrupt transactions involving Mr Gertler’s companies had cost Congolese state coffers more than \$1.36bn in revenues.

In the past five years Mr Gertler has exited many of his biggest investments in Congo, selling his stake in two Glencore mining projects to the Swiss commodity giant in 2017. Glencore, however, has continued to pay Mr Gertler royalties he retained following the sale, processing the transfers in euros rather than dollars and avoiding the sanctions.

Glencore declined to comment on the easing of the restrictions. It is being investigated by the US Department of Justice over allegations of bribery and corruption in the Congo and two other jurisdictions.

Eurasian Resources Group, the parent company of ENRC, also declined to comment. Mr Gertler is expected to receive royalty payments from a Eurasian Resources-controlled mine this year.

Jason Hungerford, a partner and sanctions expert at law firm Mayer Brown, said the decision to give Mr Gertler a “free pass to deal in the US economy” felt a “little strange” because he remained on the US government’s Specially Designated Nationals list.

“They have removed all of the prohibitions but not in the ordinary way of removing him from the list,” said Mr Hungerford. He added that the new leadership at the US Treasury’s Office of Foreign Assets Control could revoke the licence if they found it had been granted “improperly” or under “unusual circumstances”.

Usually sanctions are lifted or revised after there is verifiable change in circumstances. When Ofac lifted sanctions on companies linked to Russian billionaire Oleg Deripaska in 2018 it followed corporate governance changes that diminished his ownership and control.

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News and Media

PRESS RELEASE // 01.24.21

In Secret Action, Trump Administration Granted License to Sanctioned Mining Billionaire Dan Gertler

In Secret Action, Trump Administration Granted License to Sanctioned Mining Billionaire Dan Gertler

Experts Recommend Banks Maintain Blocks on Gertler-Linked Assets and Transactions

January 24, 2021 (Washington, DC) – In a secret, last-minute action, the Trump administration gave Israeli mining tycoon Dan Gertler and his businesses a license to, in effect, nullify sanctions previously imposed by the US Department of the Treasury. The Sentry is urging banks to maintain blocks on transactions and assets linked to Gertler and his network of businesses and affiliates.

Brad Brooks-Rubin, Managing Director of The Sentry, and a former U.S. Treasury Department sanctions attorney, said: “The issuance of a specific license to a designated individual as an end-run around a delisting, general license, or other public statement, absent any discernible intelligence or national security rationale, threatens the integrity, implementation, and impact of economic sanctions programs as a whole. In particular, for a sanctions designation issued specifically for corrupt and secretive activities in the DR Congo and elsewhere, to have been privately undercut under a cloud of haste and secrecy at the very end of the Trump administration strikes a terrible blow to the heart of one of the most lauded and effective anti-corruption programs of the last decade.”

Gertler is an international businessman and billionaire who amassed a fortune through hundreds of millions of dollars' worth of opaque and corrupt mining and oil deals in the Democratic Republic of the Congo (DRC), according to official Treasury statements. The sanctions were imposed by the Treasury Department's Office of Foreign Assets Control (OFAC) through Executive Order 13818, pursuant to the Global Magnitsky Act, which targets serious human rights abuse and corruption.

After years of extensive lobbying, which reportedly included working with well-known lawyers close to former President Trump, Dan Gertler and much of his network received a license from OFAC, based on an application prepared by one of DC's most prestigious law firms, just days before the end of the Administration.

John Prendergast, Co-Founder of The Sentry, said: “Gertler has looted the DRC for years. Finally, he faced some measure of accountability due to US sanctions, which had the knock-on effect of affecting the calculations of his main business partner, President Joseph Kabila, sufficiently to influence him not to alter or defy the Constitution and run for a third term. In literally one of its last actions, the Trump administration reversed that initiative and put at risk one of its most unheralded accomplishments in Africa. This is something the Biden administration can quickly remedy with the requisite political will.”

Sasha Lezhnev, Deputy Director of Policy at The Sentry, said: “Letting Dan Gertler off the hook sends a message to the world’s most corrupt businesspeople that the US will let them walk free after a bit of lobbying. It greatly undermines US global anti-corruption policies. The Biden administration should revoke this effective pardon for Gertler and his companies so that Global Magnitsky sanctions can continue to help roll back the tide of corruption in the DR Congo and beyond.”

This license, which was issued extraordinarily quickly for OFAC, appears to have been granted without the involvement or consultation of many of the career officers who would normally review and approve such a license, though signed by OFAC’s director, as required.

The license does not remove Gertler and his network from the sanctions list, but it effectively undermines the sanctions by (i) allowing all transactions and activities moving forward with Gertler and his network and (ii) authorizing a group of named banks and financial institutions to unblock, i.e. unfreeze, any accounts/funds/property they have held. The license shows that, in the end, the firm helping Gertler was one of DC's biggest and most prestigious.

The Sentry makes the following critical recommendations to banks and financial institutions around the world:

- The eight named financial institutions (AIG, on behalf of AIG Europe Limited, Netherlands; American Express Travel Related Services Company Co. Inc.; Bank of China Limited; Bloomberg LP; Citibank NA; Deutsche Bank Trust Company Americas; Bank of New York Mellon; and Wells Fargo Bank National Association) should decline to unblock and return funds of Dan Gertler, any designated individual or entity in his network, or any other entity 50% owned or controlled by Gertler or his network. Gertler and the individuals and entities in his network remain designated, and the risk of being connected to corrupt or illicit financial activity is simply too high for otherwise reputable institutions to take the extreme step of unblocking funds in response to a license issued under, at best, dubious circumstances.
- Neither these institutions nor any other should open accounts or otherwise conduct transactions for or on behalf of Gertler and his network until this matter is fully investigated and resolved.

For media inquiries or interview requests, please contact: Greg Hittelman, Director of Communications, +1 310 717 0606, gh@thesentry.org

About The Sentry

The Sentry is an investigative and policy team that follows the dirty money connected to African war criminals and transnational war profiteers and seeks to shut those benefiting from violence out of the international financial system. By disrupting the cost-benefit calculations of those who hijack governments for self-enrichment, we seek to counter the main drivers of conflict and create new leverage for peace, human rights, and good governance. The Sentry is composed of financial investigators, international human rights lawyers, and regional experts, as well as former law enforcement agents, intelligence officers, policymakers, investigative

journalists, and banking professionals. Co-founded by George Clooney and John Prendergast, The Sentry is a strategic partner of the Clooney Foundation for Justice.

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Tough Sanctions, Then a Mysterious Last-Minute Turnabout

The Treasury Department slapped sanctions on the Israeli billionaire Dan Gertler in 2017 for corruption in Africa. In Donald Trump's final days in office, they were rolled back with no explanation.



By Eric Lipton

Feb. 21, 2021

WASHINGTON — In early December, an Israeli billionaire named Dan Gertler made an unusual request to the Treasury Department.

A mining magnate who had been accused for years of corruption in deals he struck with leaders of the Democratic Republic of Congo, Mr. Gertler had been slapped with stiff sanctions by the Trump administration in 2017, effectively cutting off his access to the international banking system and freezing money held in U.S. banks.

He had unsuccessfully tried since then to get the sanctions rolled back by hiring high-powered lobbyists and lawyers, including Alan Dershowitz, who had represented President Donald J. Trump in his first impeachment trial, and the former F.B.I. director Louis Freeh.

But with time running out on the Trump administration and the incoming Biden administration unlikely to give his pleas much of a hearing, Mr. Gertler put one last offer on the table: He would agree to have outside monitors track his business and submit regular reports on his financial transactions if the United States would lift the sanctions.

The response came in mid-January, with only days left in Mr. Trump's term: Treasury Secretary Steven Mnuchin granted Mr. Gertler much of what he wanted, signing off, without any public announcement, on a one-year arrangement that gave him access to money frozen in U.S. banks and allowed him once again to do business with financial institutions worldwide.

The decision stunned and angered American diplomats in Washington and Africa and government officials and human rights activists in the Democratic Republic of Congo, where Mr. Gertler had been accused years earlier by the United Nations and other groups of working with the then-ruling family on deals that looted the nation's mineral wealth and propped up a corrupt regime.

And it has left the Biden administration scrambling to determine how Mr. Gertler managed to pull it off — and whether it can be reversed.

The episode has echoes of Mr. Trump's last-minute grants of clemency to political and personal allies and people with connections to him, including the involvement of Mr. Dershowitz. It also highlighted Mr. Gertler's use of high-powered connections in Israel, including people with ties to Prime Minister Benjamin Netanyahu, and an effort to win support from the U.S. ambassador to Israel.

But the outcome was also distinguished by the secrecy of the process, which cut out the American diplomats most directly responsible for dealing with Congo and fighting corruption in Africa and appeared to have been handled largely at the level of Mr. Mnuchin and Secretary of State Mike Pompeo. The decision became public only after Mr. Trump had left office.

The abrupt reversal of policy toward Mr. Gertler was extraordinary in a number of ways, an investigation by The New York Times found.

Among the findings:

- The rapid decision to grant Mr. Gertler much of what he wanted defied Treasury Department norms, according to three former agency lawyers, effectively rolling back sanctions with no public documentation justifying the move and without broadly consulting officials at the State Department or the National Security Council. Only last year, some American diplomats and members of Congress in both parties were seeking to expand the sanctions on Mr. Gertler.

- Mr. Gertler tested the limits of federal law by hiring lawyers who also worked as lobbyists in Washington to push his case, including Mr. Dershowitz, who was instrumental in winning clemency from Mr. Trump for an array of clients, and Mr. Freeh. Treasury rules generally prohibit people under sanctions from spending money on lobbyists in the United States.
- The Treasury Department's decision to grant Mr. Gertler a special license was based in part on an assertion that there was a "national security interest" for the United States in Mr. Gertler's business dealings in Africa, lawyers involved in the effort and Israeli officials said. But some State Department officials were skeptical that his security value could outweigh the human, economic and moral damage contained in the allegations against him. It is also unclear how the balance could have shifted since sanctions were imposed in 2017.
- Pressure also came from Israel, where Mr. Gertler is represented by prominent lawyers including Boaz Ben Zur, whose client list also includes Mr. Netanyahu. David M. Friedman, then the U.S. ambassador there, was targeted in the push, and then notified Mr. Mnuchin and Mr. Pompeo that he supported the sanctions relief Mr. Gertler wanted, assuming the Treasury Department could work it out.



Alan Dershowitz, who served as a lawyer for President Donald J. Trump during his first impeachment trial, helped lead a lobbying campaign to lift the sanctions on Mr. Gertler. Alyssa Schukar for The New York Times

"I am astounded by this," said John E. Smith, who served as the director of the Treasury Department's Office of Foreign Assets Control at the time the sanctions were imposed on Mr. Gertler. "It appears to be an abuse of the process."

Mr. Mnuchin and Mr. Pompeo, who was also said to be supportive of the decision, both declined to comment.

Mr. Gertler, in a statement, said the decision was not a result of any special influence campaign in Israel or the United States, but instead his promise to be more transparent about his business operations worldwide.

"We will be adopting and implementing the most stringent anti-bribery and anti-corruption policies and measures across all our global practices," Mr. Gertler said.

But diplomats and human rights activists said they could see no justification for giving a break to Mr. Gertler, who was described by the Treasury Department in 2018 as "engaged in the looting of natural resources and the humanitarian consequences" that followed in poor, strife-torn Congo.

Senior State Department officials in the Trump administration — including Michael Hammer, the U.S. ambassador to Congo; J. Peter Pham, a special envoy; and Tibor P. Nagy, the assistant secretary of state for African affairs — were not informed ahead of time of the move to grant Mr. Gertler the license, contrary to normal practice.

“Here you have one of the most poverty-stricken nations, with a population that has suffered incredibly over the last several decades, and we have worked to turn that around, so why do this?” said Mr. Pham, who until Jan. 20 served as a senior State Department adviser on Africa.



Mr. Gertler has operated for years in Congo, a poor and strife-torn nation in central Africa. Arsène Mpiana Monkwe for The New York Times

Mr. Gertler arrived in Congo in 1997 as a 23-year-old diamond dealer, determined to challenge the global giant in supplying raw diamonds, the South African-based De Beers.

One of his first big breaks came about three years later, when Laurent Kabila, then the president of Congo, needed weapons to wage a war that would last for more than a decade.

Offering monopolies to foreigners looking to tap into Congo's rich mineral resources was a way for Mr. Kabila to raise cash needed to fight the war. Among them was a deal to export diamonds with Mr. Gertler, who was considered an appealing intermediary because of his ties to generals in the Israeli Army that could help Congo procure weapons, according to two reports issued by the United Nations in 2001. (Mr. Gertler disputed the findings.)

But the U.N. concluded that Mr. Kabila used money gained selling access to the nation's mineral wealth — including his deal with Mr. Gertler — to expand the Congolese military forces, a move that helped popularize the terms "conflict diamonds" and "blood diamonds."

"Conflict diamonds are exchanged for money, weapons and military training," a U.N. report describing Mr. Gertler's work said.

Mr. Gertler was also indirectly accused, in a Justice Department court filing in 2016, of paying more than \$100 million in bribes to government officials in Congo on behalf of a company named Och-Ziff "to obtain special access to and preferential prices for opportunities in the government-controlled mining sector."

A spokesman for Mr. Gertler, Aron Shaviv, said Mr. Gertler was never interviewed or charged in the case and he denied any wrongdoing. Instead, Mr. Shaviv said, Mr. Gertler's companies have directly invested more than \$1.5 billion in Congo, becoming one of the nation's largest employers and taxpayers, starting when no other foreigners were willing to take the risk of doing business in the middle of a war.

"He did buy cheap and he may sell at a much, much higher price because he made the investment when no one else did, no one else would dare go to Congo," said Mr. Shaviv, a political consultant who served as Mr. Netanyahu's campaign manager in 2015.



New construction at a mine in Congo that Mr. Gertler invested in. A 2013 report found that the citizens of Congo lost an estimated \$1.36 billion through deals linked to an enterprise controlled by Mr. Gertler and his family. Simon Dawson/Bloomberg

Mr. Gertler first came onto the radar of White House officials in 2002, when Joseph Kabila, who took over the nation after his father was assassinated the prior year, sent a letter to President George W. Bush, looking for help to end the war.

"Please accept my appointed emissary, Mr. Dan Gertler, a respected and well-known international businessman, to speak on my behalf for the needs of the Democratic Republic of Congo," Mr. Kabila wrote in the April 2002 letter to Mr. Bush, a copy of which was obtained by The New York Times.

"He played a very pivotal role in not only advising Kabila, but also sort of speaking with authority and definitely carrying the United States' message," Jendayi E. Frazer, who then served as an adviser to Mr. Bush for African affairs, said in an interview.

Mr. Gertler's work helped lead to a peace deal in 2003. And it also cemented his relationship with Joseph Kabila. The Congolese government began to grant new deals to Mr. Gertler and his growing empire of companies, which expanded from diamonds into copper, cobalt, oil, gas and gold.

In just five deals negotiated between 2010 and 2012 to sell copper and cobalt through offshore companies linked to the Fleurette Group, which is controlled by Mr. Gertler and his family, the citizens of Congo lost an estimated \$1.36 billion because the nation's resources were being sold at one-sixth of their value, according to a report prepared in 2013 by Kofi Annan, the former U.N. secretary general, and other prominent African officials.

The forgone revenues to Congo from the deals "were equivalent to more than double the combined annual budget for health and education," the report concluded.

In Congo, over 70 percent of the population lives in extreme poverty, with an income of less than \$1.90 a day. But the profits generated for Mr. Gertler were extraordinary, averaging 512 percent, according to the study, turning him into one of the 29 youngest billionaires in the world, according to Forbes.

It was not just Mr. Gertler who was reported to be becoming tremendously wealthy through these deals.

Joseph Kabila, who had called Mr. Gertler "an old and trusted friend," was also taking a cut, according to a 2017 report by the nonprofit Congo Research Group, which found that Mr. Kabila and his family ended up as owners in part or whole of at least 80 companies. Among them was one mining deal with a business linked to Mr. Gertler that drew so many questions from the International Monetary Fund that the fund canceled disbursement of more than \$200 million in loans it had planned to make under an agreement with Congo.



As the Treasury under secretary for terrorism and financial intelligence, Sigal Mandelker oversaw aggressive use of sanctions, including those placed on Mr. Gertler. Arnd Wiegmann/Reuters

The corruption and exploitation inherent in these types of deals were just the sort that a new appointee at the Treasury Department named Sigal P. Mandelker was determined to confront when she was confirmed as the top official in charge of sanctions enforcement in 2017.

"Our objective is to change behavior, inspire democracy and freedom, and disrupt the ability of kleptocrats, human rights abusers and others from stealing the wealth of their country," Ms. Mandelker said in a 2019 speech.

Ms. Mandelker drew bipartisan praise for her effort to take advantage of new authority Congress granted to the Treasury in 2016. The Global Magnitsky Human Rights Accountability Act, as the law is known, is named after a Russian tax lawyer, Sergei Magnitsky, who died in a Moscow prison in 2009 after he exposed corruption by Russian officials.

The new law allowed the Treasury to freeze the assets of individuals or businesses operating anywhere in the world that were engaged in "gross violations of internationally recognized human rights."

Working with the State and Justice Departments, Ms. Mandelker's team included Mr. Gertler in the first round of individuals penalized in December 2017, citing his record of "opaque and corrupt" mining and oil deals in Congo. A second round of sanctions in 2018 targeted more companies affiliated with Mr. Gertler.

The sanctions on Mr. Gertler severely constrained his ability to do business around the world by cutting off his access to the United States banking system and limiting his access even to non-U.S. financial institutions concerned about running afoul of the American law.

But less than a year after the sanctions were imposed, Mr. Gertler began his campaign to roll them back.

The push started with a seemingly innocuous request: Grant Mr. Gertler permission to use some of his money to make charitable donations to hospitals, libraries and schools in Congo.

But even that plan drew concern from some State Department officials, who were worried that the donations would allow Mr. Gertler to bolster his standing in Congo and help supporters of Mr. Kabila, by then out of office, challenge efforts by the new, democratically elected president, Félix Tshisekedi, to assert control.

By last year, Mr. Gertler was also battling to rebut a report by two human rights groups citing what they said was evidence that he was evading the sanctions by using a network of shell companies, frontmen and proxy bank accounts to move millions of dollars in and out of Congo and even to acquire new mining rights there.

Mr. Gertler sued both the human rights groups and the Israeli newspaper Haaretz, which published reports detailing the allegations. Lawyers working for Mr. Gertler and a bank in Congo claimed the reports were based on documents that were stolen and then tampered with. The paper and the human rights groups have defended the accuracy of their reporting.

Instead of supporting Mr. Gertler's bid for permission to make charitable donations, State Department officials responsible for Africa pressed the Treasury Department to expand the sanctions.



Sigal Mandelker, who led the Treasury Department's sanctions unit, and President Félix Tshisekedi of the Democratic Republic of Congo. Presidential Press of the Democratic Republic of Congo

But by the end of 2019, key players at the Treasury, including Ms. Mandelker, had started to leave the Trump administration, and State Department officials like Mr. Pham said they found it more difficult to get new Magnitsky sanctions imposed.

The officials turned to the Senate Foreign Relations Committee for help in keeping up the pressure on Mr. Gertler. In August, members of the committee sent the Treasury Department a bipartisan letter that did not mention him by name but carried a clear message.

To help build democracy and fight corruption in Congo, the letter said, the United States “should designate additional officials and companies responsible for or complicit in high-level corruption, including the misappropriation of state assets, for targeted financial and travel sanctions.”

But Mr. Gertler's team, including Mr. Dershowitz and Mr. Freeh, had a different message. They had solicited a letter from Ms. Frazer attesting to Mr. Gertler's role in the peace negotiations nearly two decades earlier and distributed it to Trump administration officials. As far back as 2019, they set up meetings with State Department officials, making the case that his activities had helped the interests of the United States.

“His first effort was a lobbying effort,” Mr. Shaviv said of Mr. Gertler's campaign.

But Treasury rules state that “professional services such as lobbying, public relations, government affairs, consulting and business development are not legal services, and are generally not covered” by an exemption that allows people under sanctions to hire lawyers.

Mr. Dershowitz said the meetings were permitted because he did not lobby the White House or others on this matter.

"My role was purely limited to the legal issues," Mr. Dershowitz said.

But with time running out on Mr. Trump's tenure and the sanctions still not lifted, Mr. Gertler decided to make a strategy shift. While not admitting any past wrongdoing, Mr. Gertler's lawyers told the Treasury Department in early December that he was prepared to take any reasonable steps to assure the United States that he would abide by the law, including hiring outside monitors and submitting detailed periodic reports on financial transactions.

"Our entire approach was to assure them that going forward, there would be no problem," Mr. Shaviv said.

At the same time, assertions were being made that Mr. Gertler had been of value to U.S. intelligence agencies.

"It's absolutely the case that the national security interests of both Israel and the United States were implicated in this," Mr. Dershowitz said, although he and others declined to provide any specifics. Mr. Shaviv declined to discuss whether Mr. Gertler had undertaken any such activities, but said that if they did take place, they would be described as "services rendered to the United States of America."

Whatever Mr. Gertler did that benefited the United States was sensitive enough that Israeli officials said they were aware of it but declined to comment on its nature. Two Israeli officials told The Times that the United States had informed Israel that in line with a decision by Mr. Mnuchin and Mr. Pompeo, the terms of the sanctions imposed on Mr. Gertler would be eased "out of reasons of American national security."

But several former State and Treasury Department officials said that while as a foreigner operating in Congo Mr. Gertler might have had information the United States considered valuable, keeping him on the sanctions list also had a value to Washington by helping to promote the anti-corruption effort.

"The only value to national security that Gertler has comes from him being placed in the box that he was put into with the sanctions," Mr. Pham said.

In any case, the decision to grant him the one-year license was unusual in a number of respects, they said.

The Treasury Department traditionally agrees to revoke sanctions only after individuals have proved they have already changed their behavior, not simply agreed to make such changes in the future, said Mr. Smith, the former head of the sanctions unit, who is now a national security lawyer at the law firm Morrison and Foerster. Mr. Gertler had not previously provided the United States such evidence.

Furthermore, if Mr. Gertler's assets in U.S. banks were going to be unfrozen and his corporate entitles allowed to once again do business with United States financial institutions, as the license allowed, that kind of deal would almost certainly need to be made public, not issued in secret as this one was. This kind of review also typically takes months of effort, not the six weeks that it took in this case.

"This is a unique, one-of-a-kind response that you don't see with the United States government," Mr. Smith said of the so-called specific license that Mr. Gertler received. "It is the most shocking license I have ever seen in a few decades of working on economic sanctions."

When word of the decision to grant Mr. Gertler the one-year license eventually trickled out after Mr. Trump left office, it set off a firestorm of criticism from officials who said it would undercut efforts by the United States to fight corruption.

Mr. Hammer, the U.S. ambassador to Congo, was at first so confused at the news, according to one State Department official briefed on the matter, that he called officials in Washington to figure out if a mistake had been made.

"This has made my job much tougher," an angry Mr. Hammer told colleagues.

House and Senate Democrats fired off letters to the Treasury and State Departments. A coalition of 30 Congolese and international human rights groups assailed the move, with one of the letters calling the move a "terrible blow to the heart of one of the most lauded and effective anti-corruption programs of the last decade."



Demonstrators in Kinshasa in November as Mr. Gertler announced new plans to invest in the mining sector in Congo. Fred Bauma

The Biden administration is now investigating why the license was issued, and if it could be revoked, although Mr. Gertler's team said that it would have no justification to take such a step.

Mr. Gertler, meanwhile, has begun a campaign to rehabilitate his image in Congo, releasing promotional videos detailing his work to support local hospitals and schools there and calling the citizens of Congo "brothers and sisters." He also started a plan to allow residents of Congo to invest in one of his new mining projects.



Mr. Gertler has offered people in Congo the chance to invest in a new mining operation there. Arsène Mpiana Monkwe for The New York Times

Activists in Congo were not impressed.

“How can someone who has done so much harm to Congo for 20 years suddenly say he’s an angel?” said Jimmy Kande, a leader in the nonprofit group Congo Is Not for Sale. “If Congolese authorities would finally look at Gertler’s past, he shouldn’t have much of a future in Congo.”

Kenneth P. Vogel, Lara Jakes and Julian E. Barnes contributed reporting.

Eric Lipton is a Washington-based investigative reporter. A three-time winner of the Pulitzer Prize, he previously worked at The Washington Post and The Hartford Courant. @EricLiptonNYT

A version of this article appears in print on , Section A, Page 1 of the New York edition with the headline: Break for Mining Tycoon in Trump’s Final Days

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**BUSINESS NEWS**

DECEMBER 23, 2019 / 3:13 PM / UPDATED A YEAR AGO

Congo prosecutors probe Israeli billionaire's loan to state mining company

By Reuters Staff



KINSHASA (Reuters) - Congolese prosecutors are investigating a 200-million-euro (\$222 million) line of credit issued to state mining company Gecamines by a company owned by Israeli billionaire Dan Gertler, who is under U.S. sanctions, Gecamines said on Monday.

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FILE PHOTO: A general view of the Gecamines copper mine in the Democratic Republic of Congo's southern mining town of Lubumbashi, August 19, 2005. REUTERS/David Lewis/File Photo

Two sources at Democratic Republic of Congo's prosecutor's office and two at the presidency, speaking on condition of anonymity, told Reuters the investigation was focused on possible money laundering and fraud related to a loan issued in October 2017 by Gertler's Fleurette Mumi, which has since been renamed Ventora Development.

In a statement, Gecamines interim director-general Jacques Kamenga confirmed that a company official was questioned by prosecutors last week, without naming the person. Kamenga denied any wrongdoing and said Gecamines provided investigators with all requested documents.

Gertler's spokesperson referred Reuters to a statement by Ventora Development, which said it issued the loan and was simply trying to recover money it was owed by Gecamines.

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Kamenga could not be immediately reached by Reuters for comment.

Both Gecamines and Gertler have faced corruption allegations from watchdog groups over the past decade related to the sale of mining assets in Congo, which, despite copious mineral resources, is one of the world's poorest countries.

According to a 2013 report by the Africa Progress Panel, which was headed by former U.N. Secretary-General Kofi Annan, Congo lost out on \$1.36 billion in potential revenue between 2010 and 2012 in five mining deals involving Gecamines and Gertler.

The U.S. Treasury sanctioned Gertler and more than 30 of his businesses in December 2017 and June 2018, accusing him of using his friendship with former Congo President Joseph Kabila to secure sweetheart mining deals.

Gertler, Kabila and Gecamines have denied all allegations of impropriety.

Gecamines' Kamenga said the company ended up borrowing 128 million euros from Fleurette Mumi's line of credit in October 2017, two months before the U.S. imposed sanctions. Kamenga said Gecamines used the money to pay tax advances in Congo.

Gertler's Amsterdam-based Fleurette Group was a joint venture partner of Gecamines in one Congo copper mine and said in 2014 that it lent Gecamines \$196 million in 2013 to purchase two other copper mines.

Because of the U.S. sanctions against Gertler, Gecamines was advised by its lawyers not to reimburse the loan, Kamenga said in his statement on Monday.

Ventora Development sued Gecamines in October for repayment of the loan and a Congolese court ordered Gecamines last month to pay nearly 152 million euros of the loan principal and interest, Kamenga and Ventora said. Gecamines has appealed the ruling and not yet made any payment, Kamenga added.

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authorities from boarding a flight in the Congolese capital Kinshasa and told they were banned

from traveling, Kamenga said.

Two days later, they were summoned by the prosecutor's office in Kinshasa, where a Gecamines official was questioned about the loan, Kamenga said.

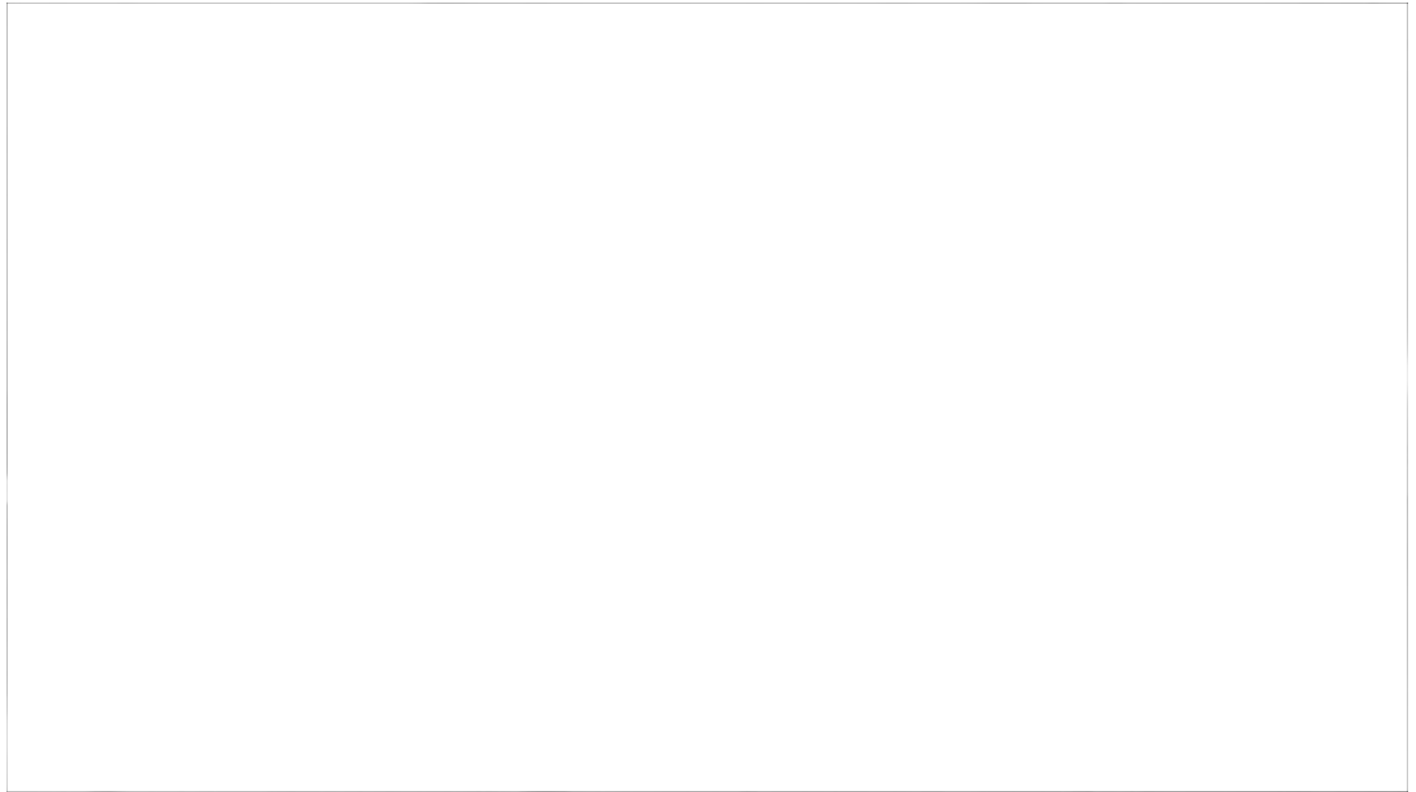
The four sources at the prosecutor's office and the presidency said that the chairman of the Gecamines board, Albert Yuma, had been also banned from leaving the country.

Yuma is a close ally of Kabila, who left office in January after 18 years as president. Reached for comment, Yuma referred Reuters to Kamenga's statement.

Reporting by Stanis Bujakera; Additional reporting by Juliette Jabkhiro in Dakar; Writing by Aaron Ross; Editing by Susan Fenton and Edmund Blair

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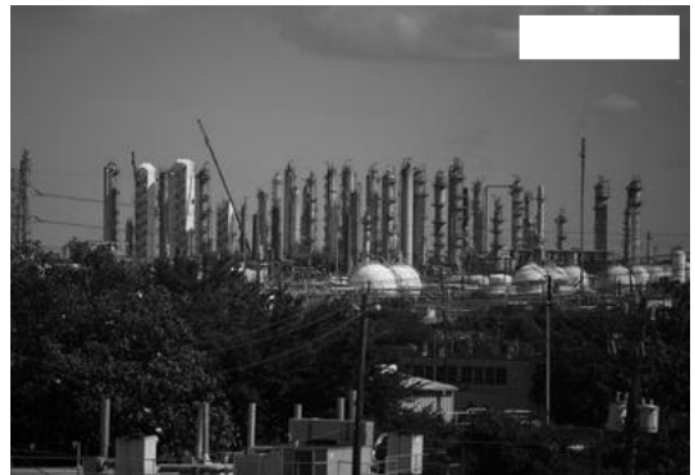
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BUSINESS NEWS JUNE 15, 2018 / 6:27 AM / UPDATED 3 YEARS AGO

Glencore settles with Gertler over Congo royalties

By Reuters Staff

3 MIN READ



LONDON (Reuters) - Glencore GLEN.L has settled a mining dispute in Democratic Republic of Congo with two companies associated with Israeli billionaire Dan Gertler by agreeing to pay royalties in a currency other than U.S. dollars, the company said on Friday.

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FILE PHOTO: The logo of commodities trader Glencore is pictured in front of the company's headquarters in Baar, Switzerland, July 18, 2017. REUTERS/Arnd Wiegmann/File Photo

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U.S. sanctions on Gertler, Glencore's former Israeli partner in copper and cobalt operations in Congo had triggered litigation and a legal tangle that investors worried might affect supplies of cobalt from the world's biggest producer of the metal.

Glencore earlier this week reached a settlement in another dispute involving its Kamoto copper and cobalt mine in Congo, although it remains at odds with the Congolese government over a mining code signed off at the start of the year.

Gertler's Ventora Development Sasu had been seeking \$695 million (524.33 million pounds) in unpaid and future royalties from Glencore's subsidiary Mutanda Mining and \$2.28 billion from Glencore subsidiary Kamoto Copper Co (KCC).

Ventora accused KCC of breaching an agreement by declining to make royalty payments because Gertler was under U.S. sanctions, Glencore said in April.

The U.S. government added Gertler and affiliated companies to its sanctions list in December last year, accusing him of using his friendship with Congo President Joseph Kabila to secure sweetheart mining deals. Gertler has denied all allegations of impropriety.

Glencore said it believed payment of the royalties in a currency other than U.S. dollars to Africa

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address

applicable sanctions obligations. It added it had discussed the matter “with the appropriate U.S. and Swiss government agencies”.

The two companies have on this basis withdrawn all pending and threatened litigation, it said.

For this year, Gertler will receive approximately 25 million euros (\$28.90 million).

Glencore shares were trading 0.2 percent higher at 0724 GMT.

Earlier this week, Glencore’s unit Katanga Mining Ltd KAT.TO said it agreed a recapitalisation plan for copper and cobalt venture Kamoto, involving writing off \$5.6 billion in debt.

Glencore and other international miners still have to resolve a row with the Congolese government over a new mining code that has raised the amount of royalties and tax to be paid on minerals.

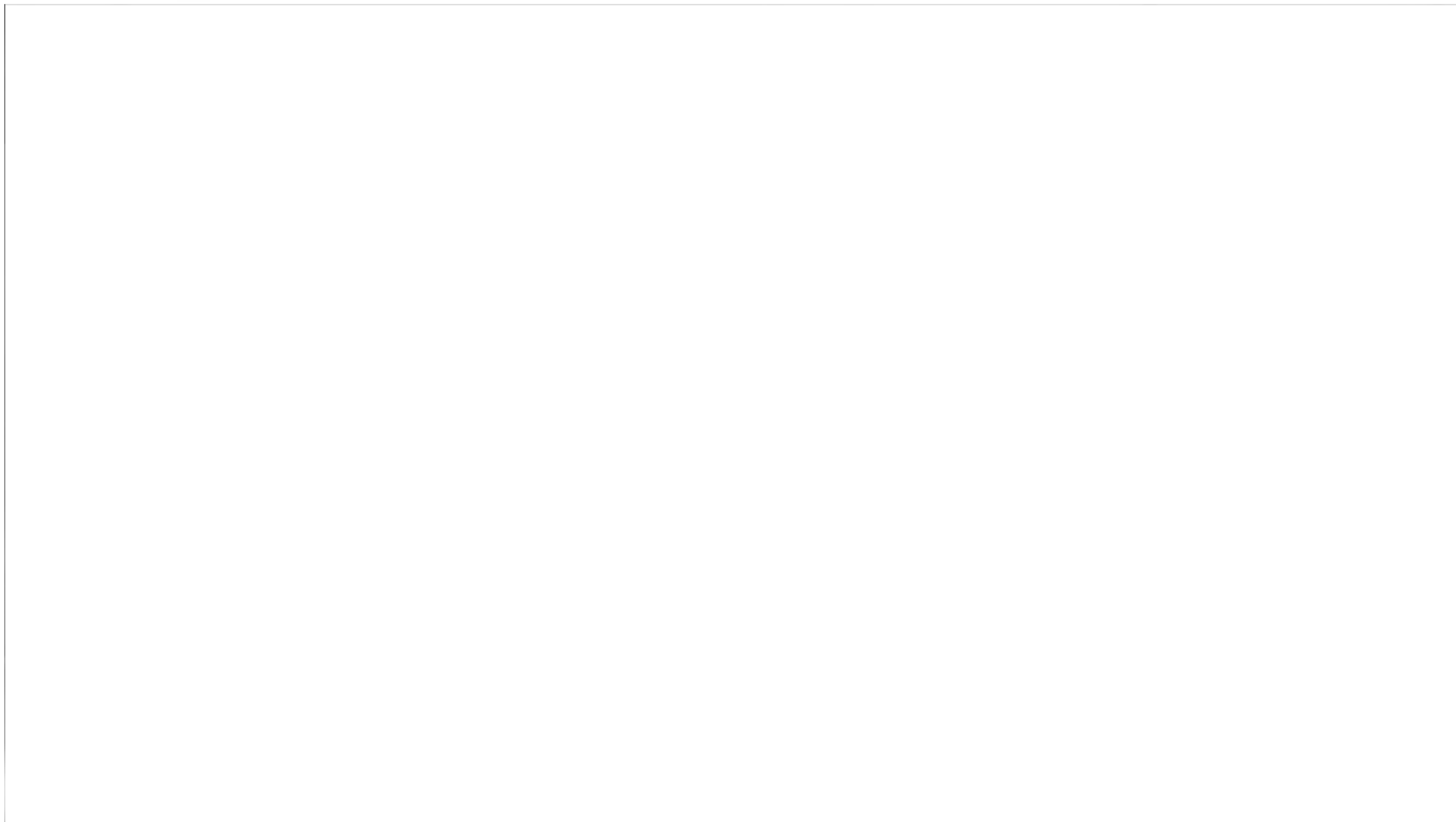
Glencore accounts for more than a quarter of the world’s cobalt output, most of it from Congo, which itself is the source of around 60 percent of global supplies. Any disruption could push up cobalt prices from already historic highs of near \$100,000 a tonne. CBD3

Reporting by Barbara Lewis in London and Patrick Graham in Bengaluru; Editing by Adrian Croft

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BUSINESS NEWS APRIL 27, 2018 / 6:26 PM / UPDATED 3 YEARS AGO

Glencore's Congo mining businesses face \$3 billion freezing orders

By Reuters Staff

3 MIN READ



LONDON (Reuters) - Glencore's GLEN.L mining subsidiaries in the Democratic Republic of Congo have been served freezing orders for alleged unpaid royalties of nearly \$3 billion (2.18 billion pounds) by a company affiliated with Israeli billionaire Dan Gertler, Glencore said on Friday.

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FILE PHOTO: The logo of commodities trader Glencore is pictured in front of the company's headquarters in Baar, Switzerland September 30, 2015. REUTERS/Arnd Wiegmann/File Photo

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The U.S. government added Gertler and affiliated companies to its Specially Designated Nationals list in December last year, accusing him of using his friendship with Congo President Joseph Kabila to secure sweetheart mining deals.

Sources close to the matter said Glencore will comply with the sanctions, which effectively cut off access to the global financial system.

Glencore's statement said that Ventora accuses KCC of breaching an agreement by declining to make royalty payments because Gertler was under U.S. sanctions. Gertler has denied all allegations of impropriety and has said his investments in Congo have created thousands of jobs.

Gertler's Ventora Development Sasu is seeking \$695 million in unpaid and future royalties from Glencore's subsidiary Mutanda Mining and \$2.28 billion from Glencore subsidiary Kamoto Copper Co (KCC).

Glencore said the orders would allow local authorities to freeze certain bank accounts, mining titles and assets.

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A spokesman for Gertler's Fleurette Group, previously Glencore's partner in the mines, declined to comment.

A source familiar with the situation said Glencore is looking to file an appeal early next week.

Glencore also disputes the choice of jurisdiction for the orders and said that the agreement between its subsidiaries and Ventora are subject to English law.

A freezing order could affect mining operations, Glencore said.

The legal action is the latest headache for Glencore's Congo operations. Its partner on the Kamoto project, Congo state miner Gecamines, said this week that it was starting legal proceedings to dissolve Kamoto because of persistent high debts.

Reporting by Julia Payne and Zandi Shabalala in London and Aaron Ross in Dakar; Editing by David Goodman

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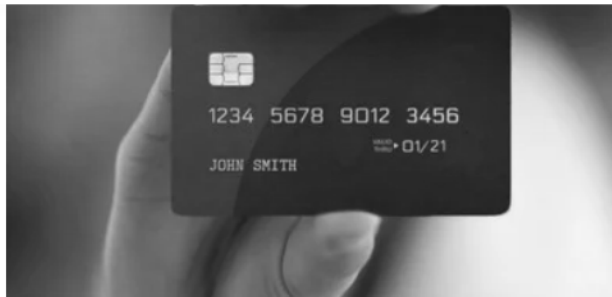
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United States Senate

WASHINGTON, DC 20510

February 1, 2021

The Honorable Janet Yellen
Secretary of the Treasury
U.S. Department of the Treasury
1500 Pennsylvania Avenue, N.W.
Washington, D.C. 20220

Dear Secretary Yellen:

We write to you with great concern regarding reports of action in the last days of the Trump administration to have the Treasury Department grant a license to OFAC-sanctioned billionaire Dan Gertler and his companies to conduct business with U.S. banks and other companies until January 31, 2022.

According to the Treasury Department's own press release in December 2017, Gertler "is an international businessman and billionaire who has amassed his fortune through hundreds of millions of dollars' worth of opaque and corrupt mining and oil deals in the Democratic Republic of the Congo (DRC)," and "between 2010 and 2012 alone, the DRC reportedly lost over \$1.36 billion in revenues from the underpricing of mining assets that were sold to offshore companies linked to Gertler." Gertler is the reported inspiration for the movie *Blood Diamond*, and Congolese civil society leaders call him the "gravedigger of the Congolese economy." His corrupt deals have perpetuated poverty and increased instability in the DRC, where 72% of the population lives on less than \$2 per day, according to the World Bank, despite an estimated \$24 trillion in natural resource reserves.

These findings led to Gertler and 33 of his affiliated companies being sanctioned for corrupt practices under the Global Magnitsky Human Rights Accountability Act. This act, as you surely know, has become one of the most effective tools available to the U.S. government against foreign officials and shady business leaders who have been credibly accused of corrupt practices or human rights abuses. The Gertler sanctions, moreover, are largely considered the single most effective use of Global Magnitsky Act sanctions to counter corruption to date. As far as we know, this is the first time someone sanctioned for corruption under the Global Magnitsky Act for corruption has been given such a license.

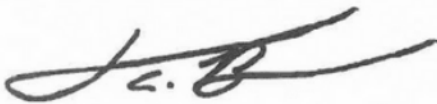
The Sentry, a U.S.-based investigative and policy team that follows dirty money connected to African war criminals and transnational war profiteers, released a statement on January 24, 2021 saying, "the issuance of a specific license to a designated individual as an end-run around a delisting, general license, or other public statement, absent any discernible intelligence or national security rationale, threatens the integrity, implementation, and impact of economic sanctions programs as a whole. In particular, for a sanctions designation issued specifically for corrupt and secretive activities in the DRC and elsewhere, to have been privately undercut under

a cloud of haste and secrecy at the very end of the Trump administration strikes a terrible blow to the heart of one of the most lauded and effective anti-corruption programs of the last decade.”

We could not agree more with this statement, and request that you initiate an investigation into the grounds upon which Treasury issued the license and hold accountable any individuals found to have committed wrongdoing as part of the effort to issue the license. We also urge you to immediately and publicly rescind the license, making it clear to Gertler and other sanctioned individuals that the Biden administration will uphold the spirit and the letter of the Global Magnitsky Act. Further, we urge you to investigate any payments or transfers that may have taken place under this license, as well as any loopholes in the sanctions that were allowing Gertler to circumvent enforcement by setting up new companies, while considering additional sanctions against corrupt individuals who continue to exploit DRC resources at the expense of its people.

Thank you for your kind attention to this urgent matter.

Sincerely,



Cory A. Booker
United States Senator



Richard Durbin
United States Senator



Benjamin L. Cardin
United States Senator

CC: The Honorable Antony Blinken, Secretary, Department of State

HUMAN
RIGHTS
WATCH

FEBRUARY 3, 2021

Joint Letter to the US on Dan Gertler's License

Published in

The Honorable
Antony Blinken
Secretary of State
Washington, D.C. 20520

The Honorable
Janet Yellen
Secretary of the Treasury
Washington, D.C. 20220

February 2, 2021

Re: Mr. Dan Gertler's license (No. GLOMAG-2021-371648-1)

Dear Mr. Secretary,

Dear Madam Secretary,

We write to you as members of Congolese and international civil society organizations.

We would like to share with you our deepest concerns with regards to the decision of the Office of Foreign Assets Control (OFAC), dated January 15, 2021 and made public on January 24, 2021, granting a license to businessman Dan Gertler, who was sanctioned for corruption in the Democratic Republic of Congo (DRC) under the Global Magnitsky Human Rights Accountability Act in December 2017. The license allows him to resume transactions with American entities for a year and unblock his frozen property.

We wish to respectfully request immediate action to reconsider, suspend and reverse this decision. We believe this decision severely undermines US global anti-corruption policies and its foreign policy strategy in the DRC, which notably supports current President Felix Tshisekedi's anti-corruption policy. Over the past years, the US Embassy in Kinshasa has been instrumental in putting the fight against corruption front and center on the political agenda in the DRC.

The sanctions against Mr. Gertler and his entities are the embodiment of that policy: they attest to the fact that the US is ready to take concrete and effective action against those who deprive the Congolese people of the means to rebuild the country. This has provided a crucial stepping stone to Congolese civil society groups determined to bolster the fight against corruption.

It has come to our attention that this extraordinary license was issued opaquely and in haste during former President Donald Trump's last days in office. It appears that standard consultations both within the Treasury Department and the State Department had not taken place prior to the issuance of the license, completely catching off guard a wide range of US officials who had worked hard to enact, uphold, and publicly defend the sanctions. This decision came after months of extensive lobbying on Mr. Gertler's behalf, including by well-known lawyers close to then-President Trump.

The Dan Gertler case had illustrated how impactful the Magnitsky sanctions can be. A longtime friend of DRC's former President Joseph Kabila, he was added to the very first Global Magnitsky sanctions list in December 2017 for "opaque and corrupt mining deals in DRC." This long-awaited sanction came following years of public reporting, both from international media and non-governmental organizations, who sought to expose how DRC's public mining revenues had been diverted.

The scale and nature of the corruption Gertler facilitated had a significant impact on the human rights of many Congolese. One of the bases for the sanctions, according to the press release announcing them, was Gertler acting as a middleman for deals between Kabila and oil companies that reportedly resulted, between 2010 and 2012 alone, in a loss of US\$1.36 billion to the state. This amounts to nearly half of the country's health budget over those three years, which falls far below both the regional average and the per capita spending a World Health Organization-supported study identified as the minimum to provide adequate health care in DRC.

OFAC's move to sanction Mr. Gertler was the first instance in which the tireless efforts of Congolese and international organizations were recognized. They took a major toll on the Israeli billionaire's financial dealings that according of OFAC itself had enabled and facilitated significant corrupt activities during the administration of former DRC president Joseph Kabila.

Evidence published in July 2020 by PPLAAF and Global Witness, who are signatories to this letter, suggests that Gertler and his associates set up a highly complex system of proxies, shell companies, and an international money laundering network to evade US sanctions, as a means to allow him to continue to operate in the DRC and funnel millions of dollars abroad. The ingenuity and complexity of this apparent network indicates that his access to financial networks had been essential to his previous operations. Mr. Gertler has denied any knowledge of or connection with this network as well as rejecting all allegations of wrongdoing and corruption.

In November 2020, a US judge sentenced a subsidiary of New York hedge fund Och-Ziff for corruption in DRC. Although Mr. Gertler was not charged in this case, the court documents include information about the

alleged role played by Gertler in the corruption, including the arrangement of bribes to DRC officials and judges, which further strengthens the need to keep sanctions in place.

While one could have expected an expansion of US sanctions following these revelations last year, the January 15 license sends a worrying signal to those who are looking to undermine the US sanctions regime. It sets a dangerous precedent and largely undercuts efforts to fight overseas corruption as part of the Global Magnitsky program, which has been an example for much other legislation around the world as an effective way to put pressure on those responsible for corruption and human rights abuses.

Last but not least, this license thwarts the critical and challenging work of civil society organizations and activists in DRC and beyond to bring accountability to those who had plundered their country's resources and risks creating additional victims of corruption. According to a report by civil society organizations Raid and Afrewatch, which are signatories to this letter, in just one mining deal involving Mr. Gertler, an estimated 32,000 local residents were deprived of clean drinking water, plagued with ongoing air and water pollution, sickness and lack of educational opportunities due to corruption. Mr. Gertler denies any corruption in this instance.

The Congolese civil society organizations signing this letter take tremendous risks to fight corruption in DRC and have greatly appreciated support for their efforts from international actors, including the US government. In his most recent video following President Biden's inauguration, US Ambassador to the DRC, Michael Hammer, said, "*It is in the interest of the American and the Congolese people to reinforce democracy, to fight corruption and to put an end to impunity.*" We take Ambassador Hammer at his word: we remain ready and willing to work with the US government to reinforce democracy, fight corruption and put an end to impunity. We hope you will stand with us.

We urge the Biden administration to immediately investigate this last-minute license, and, subject to relevant information, reverse its decision. The US needs to ensure that the proceeds of alleged corruption are not being accessed and unblocked during the transition, or for political motives.

We therefore respectfully request that the Treasury Department inform banks and financial institutions that the license is under review and that they should not unblock or allow further activities pursuant to the license until the new administration has had a chance to review both the reason for granting the license and its due process.

Thank you in advance for your attention.

We remain at your disposal if you have any questions or require any further information.

Sincerely yours,

Congolese Organizations

Afrewatch

Agir pour des élections transparentes et apaisées

Cadre de concentration sur les ressources naturelles de l'Ituri (CDC/RN)

Coalition pour la gouvernance des entreprises publiques du secteur extractif (COGEP)

Congo n'est pas à Vendre (« Congo is not for sale »)

Congo Nouveau

Filimbi

Initiative bonne gouvernance et droits de l'Homme (IBGDH)

Justice pour tous

Lucha

Observatoire citoyen des droits et de lutte contre la corruption en RDC (OCIDC)

Observatoire de la dépense publique (ODEP)

Observatoire d'études et d'appui à la responsabilité sociale et environnementale (OEARSE)

UNIS – Plateforme panafricaine de lutte contre la corruption

International Organizations

EG Justice

FACT Coalition

Freedom House

Global Witness

Human Rights First

Human Rights Watch

Never Again Coalition

The ONE Campaign

Open Society Foundations

Oxfam America

Platform to Protect Whistleblowers in Africa (PPLAAF)

Publish What You Pay – U.S.

Resource Matters

Rights and accountability in development (RAID)

The Sentry

Transparency International

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